THE ADVOCATE

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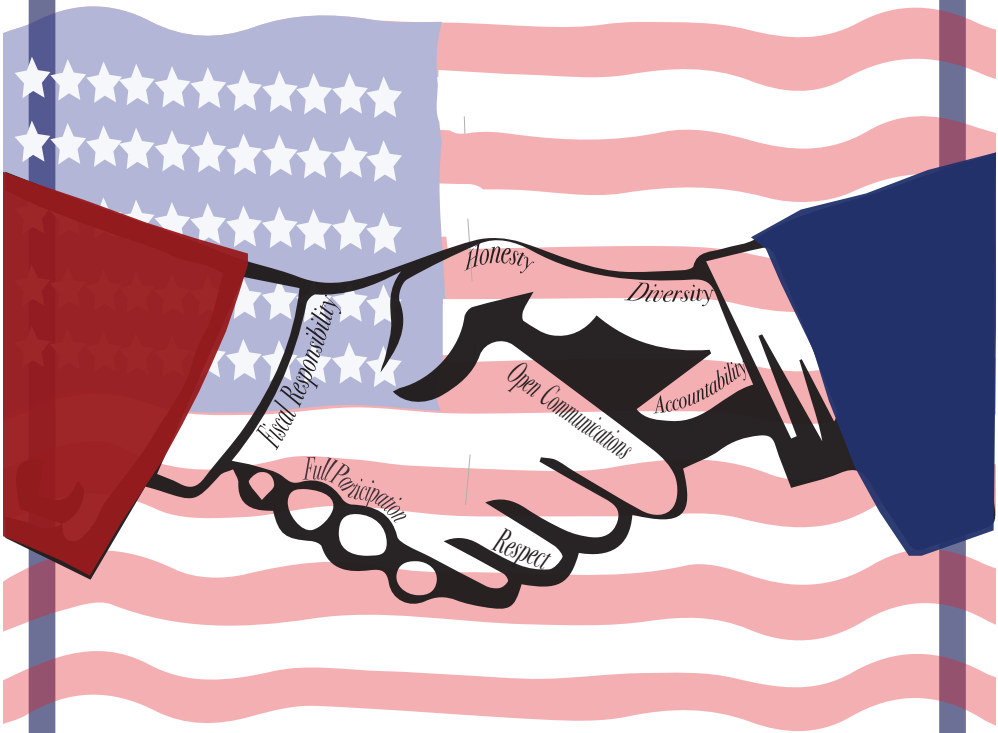

CSEA
NEW YORK

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New York State's Attempt to Boost Power in Private Sector Labor Disputes

On September 5, 2025, Governor Kathy Hochul signed legislation modifying New York Law to allow the New York State Public Employment Relations Board ("PERB") to assert jurisdiction over some private sector labor disputes, which are typically overseen by the National Labor Relations Board ("NLRB"). PERB primarily oversees public sector employers in New York, but also regulates some labor relations for private sector employers within New York where neither the Railway Labor Act nor the National Labor Relations Act ("NLRA") provide coverage, such as for agricultural workers.

New York's enacted legislation was part of a broader effort to address the NLRB's current inability to operate effectively. Due to reduced federal funding and staff shortages, the NLRB lacks enough members to make decisions, prompting New York to step in. These new laws were aimed at providing PERB with the ability to handle such private sector matters as certifying unions, resolving unfair labor practices, and overseeing collective bargaining agreements. This change aimed to give New York more control over labor relations in the private sector.

Shortly after this legislation was signed by Governor Hochul, two lawsuits were filed against New York State. On September 15, 2025, the Amazon Labor Union ("ALU"),

affiliated with the International Brotherhood of Teamsters, filed a charge with PERB alleging Amazon committed unfair labor practices by firing an ALU president for their union activities. On September 22, 2025, Amazon sued PERB in the Eastern District of New York to stop enforcement of the new amendments, arguing they were preempted by the NLRA. Separately, on September 12, 2025, the NLRB sued New York State seeking to stop enforcement of the changes to the labor law and to protect its jurisdiction.

