

PUBLIC SECTOR HIGHER EDUCATION UNIONIZATION IN NEW JERSEY

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New Jersey Public Employment Relations Commission**

New Jersey Employer-Employee Relations Act (EERA)

Enacted in 1968 and codified at N.J.S.A. 34:13A-1

Based on the National Labor Relations Act

Created the Public Employment Relations Commission (PERC)

Tripartite Commission: 3 Public Members (Chair)

2 Labor Members

2 Management Members

3 Sections:

General Counsel, Unfair Practices & Representation, and Conciliation & Arbitration

Silent on whether public employees in NJ may strike. Union Beach Bd. of Ed. v. NJEA , 53 N.J. 29 (1969) (No right to strike in the absence of a statutory grant.

Public Sector Higher Education In New Jersey

Two Public Research Institutions:

Rutgers University, The State University of New Jersey

New Brunswick, Newark & Camden

New Jersey Institute of Technology

Newark

9 New Jersey State Colleges and Universities

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Kean University (Union)

Montclair State University (Upper Montclair)

New Jersey City University (Jersey City)

Ramapo College of New Jersey (Mahwah)

Rowan University (Glassboro)

Richard Stockton College of New Jersey (Galloway)

The College of New Jersey (Ewing)

Thomas Edison State College (Trenton)

William Paterson University (Wayne)

Community Colleges in New Jersey

Atlantic Cape Community College

Bergen Community College

Brookdale Community College

Camden County College

County College of Morris

Cumberland County College

Essex County College

Hudson County Community College

Mercer County Community College

Middlesex County Community College

Ocean County College

Passaic County Community College

Raritan Valley Community College

Rowan College at Burlington County

Rowan College of South Jersey

Salem Community College

Sussex County Community College

Union County College

Warren County Community College

Amendments to the EERA & Higher Education

1977 Interest Arbitration Act

N.J.S.A. 34:13A-14 et seq.

Rutgers, The State Univ. and FOP, P.E.R.C. No. 94-45, 19 NJPER 579 (¶24275 1993), aff'd 21 NJPER 45 (¶26029 App. Div. 1994), certif. denied 140 N.J. 276 (1995).

Rutgers police officers are covered by the New Jersey Interest Arbitration Act.

Amendments to the EERA & Higher Education

2003 School Employees Contract Resolution and Equity Act

N.J.S.A. 34:13A-31 et seq.

Applies to all Higher Education employers.

Eliminates imposition of contracts

Prohibits altering terms and conditions of employment

Mandatory Fact-Finding

Adds Super-Conciliation as a contract resolution method

SPECIAL DISCIPLINARY ARBITRATION

2009 Special Disciplinary Arbitration

Provides police officers and firefighters who are terminated from their positions the ability to challenge the termination in special disciplinary arbitration.

N.J.I.T. and FOP Lodge No. 93, P.E.R.C. No. 2010-48, 35 NJPER 474 (¶158 2009).

IMO DiGuglielmo, 465 N.J. Super. 42 (App. Div. 2020), rev'd 252 N.J. 350 (2022).

NJ Medical and Health Science Education Restructuring Act

P.L.2012,c. 45 The Largest Higher Ed. Merger in U.S. History:

Provides for The Rutgers School of Biomedical and Health Sciences to acquire The University of Medicine & Dentistry of NJ (UMDNJ).

Provides for Rowan University School of Osteopathic Medicine/Cooper Medical School to acquire the UMDNJ School of Osteopathic Medicine.

All legacy UMDNJ employees retain all of their rights and benefits under existing CNAs or contracts until such time as new or revised agreements or contracts are agreed to.

WORKPLACE DEMOCRACY ENHANCEMENT ACT

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2018 N.J.S.A. 34:13A-5.11 et seq.

“The Legislature finds and declares that collective negotiations promote labor stability in the public sector and enhance the delivery and avoid the disruption of public services. The Legislature further declares that it is in the public interest to ensure that any employee organization that has been designated as the exclusive representatives of employees in a collective negotiations unit is able to effectively carry out its statutory duties by having access to and being able to communicate with the employees it represents.”

