

## CHAPTER 12A

### SUPER CONCILIATION--HEALTH BENEFITS PLAN DESIGN AND PENSION COMMITTEES<sup>1</sup>

#### CHAPTER TABLE OF CONTENTS

##### SUBCHAPTER 1. SUPER CONCILIATION--HEALTH BENEFITS PLAN DESIGN AND PENSION COMMITTEES

###### 19:12A-1.1 Purpose of procedures

###### 19:12A-1.2 Health Benefits Plan Design and Pension Committees Super Conciliation Panel

###### 19:12A-1.3 Appointment of a super conciliator

###### 19:12A-1.4 Powers and duties of super conciliator

###### 19:12A-1.5 Cost of super conciliation/super conciliator's fee

##### SUBCHAPTER 1. SUPER CONCILIATION--HEALTH BENEFITS PLAN DESIGN AND PENSION COMMITTEES

###### 19:12A-1.1 Purpose of procedures

These procedures implement P.L. 2011, c. 78, sections 33 and 55 (N.J.S.A. 43:3C-17 and 52:14-17.27b, respectively), effective June 28, 2011. These laws provide for super conciliation to assist in the resolution of disputes among members of committees created by P.L. 2011, c. 78 that are charged with reviewing and modifying public employee health benefits and pension plans. The Commission will create and administer a Health Benefits Plan Design and Pension Committees Super Conciliation Panel. A super conciliator will be appointed to resolve any impasses resulting from a committee's failure to render a decision on a matter before the committee because it has not received a vote of the majority of the committee members after 60 days have passed following the initial consideration of the matter. Super conciliation, pursuant to these procedures, is limited to investigatory proceedings involving disputes emanating from committees established pursuant to P.L. 2011, c. 78.

###### 19:12A-1.2 Health Benefits Plan Design and Pension Committees Super Conciliation Panel

(a) The Commission shall maintain a Health Benefits Plan Design and Pension Committees Super Conciliation Panel to resolve disputes emanating from health benefits plan design and pension committees. Members of this Panel must have experience and expertise in dispute resolution. Following a screening process as set forth in this section, they shall be appointed for three-year terms.

(b) To be eligible for appointment to the Health Benefits Plan Design and Pension Committees Super Conciliation Panel, an applicant for panel membership shall:

1. Have experience mediating or adjudicating issues involving health insurance and/or pension matters;

2. Serve in a neutral/mediatory capacity for a minimum of three years;

3. In the three years before applying for panel membership, not have served as an advocate for private or public sector labor or management;

4. Have an impeccable reputation for professional competence, ethics and integrity and have complied with all applicable codes of conduct; and

5. Demonstrate:

i. The ability to write a well-reasoned decision, consistent with the parameters of assignments;

ii. Knowledge of government finance and fiscal principles; and

iii. Substantial experience in dispute resolution.

(c) Every applicant shall complete an application form prepared by the Director of Conciliation and Arbitration. An applicant shall submit at least three writing samples that are well-reasoned and cogent. An applicant will also have the opportunity to submit any other relevant information.

(d) The Director of Conciliation and Arbitration shall review all applications and make a recommendation to the Commission regarding each one. The Commission shall notify an applicant in writing of any action taken upon an application. The names and resumes of all super conciliators appointed to the Panel shall be posted on the Commission's website.

(e) Members of the Health Benefits Plan Design and Pension Committees Super Conciliation Panel shall be guided by the objectives and principles set forth in the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service and any other applicable code of conduct.

(f) A super conciliator who fails to carry out assignments in accordance with the requirements of an appointment may be subject to discipline including suspension or removal from the Health Benefits Plan Design and Pension Committees Super Conciliation Panel.

###### 19:12A-1.3 Appointment of a super conciliator

(a) The Executive Secretary of a committee established pursuant to P.L. 2011, c. 78, or in the absence of the Executive Secretary, a committee designee, may file a petition seeking the appointment of a super conciliator pursuant to N.J.S.A. 52:14-17.27b, applicable to health benefits plan design

committees, or N.J.S.A. 43:3C-17, applicable to pension committees where:

1. The committee fails to render a decision on a matter before it because it has not received a vote of the majority of the committee members; and
2. Sixty days have passed following the initial consideration of the matter by the committee.

(b) The petition to invoke super conciliation is available on the Commission's web site at [www.state.nj.us/perc](http://www.state.nj.us/perc) or may be supplied upon request.

(c) A petition for super conciliation shall be filed with the Director of Conciliation and Arbitration, Public Employment Relations Commission, PO Box 429, Trenton, NJ 08625-0429. The petition and any supporting documents may be filed by electronic mail sent to [mail@perc.state.nj.us](mailto:mail@perc.state.nj.us) or by facsimile to (609) 777-0089, provided that a petition containing original signatures is filed with the Commission within five days after electronic filing.