With respect to Amazon's lawsuit, on November 26, 2025, a New York federal judge granted Amazon's motion for a preliminary injunction barring the enforcement of the recent amendments that would have subjected most private sector employers within the state to PERB's jurisdiction. The judge found that federal law preempted the State's action and gave exclusive jurisdiction to the NLRB. The Court in the Amazon matter rejected all of New York State's arguments to create an exception to these established principles and defend the legislative amendment. The Court granted an emergency injunction because Amazon was at risk of facing conflicting rulings from both state and federal authorities. The NLRB's lawsuit remains pending.

It seems that the U.S. District Court's decision in the Amazon matter has some significant implications for labor relations in New York State. Essentially, the court ruled that the state cannot override federal law, which grants the NLRB sole authority over private sector labor disputes. This means that New York's attempt to expand PERB's jurisdiction has been blocked, at least temporarily. The ruling highlights the ongoing tension between state and federal labor regulations, particularly in light of the inaction by the NLRB under the current administration. While an appeal may very well be taken, PERB is now prohibited from enforcing the recent amendments to New York law against private sector employers. This action, however, does not impact employers already subject to PERB's jurisdiction, including public employers and agricultural employers, and some other private sector employer matters.

DISCIPLINARIES

State Disciplinaries:

SUNY Upstate Medical University
(Arbitrator Crangle)
Matter No. 24-0757

A Supply Assistant was suspended without pay and issued a NOD seeking termination as a result of allegations that she misrepresented the truth, made inappropriate and/or derogatory statements to and about her coworkers and supervisors, and pretended to be busy in order to avoid working. The Arbitrator found her partly guilty, determined that termination was not an appropriate penalty, and found that SUNY Upstate did not have probable cause to suspend the Grievant without pay. A 10-day unpaid suspension was determined to be an appropriate penalty, and the Grievant was reinstated to work.

SUNY Stony Brook University Hospital
(Arbitrator Rinaldo)
Matter No. 25-0522

SUNY sought to terminate an employee for an extensive list of charges, including intentionally disrupting operations, drinking on employer property, and throwing a coworker's wallet and phone out of her vehicle. The Grievant asserted that no drinking occurred, and that the coworker in question had sexually assaulted the member. The Arbitrator did not find either account credible, and dismissed the majority of the charges, reducing the penalty to a written warning.

Office for People with Developmental Disabilities
(Arbitrator Deinhardt)
Matter No. 25-0214

A Developmental Support Assistant II, with approximately fifteen years of service and prior discipline for mistreatment and neglect,

was suspended and issued a NOD seeking termination for allegedly spraying an individual with disabilities with water from a shower hose as punishment and in violation of agency policy and the individual's Behavior Support Plan. The Arbitrator found that the State failed to prove by a preponderance of the evidence that it was done intentionally or punitively and sustained the grievance and ordered the Grievant reinstated and made whole for all losses.

Office for People with Developmental Disabilities
(Arbitrator Siegel)
Matter No. 25-0627

The Arbitrator issued a Consent Award which reflected the parties' agreement to settle the NOD alleging that the Grievant used inappropriate language in the presence of individuals with developmental disabilities. The Grievant would serve 6 months of unpaid suspension and then would be reinstated to work. Upon his reinstatement, the Grievant would be on an incident-specific probation for one year with a violation resulting in termination.

Office for People with Developmental Disabilities
(Arbitrator Stein)
Matter No. 25-0603

A Developmental Disabilities Secure Treatment Aide I was suspended and issued a NOD for failing to properly supervise a resident who eloped into freezing weather. The Grievant admitted the facts in the NOD but contested that termination was an appropriate penalty. The Arbitrator found him guilty of all charges, agreed that termination was inappropriate, imposed a suspension without pay from April 18, 2025, to October 14, 2025, with reinstatement thereafter, and found that the State had probable cause to suspend the Grievant while the charges were pending.

