

# **NJ Personnel Administrators Association Legislative/Case Law Update April 19, 2023**

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# CASE LAW



# PUBLIC EMPLOYMENT RELATIONS COMMISSION



# Old Bridge Education Assn v. Old Bridge BOE

## 3/30/23 (PERC)

- Increment withholding for evaluative reasons properly restrained from arbitration. Teacher who had CAP in place because of parent complaints and actions toward parents and students. Increment withheld for failure to manage and interact with students, despite warnings. Such concerns about performance are evaluative.

# Franklin Twp Ed Assn v. Franklin Twp BOE (PERC) 1-26-23

- NJEHP equivalent must be offered; if increase, it shall be negotiated. Board refusal, to offer the NJEHP-equivalent plan prior to the completion of financial-impact negotiations was a violation of PERC law.

# COMMISSIONER OF EDUCATION



# Charter School of Paterson Ed Assn v. Charter School of Paterson 2/28/23

- Health Care--Board is obligated to provide a plan equivalent to the NJEHP and that it was undisputed that the Board has not offered or provided such a plan. N.J.S.A. 18A:16-13.2 (Chapter 44) obligates the Board to first offer a plan equivalent to the NJEHP to Association members, and then to proceed to negotiations over any resulting increase in costs. See also [Franklin Twp Ed Assn v. Franklin Bd of Ed;](#) [Queen City Academy Ed Assn v. Queen City Academy Charter School](#)



## Cilento v. Woodbridge Bd of Ed 2/6/23

- Tenured teacher challenges dismissal following suspension of certificates for two years by Board of Examiners due to alcohol use during school hours while on duty; Commissioner determined that local district acted properly in terminating teacher who no longer had proper certification.

# Poll v. Holmdel, Appellate Division 1/18/23

- Soccer coach who was suspended for inappropriate discipline of a student and then asked to resign was not paid any of his stipend; Coach sued district in court; Court said matter over pay should have been addressed as grievance in accord with CBA and dismissed case.

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# Sutliff v. Clifton BOE, Appellate Division, April 5, 2023

- Is there a school counselor/ student privilege? In context of sexual assault, NO. SAC asserted that she could not report to law enforcement without student consent. However, law and regulation require immediate report to law enforcement. Administration was going to write her up for violation of policy, but did not. SAC, anxious about her employment, never returned to work. Claimed CEPA protection. Court declined to grant such protection, nothing illegal on part of district.

# Angus v. Metuchen BOE, Appellate Division

## 4/6/2023

- Can teacher take sick leave under *N.J.S.A. 18A:30-1* for COVID-19 quarantine for possible exposure to disease? YES. Exposure renders an employee qualified for sick leave where the employee is excluded from school, "on account of a contagious disease." The Board excluded employee from school for eight workdays "on account of" a contagious disease. Does not require that it be the employee's own contagious disease.

# BILLS OF INTEREST



# S-3440 (Gopal)/ A-5060(Reynolds-Jackson, Lampitt, Verrelli)

- Voted out of Assembly Labor Committee; referred to Assembly Appropriations Committee; No movement yet in Senate.
- Expands the scope of allowable uses of sick leave for school district employees.
- For the care of a seriously ill member of the employee's immediate family including, but not limited to, parent or guardian, spouse or domestic partner, sibling, and child, for a reasonable period of time; for the diagnosis, care, or treatment of, or recovery from, a mental or physical illness, injury, or other adverse health condition, or for preventative medical care; to aid or care for a family member of the employee during diagnosis, care, or treatment of the family member's mental health, physical illness, injury, or other adverse health condition...

# S-3440 (Gopal)/ A-5060(Reynolds-Jackson, Lampitt, Verrelli)

- Due to circumstances relating to domestic or sexual violence; for seven days because of a death in the employee's immediate family; to attend a school-related conference, meeting, function, or other event for a child; or in connection with a closure of the school or place of care of a child of the employee.
- Bill provides that its provisions do not supersede any collective bargaining rights.
- Allows a board of education to require a physician's note to be filed with board secretary in order to obtain sick leave only when sick leave is used for personal injury or illness. Finally, the bill provides various conditions for when a board of education may request advance notice or reasonable documentation for use of sick leave.



# Questions?