WORKPLACE DEMOCRACY ENHANCEMENT ACT

WDEA expands negotiations units to include all F/T and P/T employees performing unit work.

WDEA provides broad employee access rights to majority representative with the statutory right to negotiate access that terminates in binding arbitration.

Requires majority representative to have access to employer email.

Requires majority representative to have access to Government Buildings for union meetings.

SUBCONTRACTING

2021 N.J.S.A. 34:13A-44 et. seq.

“An act concerning collective bargaining agreements and subcontracting by any local or regional school district, educational services commission, jointure commission, county special services school district, **county college**, or board or commission under the authority of the Commissioner of Education or the State Board of Education.”

2021 N.J.S.A. 34:13A-50 et. seq.

“An act concerning collective bargaining agreements and subcontracting by a **State college or university** established pursuant to chapter 64 of Title 18A of the New Jersey Statutes or a **public research university**

SUBCONTRACTING

“[a]ll aspects or actions relating to or resulting from an employer’s decision to subcontract including, but not limited to, whether or not severance pay is provided, shall be mandatory subjects of negotiations.”

Prohibits an employer from entering into a subcontracting agreement which affects a negotiations unit during the term of an existing CNA.

SUBCONTRACTING

No employer shall enter into a subcontracting agreement for a period following the term of the current collective bargaining agreement unless the employer:

1. Provides written notice to the majority representative and PERC 90 days prior to soliciting bids.
2. Has offered to meet and consult with the majority rep. to discuss the decision to subcontract and engage in negotiations over the impact.
3. All replaced or displaced employees in the unit retain all previously acquired seniority during that period and shall have recall rights whenever the subcontracting terminates.

Provides for attorney's fees if an unfair practice charge is sustained.

Responsible Collective Negotiations Act

2022 N.J.S.A. 34:13A-57 et seq.

“The Legislature finds and declares that the public interest is best served in the prompt settlement of labor disputes and in achieving cost effective and creative solutions to ensure the efficient delivery of public services and that policy is best achieved by entrusting democratically elected government officials with broad authority to negotiate over the terms of employment of their employees.”

Responsible Collective Negotiations Act & Higher Ed.

Unions may require non-members to pay for the cost of arbitration.

Only unions and employers can invoke the arbitration provisions of a contract.

Permits the use of electronic signatures on authorization cards for purposes of certifying a union as the majority representative.

Provides for EXPEDITED processing of unfair practice charges alleging retaliation for engaging in protected activity:

60 Days to issue a Complaint

120 from complaint issuance to schedule hearing

Any party may enforce a PERC Order in Superior Court

Higher Ed. Excluded from RCNA

Counties and their instrumentalities, State Colleges and Universities, and Rutgers and NJIT were excluded from the provisions of the RCNA that provided:

- Permissive Category of Negotiations

- Limitations on Regulations that preempt negotiations

- Resolution of all contractual disputes through binding arbitration

CASE of NOTE in NJ Higher Education

Rutgers, The State Univ. of NJ and AAUP-AFT, AAUP-BHSNJ, Part-Time Lecturers AAUP-AFT, P.E.R.C. No. 2023-23, 49 NJPER 309 (¶73 2022).

Interim relief was not appropriate in a case where the unions challenged the University's unilateral revision to its COVID-19 Policy by eliminating the requirement for face coverings in indoor teaching spaces and libraries.

CASE To Watch in NJ Higher Education

OPEN BARGAINING

WATCHUNG HILLS BD. OF ED. AND WATCHUNG HILLS ED. ASS'N

Docket Nos. CE-2022-005 and CO-2022-168

Board of Education has filed an unfair practice charge challenging the Education Association's invitation to the entire unit to attend negotiation sessions.

Education Association has filed an unfair practice charge challenging the Board of Education's proposed ground rule to limit negotiations to the Association Negotiations Committee and exclude the expanded open bargaining team.