Office for People with Developmental Disabilities
(Arbitrator Stiefel)
Matter No. 25-0265

A Direct Support Assistant with no prior disciplinary record, was suspended and issued a NOD for punching a co-worker in the jaw in the presence of an individual with developmental disabilities. The Arbitrator found the Grievant guilty of the misconduct and determined that termination was appropriate. The Arbitrator also found that the State had sufficient probable cause to suspend the Grievant.

Taconic DDSO
(Arbitrator Stein)
Matter No. 25-0413

A Direct Support Aide was suspended without pay and served a termination NOD for inappropriate behavior while driving a person receiving service. CSEA stipulated to the facts of the incident, contesting only the appropriateness of termination. The Arbitrator found that termination was inappropriate based on the employee's stellar record and mitigating circumstances and reduced the penalty to suspension to date.

New York Unified Court Administration
(Arbitrator Ormaechea)
Matter No. 24-0525

The employee was disciplined for out of office abusive behavior towards his former spouse. The Arbitrator found that the State established six of its nine disciplinary specifications and suspended the member for two months without pay.

SUNY Binghamton University
(Arbitrator Ternullo)
Matter No. 25-0347

A Facility Operations Assistant was suspended and issued an NOD with twenty-three counts of misconduct for aggressively confronting a co-worker. The Arbitrator found him guilty of all the charges and determined that, although the Grievant had provided "consistently good service" for twenty-three years, termination was the appropriate penalty based on his prior disciplinary history for insubordination, his refusal to accept responsibility, and the fact that the situation could have escalated if not for the intervention of others.

Office of Children and Family Services
(Arbitrator Arno)
Matter No. 25-0027

A Kitchen Supervisor was suspended and served with a termination NOD for playing inappropriate videos, making disparaging remarks about women and Jews, and creating a hostile workplace environment. In a strongly worded opinion, the Arbitrator found the State's witnesses credible and CSEA's witnesses, particularly the employee, to be non-credible. He found probable cause for the suspension and upheld the termination.

Local Disciplinaries:

Village of Silver Creek
(Arbitrator Reden)
Matter No. 24-0566

The Grievant was issued a Notice of Charges and suspended for 30 days after the Village alleged that he allowed his wife into the water treatment plant and facilitated a nude photograph of her on Village property. The Arbitrator found that the Grievant was not suspended for just cause, noting that the Village failed to prove by a preponderance of the evidence that the at-issue photo was of

the Grievant's wife or that the Grievant had been prohibited from allowing his wife to come to the plant to bring him food or coffee. The Arbitrator granted the grievance and ordered the Village to remove the suspension papers from the Grievant's record and make him whole.

Erie County Medical Center
(Arbitrator Lewandowski)
Matter No. 24-0309

The Center sought to terminate a Community Mental Health Tech for roughly restraining a mental health patient in crisis. The Arbitrator found that the Center failed to meet its burden and that the employee behaved appropriately. The employee was reinstated with full back pay and benefits.

Nassau Health Care Corporation
(Arbitrator McCray)
Matter No. 25-0187

A Public Safety Officer I was terminated and issued a NOPA for leaving his ER post at 5 a.m. instead of 8 a.m. and failing to update his departure time in Kronos. The Arbitrator found that the Grievant did not commit misconduct because he believed he had permission to leave early, and that NHCC failed to show that the Grievant's understanding of Kronos practices was contrary to policy or that he was on notice that this was incorrect. The Arbitrator sustained the grievance and ordered the Grievant reinstated with full back pay and made whole for all losses.

Nassau Health Care Corporation
(Arbitrator McCray)
Matter No. 22-0137

CSEA alleged that NHCC improperly terminated several Grievants who refused to receive COVID-19 vaccinations in accordance with the New York State COVID-19 Vaccination Mandate and then failed to timely reinstate, and provide appropriate backpay

to, certain Grievants wishing to return to work after the Mandate was lifted. The Arbitrator determined that NHCC had just cause to terminate the Grievants for their refusals to receive COVID-19 vaccinations in accordance with the Mandate because it was required by state law at the time of the terminations. After the Mandate was lifted, while NHCC was willing to reinstate the Grievants, it was not aware which Grievants wished to be reinstated until the hearing. As a result, the Arbitrator ordered those Grievants wanting to return to work to be reinstated and that backpay should be provided from the date of the hearing until they were actually reinstated. Only those Grievants who wished to return to work were awarded backpay for the delay in reinstatements since the initial terminations were determined to be proper.

