

resolved, such discrepancy shall be reported to the surveillance department and the fixed odds wagering manager or department supervisor in charge at such time. Any discrepancy in excess of \$500.00 shall be reported to the Division. The report shall include the following:

1. The date;
2. The shift;
3. The name of the ticket writer;
4. The name of the supervisor;
5. The station number; and
6. The amount of the discrepancy.

(j) Whenever funds are transferred from the vault to the main cage, the supervisor responsible for the vault shall prepare a two-part Vault Transfer-Out form. Upon completion of the form, the original shall be retained by the vault supervisor and the duplicate shall be transferred with the funds to the main cage. The form shall include, at a minimum, the:

1. Date and time of the transfer;
2. Designation of the vault location;
3. Designation of the cage location;
4. Amount of each denomination being transferred;
5. Total amount of the transfer;
6. Signature of the preparer of the transfer;
7. Signature of the vault supervisor verifying and issuing the funds; and
8. Signature of the cage cashier verifying and receiving the funds.

(k) Whenever funds are transferred from the main cage to a vault, a two-part Vault Transfer-In form shall be prepared. Upon completion of the form, the original shall be retained by the cage cashier and the duplicate shall be transferred with the funds to the vault. The form shall include, at a minimum, the:

1. Date and time of the transfer;
2. Designation of the vault location where the funds are being transferred to;
3. Cashier location where the funds are being transferred from;
4. Amount of each denomination being transferred;
5. Total amount of the transfer;
6. Signature of the cage cashier verifying and sending the funds to the vault; and
7. Signature of the vault supervisor verifying and receiving the funds.

13:69Q-1.13 Mandatory online fixed odds system logging

(a) Online fixed odds wagering systems shall employ a mechanism capable of maintaining a separate copy of all of the information required to be logged in this section on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the system can be configured such that any logged data is contained in a secure transaction file, a separate logging device is not required.

(b) Online fixed odds wagering systems shall provide a mechanism for the Division to query and export, in a format required by the Division, all system data.

(c) Online fixed odds wagering systems shall electronically log the date and time any account is created or terminated (Account Creation Log).

(d) An online fixed odds wagering system shall maintain all information necessary to recreate patron and account activity during each patron session, including any identity or location verifications, for a period of no less than 10 years.

(e) Unless otherwise authorized by the Division, when software is installed on or removed from a wagering system, such action shall be recorded in a secure electronic log (Software Installation/Removal Log), which shall include:

1. The date and time of the action;
2. The identification of the software; and
3. The identity of the person performing the action.

(f) Unless otherwise exempted by the Division, an online fixed odds wagering system shall record all promotional offers (Promotions Log) issued through the system. Such log shall provide the information necessary to audit compliance with the terms and conditions of current and previous offers.

(g) Results of all authentication attempts shall be retained in an electronic log (Authentication Log) and accessible for a period of 90 days.

(h) All adjustments to gaming system data made using stored procedures shall be recorded in an electronic log (Adjustments Log), which lists:

1. The date and time;
2. The identification and user ID of user performing the action;
3. A description of the event or action taken; and
4. The initial and ending values of any data altered as a part of the event or action performed.

13:69Q-1.14 Review of participation agreements

(a) Notwithstanding any law, rule, or regulation to the contrary, fixed odds wagering by residents of this State on the results of horse races conducted in this State or jurisdictions outside of this State shall be lawful; provided that, for all fixed odds wagering conducted on in-State races, the licensed wagering operator maintains a written agreement with the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Thoroughbred Horsemen's Association for such wagering on the associations' respective breeds.

(b) Such agreement shall include the portion of fixed odds wagering revenues payable to the respective association, the amount payable to the Authority or the authorizing racetrack, as well as the amount to be maintained by the licensed wagering operator.

(c) The licensed wagering operator shall submit the required agreement to the Division and the Racing Commission for approval at least 10 days prior to implementation. Within five days of receipt of the required agreement, the Racing Commission shall confer with the Division regarding the Division's approval or denial of the agreement. Any amendments shall be submitted to the Division and Racing Commission for approval at least 10 days prior to their effective date. Within five days of receipt of the required agreement, the Racing Commission shall confer with the Division regarding the Division's approval or denial of the amendments.

