



**STATE OF NEW JERSEY
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January 20, 2010

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

SUBJECT: Monthly Report on Developments in the Counsel's Office Since December 17, 2009

Commission Cases

_____The New Jersey Institute of Technology has filed an appeal of P.E.R.C. No. 2010-48, ___NJPER___ (¶___ 20009). In that decision, the Commission granted NJIT's request for a restraint of binding arbitration of a grievance filed by FOP Lodge 93. The grievance challenges the termination of a police officer. The FOP argued that the parties' collective negotiations agreement provides for arbitration and that the officer is also entitled to arbitration under the police disciplinary arbitration statute, N.J.S.A. 40A:14-210(1). NJIT argued that the statute does not apply to them; if it did apply, the FOP did not submit the appropriate form; and the decision to terminate an officer is not negotiable. The Commission held that major discipline for police officers cannot be submitted to grievance arbitration and restrained arbitration over the merits of the termination. The Commission further stated that NJIT is an employer covered by the police disciplinary arbitration statute, but the FOP did not file a proper request for a panel of disciplinary arbitrators. The FOP was given ten days to file the appropriate form and then the parties' may argue whether the request is timely.