Nassau Health Care Corporation
(Arbitrator Walko)
Matter No. 25-0122

A Certified Nursing Assistant was terminated following an incident during a patient transfer that left the patient with a broken fibula. The member was found guilty of misconduct but the arbitrator reduced the penalty to suspension to date, based upon mitigating factors.

Nassau County
(Arbitrator Simmelkjaer)
Matter No. 24-0686

The Arbitrator issued a Consent Award which reflected the parties' agreement to settle the NOD alleging misconduct for falsifying work and not following policy and protocol. The Grievant would serve a period of unpaid suspension, and then would be reinstated to work, after which the Grievant would be on an incident-specific probation for fifteen months. If the Grievant thereafter engaged in the same or similar conduct to that underlying the subject NOD, the Grievant would only be able to challenge whether the alleged conduct occurred. If an Arbitrator found that it did, termination would be automatic.

Syracuse Housing Authority
(Arbitrator Gelernter)
Matter No. 25-0022

A provisional Central Maintenance Supervisor was issued a NOD seeking his termination as a result of allegations that he minimized the seriousness of an incident during which a racial slur was directed at a group of employees by calling it a "perceived" racial slur. The Arbitrator determined that, because the Grievant was a provisional employee, he did not have the right to contest his termination pursuant to the terms of the CBA. As such, the grievance was denied.

City of Mount Vernon
(Arbitrator Riegel)
Matter No. 25-0146

A Clerk was terminated for fighting in the workplace. The Arbitrator found the member guilty of the misconduct and further found the termination not shocking to the conscience.

Warren County
(Hearing Officer Martindale)
Matter No. 25-0598

A Caseworker was served with Section 75 charges related to allegations that she was incompetent and failed to perform her job functions in a timely manner. The Hearing Officer recommended a penalty of termination because the evidence showed that the Respondent was consistently unable to timely complete case notes and close cases out despite previously being provided with two performance development plans and a counseling memorandum, which were intended to help her to fix these problems.

Town of Clarkstown
(Arbitrator Hoffman)
Matter No. 25-0024

A Motor Equipment Operator II was issued a NOD seeking termination for misconduct and incompetence for multiple instances of insubordination, conduct unbecoming a Town employee, refusal to follow directives, failure to meet performance expectations, and verbal abuse toward supervisors and a coworker. The Arbitrator dismissed the charge of verbal abuse but found the Grievant guilty of the remaining charges and determined that termination was the appropriate penalty.

Private Sector Disciplinaries:

Lifespire
(Arbitrator Brent)
Matter No. 25-0159

A Residential Education Support Professional was terminated and issued a NOD after an individual in her care eloped from the Day Program and was discovered walking unescorted along a city street. The Arbitrator found that there was not just cause to terminate the Grievant because she was the sole staff member supervising her group of eight while her usual colleague was temporarily assigned elsewhere, and that the individual routinely moved independently under her treatment plan, and therefore reinstated her with full back pay to the date of termination, less wages attributable to a ten-working-day suspension.

Lifespire
(Arbitrator Siegel)
Matter No. 24-1016

A Direct Support Professional was terminated and issued a NOD after she was involved in two separate allegations of abuse at the residence where she worked, including speaking harshly toward a person receiving supports and making disparaging remarks

about the person's family to emotionally harm the individual. The Arbitrator denied the grievance, finding the Grievant guilty of the charged misconduct. He further found that there was just cause for termination.

CONTRACT GRIEVANCES

Local Grievances:

Nassau County
(Arbitrator McCray)
Matter No. 24-0367

The Arbitrator issued a Consent Award, which reflected the parties' agreement that each of the two Grievants would receive seventy-five hours of compensatory time in order to correct the County's alleged failure to distribute overtime equitably, and that the County would implement a rule stating that "when the service shop owner cannot cover overtime with assigned employees (regardless of title), it will offer those OT opportunities on equal basis to the extent practicable to those Plant Maintenance Mechanics working in Roads."