(d) Any participation agreement shall include an agreement by the operator to pay a proportional share of the available net project revenues determined by the operating board to the standardbred or thoroughbred permit holder, as the case may be, and a renegotiation mechanism to adjust a proportional share following the addition or removal of an operator.

**OTHER AGENCIES**

**(a)**

**PUBLIC EMPLOYMENT RELATIONS COMMISSION  
Super Conciliation—Health Benefits Plan Design  
and Pension Committees**

**Proposed New Rules: N.J.A.C. 19:12A**

Authorized By: Public Employment Relations Commission, Joel M. Weisblatt, Chair.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-026.

Submit comments by June 16, 2023, to:

Joel M. Weisblatt, Chair  
Public Employment Relations Commission  
PO Box 429  
Trenton, New Jersey 08625-0429

Comments may also be submitted through email to [rulecomments@perc.state.nj.us](mailto:rulecomments@perc.state.nj.us) or by facsimile to 609-777-0089.

The agency proposal follows:

**Summary**

The Public Employment Relations Commission (Commission) proposes new rules to effectuate the re adoption of N.J.A.C. 19:12A, with changes, to implement portions of P.L. 2011, c. 78 (Chapter 78), which took effect on June 28, 2011. N.J.A.C. 19:12A was previously adopted on February 21, 2012, and expired on February 21, 2019 (see 44 N.J.R.

510(a)). Chapter 78 created health benefits plan design and pension committees charged with reviewing and modifying public employee health and pension plans. Sections 33 and 55 at P.L. 2011, c. 78, respectively, mandate that, when requested by a pension or health benefits plan design committee, the Commission will randomly select and appoint a super conciliator 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 is limited to investigatory proceedings involving disputes emanating from committees reviewing, pursuant to P.L. 2011, c. 78, health benefits or pension plans.

Proposed N.J.A.C. 19:12A-1.1 sets forth the purpose of the rules, which are designed to implement sections 33 and 55 at P.L. 2011, c. 78, to assist health benefits plan design and pension committees established by that law, by resolving, through super conciliation, impasses resulting from a committee's failure to render a decision on a matter before the committee.

Proposed N.J.A.C. 19:12A-1.2 provides that the Commission will establish a Health Benefits Plan Design and Pension Committees Super Conciliation Panel (Panel), sets forth the required qualifications and experience of persons who seek to serve as super conciliators, the process for seeking appointment to the Panel, ethical standards applicable to super conciliators, and that super conciliators failing to carry out assignments in accordance with the requirements of an appointment may be subject to discipline, including suspension or removal. The section previously required super conciliation panel members to have experience and expertise in health insurance and pension matters generally, rather than experience resolving disputes concerning those issues. Proposed N.J.A.C. 19:12A-1.2(b)1 requires that applicants for appointments to the Panel have experience "mediating or adjudicating issues involving health insurance and/or pensions." The proposed super conciliator eligibility requirements at N.J.A.C. 19:12A-1.2(b)1 will ensure that panel members have the requisite dispute resolution skills to resolve health benefits plan design and pension committee impasses.

Proposed N.J.A.C. 19:12A-1.3 provides that the executive secretary of a health care benefits plan design or pension committee may file a petition with the Commission requesting the appointment of a super conciliator, lists the required contents of a petition, the time, and circumstances under which appointment of a super conciliator may be sought, requires that super conciliators, or their replacements, be appointed by lot, provides that super conciliators shall be considered officers of the Commission while performing their assignments, and that the appointment of a super conciliator is not reviewable.

Proposed N.J.A.C. 19:12A-1.4 lists the powers and duties of a super conciliator, including the ability to set the time and place for meetings, initiate and pursue non-binding procedures to resolve impasses over proposals being considered by committees, the power to subpoena witnesses and compel their sworn testimony, as well as compel the production of books, documents, and records, including those in electronic form. The proposed rule would provide, consistent with other rules applicable to persons employed or appointed by the Commission, to resolve disputes, that a super conciliator shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential that are received or prepared by the super conciliator or to testify with regard to mediation or other proceedings, except that no individual shall be exempt from disclosing information relating to the commission of a crime.

