



**STATE OF NEW JERSEY
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October 19, 2017

TO: Commissioners
FROM: Counsel Staff
RE: Developments in the Counsel's Office Since September 21, 2017

Commission Cases

Court Decisions

Implementing fingerprint scan reporting procedure not negotiable or arbitrable

In re City of Elizabeth, 2017 N.J. Super. Unpub. LEXIS 2442 (App. Div. Dkt. No. A-4500-15T3)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the decision of the Commission [P.E.R.C. No. 2016-83, 42 NJPER. ¶158, 2016 N.J. PERC LEXIS 55 (2016)] restraining arbitration of grievances filed by the Elizabeth Superior Officers Association and PBA Local 4 (copy attached). The grievances challenged the City's implementation of a reporting system for superior officers and detectives requiring them to scan their fingers at the beginning and end of each tour of duty to sign in and out of work.

The Court affirmed the Commission's determination that "a public employer has a managerial prerogative to establish and implement timekeeping procedures to verify that employees are at work when they are required to be." It noted that the Commission concluded the Unions had not met the standard for mandatory or permissive negotiability "because the finger scan requirement has at most a minimal effect on employee work and welfare and allowing a challenge to the new timekeeping system would place substantial limitations on the City's governmental policy making powers."

Supreme Court declines to review case on proration/reduction of leave time

State of New Jersey v. New Jersey Law Enforcement Supervisors Association, 2017 N.J. Super. Unpub. LEXIS 1357, certif. den. ____ N.J. ____ (Dkt No. C-107 Sept Term 2017)

On September 28, 2017 the Supreme Court denied the request of the Law Enforcement Supervisors Association to review the decision of the Appellate Division of the Superior Court, affirming P.E.R.C. No. 2016-81, 42 NJPER 561 (¶156 2016). The Commission ruled that a state regulation mandates the proration, or reduction, of leave time of employees who go on a leave of absence without pay before the end of the year except where the leave is a voluntary furlough.