(d) The petition shall include the following information:

1. The name of the committee;
2. The name and contact information (address, phone, fax and e-mail) of the committee's Executive Secretary;
3. The names of all committee members;
4. A clear description of the unresolved issue(s) which shall include:
  - i. The initial date each matter was first considered;
  - ii. Copies of resolutions or motions pertinent to each matter in dispute;
  - iii. The record of the vote on each matter in dispute; and
  - iv. Copies of the minutes of meetings at which the matters were considered;
5. If tentative agreements have been reached, copies of such agreements shall be attached; and
6. The committee's Executive Secretary, or in the absence of the Executive Secretary, a committee designee, shall sign and date the petition and shall make the following certification:

I certify that this request for the appointment of a super conciliator is being submitted pursuant to N.J.S.A. 52:14-17.27b, or N.J.S.A. 43:3C-17, as applicable, because a majority vote of committee members has not been received following 60 days of the initial consideration of the matter(s) listed above.

(e) Upon receipt of a petition to invoke super conciliation, a super conciliator shall be randomly selected from the Health Benefits Plan Design and Pension Committees Super Conciliation Panel.

(f) Super conciliators shall be considered officers of the Commission while assisting a committee to effect a voluntary settlement and while writing a final report.

(g) If a super conciliator is unable to serve, electronic or written notice shall be provided to the Director of Conciliation and Arbitration within three days of receipt of the notice of appointment.

(h) If an appointed super conciliator cannot carry out the assignment, another super conciliator shall be appointed by random selection. The committee's Executive Secretary will be advised of the withdrawal of the appointed super conciliator and will be notified when a replacement super conciliator has been appointed.

(i) The appointment of a super conciliator is not reviewable.

#### **19:12A-1.4 Powers and duties of super conciliator**

(a) Super conciliators appointed from the Health Benefits Plan Design and Pension Committees Super Conciliation Panel shall have the authority to exercise the powers granted by N.J.S.A. 52:14-17.27b, applicable to health benefits plan design committees, and N.J.S.A. 43:3C-17, applicable to pension committees, to institute non-binding procedures deemed appropriate to resolve committee disputes.

(b) The super conciliator shall contact the committee's Executive Secretary to arrange for a mutually satisfactory date, time and place for an investigatory proceeding. In the absence of an agreement, the super conciliator shall have the authority to set the date, time and place for the meeting. The super conciliator shall send a notice to the Executive Secretary containing arrangements for a proceeding within a reasonable time period before the meeting.

(c) The purpose of the proceedings conducted by a super conciliator shall be to:

1. Investigate and acquire all relevant information regarding a committee's failure to render a decision;
2. Discuss with the members of the committee their differences, and utilize means and mechanisms, including, but not limited to, requiring 24-hour per day negotiations, until a voluntary settlement is reached, and provide recommendations to resolve the members' differences; and
3. Institute any other non-binding procedures deemed appropriate by the super conciliator.

(d) If the super conciliator is unable to resolve the dispute, the super conciliator shall issue a final report, which shall be promptly provided to the committee's Executive Secretary and the Director of Conciliation and Arbitration, and made available by the committee's Executive Secretary to the public within 10 days after it is received by the Executive Secretary.

(e) For the purposes of such investigatory proceedings, the super conciliator shall have the authority and power to subpoena witnesses, compel their attendance, administer oaths, take the testimony or deposition of any person under oath, issue subpoenas duces tecum and require the production and examination of any other books or documents, including records that are stored or exist in electronic form, relating to any matter under investigation by or in issue before the super conciliator.

(f) The super conciliator, while functioning in a mediatory capacity, shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential which are received or prepared by the super conciliator or to testify with regard to mediation or other proceedings

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<sup>1</sup> Title 19, Chapter 12A -- Chapter Notes

**CHAPTER AUTHORITY:**

N.J.S.A. 43:3C-17 and 52:14-17.27b.

**SOURCE AND EFFECTIVE DATE:**

R.2023 d.1111, effective September 18, 2023.

See: 55 N.J.R. 657(a), 55 N.J.R. 2022(a).

**EXPIRATION DATE:**

Chapter 12A, Super Conciliation--Health Benefits Plan Design and Pension Committees, expires on September 18, 2030.

conducted under N.J.S.A. 52:14-17.27b, applicable to health benefits plan design committees, and N.J.S.A. 43:3C-17, applicable to pension committees. Nothing contained in this section shall exempt an individual from disclosing information relating to the commission of a crime.

**19:12A-1.5 Cost of super conciliation/super conciliator's fee**

(a) The cost of super conciliation shall be borne by the Department of the Treasury, Division of Pensions and Benefits and not by the Commission.

(b) The super conciliator shall be paid at their grievance arbitration/mediation rate for each eight-hour session or part thereof.