Nassau County
(Arbitrator McCray)
Matter No. 25-0510

The Arbitrator issued an Award without Opinion, which reflected the parties' agreement that the CBA had been violated when the Grievant was not assigned to be a Deputy Sherrif Lieutenant in the Field Unit because he had more in-title seniority than the employee who was assigned. The Grievant was thereafter assigned to the Field Unit.

Nassau County
(Arbitrator McCray)
Matter No. 24-0717

CSEA filed a contract grievance alleging that the County violated the CBA by not granting the Grievant's request to transfer to the Warrant Squad and instead assigning the position to an employee with less seniority, and further violated the CBA by transferring the Grievant to the Gang Unit when there were less senior employees who could have been assigned. In a Consent Award, Arbitrator McCray memorialized the parties' agreement that the Grievant would be transferred to an assignment in the Warrant Squad.

Nassau County
(Arbitrator McCray)
Matter No. 24-0615

CSEA filed a grievance after the County declined to pay signing bonuses to certain members as required by a Memorandum of Understanding. A hearing was held on the matter, and at the end of the hearing the two parties agreed to resolve by consenting to terms.

Nassau Health Care Corporation
(Arbitrator McCray)
Matter No. 23-0161

CSEA alleged that NHCC violated the parties' CBA when it failed to award full backpay to the Grievant when she was reinstated after a termination case, while NHCC maintained that it was entitled to deduct earnings she received through an agency placement at NHCC during the time she was terminated. The Arbitrator determined that there was an enforceable past practice between the parties stating that no deductions for interim earnings shall be applied in backpay awards, even though NHCC would pay the Grievant twice here—once for the services she actually provided and then the backpay. This was not inequitable because the past practice prevented NHCC from deducting interim earnings in

backpay awards for all other employees, even when it did not receive any services from those employees.

Village of Spring Valley
(Arbitrator Panepento)
Matter No. 22-0373

CSEA filed a contract grievance alleging that the Village violated the CBA by assigning the Grievant out-of-title work for approximately three years. The Arbitrator sustained the grievance, finding that the Village violated the CBA by requiring the Grievant to perform duties outside his title and ordered the Village to pay him the difference between his actual pay rate and the higher rate of the title he worked in during the entire out-of-title period.

City of Lockport
(Arbitrator Reilly)
Matter No. 24-0736

CSEA filed a grievance after a City Alderman interacted negatively with a Member. CSEA alleged this interaction constituted anti-union activity, barred under the CBA. The Arbitrator applied the PERB framework for §§209(a)(1)(a)&(c) charges and found that while CSEA established protected activity and the City Alderman's knowledge of that activity, the Alderman's actions did not constitute a negative employment action. The grievance was denied.

City of Batavia
(Arbitrator Rinaldo)
Matter No. 24-0933

A unit member was promoted into the bargaining unit. Subsequently, the City reduced his promised wages to equal the salary schedule for employees hired after 2016. CSEA argued that the language of the current agreement did not allow such a reduction. The Arbitrator disagreed, finding that the agreement did so provide, based upon the presence of a separate salary scale for those hired after 2016 found in Appendix C of the agreement.

Yonkers Parking Authority
(Arbitrator Riegel)
Matter No. 24-0439

CSEA filed a contract grievance alleging that the District violated the CBA when it denied the Grievant's request for a three-week vacation on the grounds that it "does not permit vacations of more than two weeks." The Arbitrator denied the grievance, finding that, pursuant to the CBA, the District had the right to limit employee vacations to a maximum of two weeks, that its rationale could not be considered arbitrary or capricious, and that the Grievant was not treated in a disparate manner.

Cheektowaga-Sloan UFSD
(Arbitrator Scott)
Matter No. 24-1024

CSEA filed a contract grievance alleging that the District violated the CBA by reducing the workday of clerical employees on a Superintendent's conference day in accordance with the "when school is not in session" schedule in the CBA. The Arbitrator denied the grievance, finding that the District's interpretation of "when school is not in session" was consistent with the ordinary meaning of the terms and with other provisions of the CBA.