Proposed N.J.A.C. 19:12A-1.5 provides that the cost of super conciliation shall be borne by the Department of the Treasury, Division of Pensions and Benefits, and that super conciliators will be compensated at their grievance arbitration/mediation rate for each eight-hour session. The section previously had capped the super conciliator's fee at \$1,000 per session, a cap which is not required by the statute. By setting the fees for super conciliators at their regular arbitration/mediation rates, proposed N.J.A.C. 19:12A-1.5(b) should attract more qualified applicants to the super conciliation panel, thus ensuring that the panel has enough members available for appointment, when necessary, to resolve a health benefits plan design and pension committee impasse.

The Commission is providing a 60-day comment period for the proposed new rules. Thus, this notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The proposed new rules will allow the implementation and facilitation of the work of the health benefits plan design and pension committees established pursuant to P.L. 2011, c. 78, by using super conciliators, skilled in dispute resolution techniques, written and oral communications, and with knowledge of government finance and fiscal policy, to help the committees agree upon proposals affecting public employee health benefits and pensions.

#### **Economic Impact**

The proposed new rules set forth the compensation to be paid to super conciliators appointed to assist the committees in resolving disputes at the super conciliators' regular grievance arbitration/mediation rate and that such costs shall be borne by the Department of the Treasury, Division of Pensions and Benefits. As the use of super conciliation administered by the Commission in this area of dispute resolution is rare and unpredictable, there is presently no way to estimate the costs of super conciliation. The fiscal note accompanying S2937, enacted as P.L. 2011, c. 78, makes no mention of costs or cost savings associated with the use of super conciliation pursuant to N.J.S.A. 43:3C-17 and 52:14-17.27b.

#### **Federal Standards Statement**

The new rules are proposed pursuant to the authority of N.J.S.A. 43:3C-17 and 52:14-17.27b. There are no Federal statutes, regulations, or standards governing the use of super conciliation in these contexts. Therefore, a Federal standards analysis is not required.

#### **Jobs Impact**

The proposed new rules should have no impact on jobs to be generated or lost as a result of their promulgation.

#### **Agriculture Industry Impact**

The Commission's jurisdiction pursuant to N.J.S.A. 43:3C-17 and 52:14-17.27b is limited to the resolution of disputes among pension and health benefits plan design committees, respectively, and the proposed new rules apply only to the resolution of disputes emanating from committees established at P.L. 2011, c. 78. The proposed new rules, therefore, impose no requirements on the agriculture industry.

#### **Regulatory Flexibility Statement**

The Commission's jurisdiction pursuant to N.J.S.A. 43:3C-17 and 52:14-17.27b is limited to the resolution of disputes among pension and health benefits plan design committees, respectively, and the proposed new rules apply only to the resolution of disputes emanating from committees established at P.L. 2011, c. 78. The proposed new rules, therefore, impose no requirements on small businesses as defined pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

#### **Housing Affordability Impact Analysis**

The proposed new rules will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed new rules will evoke a change in the average costs associated with housing because the rules are designed to implement sections 33 and 55 at P.L. 2011, c. 78 in order to assist health benefits plan design and pension committees established by that law, by resolving, through super conciliation, impasses resulting from a committee's failure to render a decision on a matter before the committee.

#### **Smart Growth Development Impact Analysis**

The proposed new rules will have no impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules are designed to implement sections 33 and 55 at P.L. 2011, c. 78, in order to assist health benefits plan design and pension committees established by that law, by resolving, through super conciliation, impasses resulting from a committee's failure to render a decision on a matter before the committee.

**Racial and Ethnic Community Criminal Justice and Public Safety  
Impact**

The proposed new rules will not have an impact on pre-trial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposed new rules follows:

CHAPTER 12A

SUPER CONCILIATION—HEALTH BENEFITS PLAN DESIGN  
AND PENSION COMMITTEES

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

19:12A-1.1 Purpose of procedures

The procedures in this chapter 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 pursuant to P.L. 2011, c. 78, that are charged with reviewing and modifying public employee health benefits and pension plans. The Public Employment Relations Commission (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 Public Employment Relations Commission (Commission) shall maintain a Health Benefits Plan Design and Pension Committees Super Conciliation Panel (Panel) to resolve disputes emanating from health benefits plan design and pension committees. Members of the 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 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.

(e) Members of the 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 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 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 Public Employment Relations Commission's (Commission) website 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 email) of the committee's executive secretary;
3. The names of all committee members;
4. A clear description of the unresolved issue(s) that 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 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 affect 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 conciliators

(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 at 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 conducted pursuant to 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 Public Employment Relations Commission.

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

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