Town of Hempstead
(Arbitrator Shiftman)
Matter No. 24-0957

CSEA filed a contract grievance alleging that the Town violated the CBA by implementing a "rotating schedule" for the beach tours of Public Safety Officer I ("PSOI"), rather than following the past practice of assigning the least senior PSOIs. The Arbitrator denied the grievance, finding that the Town did not violate the CBA because it had a compelling and objective reason for using the rotating schedule. Further, the Arbitrator found that even if the Town had lacked a compelling reason, CSEA's request for a reverse seniority assignment could not be granted, as it would violate the CBA.

JUSTICE CENTER

Office for People with Developmental Disabilities
(ALJ Golish Blum)
Matter No. 25-0054

A Developmental Disabilities Secure Care Treatment Aide received a substantiated report of Category 2 neglect for allegedly allowing a service recipient to elope undetected from the residence. The Subject requested an amendment to the substantiated finding, arguing that he was on a legitimate, documented bathroom break at the time, with another staff member assuming monitoring duties. The ALJ determined that the Justice Center did not meet its burden of proof by a preponderance of the evidence to show that the Subject committed neglect, and therefore the report was amended to "unsubstantiated" and sealed.

Office for People with Developmental Disabilities
(ALJ Requets)
Matter No. 25-0481

A Direct Support Assistant received a substantiated report of Category 3 neglect for failing to secure the seatbelt on the service recipient's wheelchair. The ALJ determined that the Justice Center did not meet its burden of proof by a preponderance of the evidence to show that the Subject committed neglect, as it did not establish that the Subject had a duty to buckle the wheelchair seatbelt. Accordingly, the report was amended to "unsubstantiated" and sealed.

Office for People With Developmental Disabilities
(ALJ Nasci)
Matter No. 25-0484

A Direct Support Assistant received two substantiated Category 3 reports for abuse and neglect stemming from an accusation that

she had called a Service Recipient a liar. The ALJ found the Justice Center failed to meet its burden of proof, and unsubstantiated both charges.

Office for People with Developmental Disabilities
(ALJ Requets)
Matter No. 25-0258

A Direct Support Assistant received a substantiated report of Category 2 neglect for driving in an unsafe manner while transporting the service recipient by failing to make a complete stop at a stop sign and bumping another vehicle. The ALJ determined that the agency met its burden of proof by a preponderance of the evidence to show that the Subject committed neglect, but found that the report is more appropriately categorized as a Category 3 act of neglect.

Office for People With Developmental Disabilities
(ALJ Nasci)
Matter No. 25-0569

A Direct Support Professional received a substantiated report of Category 2 neglect for leaving a service recipient in self-harm restraints for 4.5 hours and yelling at the service recipient. The ALJ found that the Justice Center failed to prove the restraint allegation and reduced the level to Category 3.

Office for People With Developmental Disabilities
(ALJ Brancati)
Matter No. 25-0149

A Direct Support Assistant received a substantiated report of Category 2 neglect for failing to look both ways at a four-way stop, which caused a traffic accident while she was transporting a service recipient. The ALJ substantiated the report but lowered the category to Category 3 because the Justice Center failed to show the incident was the result of distracted driving.

Office for People With Developmental Disabilities
(ALJ Nasci)
Matter No. 25-0509

A Direct Support Assistant received two substantiated Category 2 reports for neglect for failing to properly secure a service recipient's wheelchair in a vehicle and reckless driving. The ALJ found the Subject did fail to secure the service recipient, but that the Subject's driving did not endanger the service recipient, and unsubstantiated the second charge.

Office for People With Developmental Disabilities
(ALJ Hughes)
Matter No. 25-0568

A Direct Support Professional received a substantiated report of Category 2 neglect for failing to secure a service recipient's wheelchair in a van before driving. The ALJ found the Subject's denial non-persuasive and confirmed the substantiated report.

Office for People with Developmental Disabilities
(ALJ Hughes)
Matter Nos. 25-0520 & 25-0521

Two Direct Support Professionals each received a substantiated report of Category 2 neglect for failing to secure the vehicle's lap and shoulder belts on a service recipient. The Subjects requested an amendment to the substantiated findings and argued that they had not been properly trained, however, the ALJ found that records and their own testimony indicated otherwise. The ALJ determined that the Justice Center proved by a preponderance of the evidence that the Subjects' actions constituted neglect and that the conduct was properly categorized as Category 2.

Office for People with Developmental Disabilities
(ALJ Hughes)
Matter No. 25-0483

A Direct Support Assistant received a substantiated report of Category 2 neglect for failing to properly secure the service recipient in the vehicle. The ALJ determined that the Justice Center proved by a preponderance of the evidence that the Subjects' actions constituted neglect and further held that the conduct was properly categorized as Category 2.

Office of Children and Family Services
(ALJ Hughes)
Matter No. 24-0737

A Youth Support Specialist was accused of Category 1 physical abuse and Category 2 neglect when the investigation revealed that he struck a youth. The ALJ upheld both allegations because the evidence showed that, on the day in question, there was a violent altercation between several youths which required staff to intervene. Surveillance videos clearly showed that the youth punched the Subject multiple times in the head, and that the Subject later punched the youth twice in the face with a closed fist. This was enough to substantiate the Category 1 and 2 findings and place the Subject on the Staff Exclusion List.

Office for People with Developmental Disabilities
(ALJ Nasci)
Matter No. 25-0023

A Direct Support Assistant received a substantiated report of three Category 2 neglect findings for being asleep or less alert while on duty, driving unsafely while transporting a service recipient, and failing to follow vehicle safety policy, all of which were elevated to Category 1 findings as they occurred within three years of a prior Category 2 neglect finding. The ALJ determined that the Justice Center proved by a preponderance of the evidence that the Subject's actions constituted neglect, properly categorized each of the three

findings as Category 2, appropriately elevated them to a Category 1 act, and therefore ordered that the Subject be permanently placed on the VPCR exclusion list.

OCFS

Central Register of Child Abuse and Maltreatment
(ALJ Murawa)
Matter No. 25-0307

An unrelated third party accused the member of child abuse. Erie County DSS investigated and indicated the report of abuse. The member appealed and the Register informed the ALJ that it did not intend to present evidence supporting the allegation. Based on this, the ALJ ordered the Register to amend the report and list the accusation as unfounded.

Central Register of Child Abuse and Maltreatment
(ALJ Hoffman)
Matter No. 25-0108

An unrelated third party accused the member of child abuse. Genesee County DSS investigated and indicated the report of abuse. The member appealed and the Register informed the ALJ that it did not intend to present evidence supporting the allegation. Based on this, the ALJ ordered the Register to amend the report and list the accusation as unfounded.

Central Register of Child Abuse & Maltreatment
(ALJ Agostinelli)
Matter No. 24-0056

The Central Register contained two reports against the Appellant. The August 2023 report alleged that the Appellant left siblings outside alone, and that they walked about two miles to their home without her knowing. The October 2023 report alleged that the Appellant left another child unsupervised, which led to him falling

down a staircase and sustaining injuries. The ALJ determined that the Appellant committed the alleged maltreatment in August 2023 and that the existence of the indicated report could be disclosed to provider and licensing agencies pursuant to the Social Services Law. In October 2023, because the Appellant appropriately notified the parent of the incident and did nothing to increase or cause risk to the child, the ALJ ordered that the October 2023 report be amended to "unfounded" and then sealed.

Office of Children & Family Services
(ALJ Hasin)
Matter No. 25-0962

Since the Appellant voluntarily surrendered her Group Family Day Care License, she was deemed to have had her license revoked and was therefore subject to the prohibitions against licensing or registration pursuant to the Social Services Law for two years.

Office of Children & Family Services
(ALJ Ferro)
Matter No. 25-0369

The provider had her group day care license revoked following an incident wherein her dog bit a child in her care. The ALJ found that the allegation was supported by a preponderance of the evidence and that revocation was appropriate.

SECTIONS 72 AND 73

Putnam County
(Hearing Officer Siegel)
Matter No. 24-0981

The County determined that a Senior Office Assistant (Legal) was unfit to perform the duties of her position and should be placed on involuntary leave pursuant to Section 72. An independent medical examination found that the member was not fit to return to work

due to psychological conditions caused by stress. The Member appealed the County's determination. The Hearing Officer agreed with the County that the Member could not perform the duties of her position and recommended involuntary leave.

SUNY Upstate Medical University
(Hearing Officer Gelernter)
Matter No. 25-0148

The Hearing Officer found that SUNY Upstate demonstrated probable cause that the Subject employee was a danger to coworkers and that his continued presence would severely interfere with operations. The Hearing Officer also determined that SUNY Upstate proved that the Subject employee was unable to perform his job duties because, while his witnesses testified that he was medically fit, the State's doctors credibly determined that he was psychologically unfit.

PERB DECISIONS

Board Decisions:

Village of Spring Valley
(Board Decision)
Matter Nos. 23-0668 & 23-0489

The Board affirmed the ALJ's findings that the Village violated the Taylor Law when the Mayor, a member of its negotiating team, failed to vote in favor of ratifying a tentative Memorandum of Agreement ("MOA") he had signed. The Board also affirmed the ALJ's finding that CSEA did not violate the Act by delaying negotiations for a successor agreement, noting that any delay by CSEA's representative was reasonable since a successor MOA was already negotiated by the parties. As a result, the Board ordered the Village to execute the agreement upon demand. The Village is seeking judicial review of this Decision.

State of New York (DOCCS)
(Board Decision)
Matter No. 22-0604

The Board reversed the ALJ's dismissal of an improper practice charge filed by CSEA alleging that DOCCS violated the Taylor Law when it terminated CSEA's local president pursuant to a last chance agreement. The Board found that the ALJ erred in concluding that CSEA had not proved that the decisionmaker who terminated the local president was aware of his protected union activity. The case was remanded for further examination of whether DOCCS would not have terminated the local president "but for" the protected activity and, if relevant, whether DOCCS had a legitimate business reason for its actions.

DeWolf v. CSEA & Wayne County
(Board Decision)
Matter Nos. 19-0688, 20-0728, 21-0263, 21-0801, 21-0823, & 22-0358

After reviewing the exceptions filed by Petitioner to a decision of an ALJ, which dismissed his petition for a declaratory ruling, the Board affirmed the ALJ's decision. Specifically, while the rules only allow a person to file a petition for a declaratory ruling with respect to the applicability of the Taylor Law to it or any other person, employee organization or employer, or with respect to the scope of negotiations under the Act, the subject petition requested a declaratory ruling on the scope of the duty of fair representation owed to him by CSEA and his purported right to a jury trial pursuant to the United States Constitution. Since Petitioner's requests did not fall within the two permitted uses of a declaratory ruling petition, his petition was dismissed.

Staff Decisions:

CSEA Local 830
(ALJ Coligan)
Matter No. 25-0345

After reviewing the Charging Party's motion for recusal, the ALJ denied the motion. Specifically, while the Charging Party claimed that the ALJ was employed by CSEA "during . . . the period when CSEA planned and advanced the retiree-inclusive 2023 MOA with Nassau County," the ALJ noted that she had no knowledge of these circumstances, and that CSEA's response to the motion indicated that "no one from CSEA Counsel's Office was involved in those negotiations." As such, no basis for recusal or disqualifying conflict of interest was established.

CSEA v. Village of Southampton
(ALJ Blassman)
Matter No. 23-0098

After reviewing CSEA's petition for unit placement, which sought to accrete the Court Clerk, Justice Court Clerk, and Ordinance Inspector positions into its Village unit, the ALJ granted the petition in its entirety, finding that the pay and benefits afforded to the incumbents in these positions to be sufficiently similar to that of the CSEA-represented Village employees, and that CSEA therefore established a general community of interest between the groups.

CSEA v. New York State Office of Mental Health
(ALJ Parker)
Matter No. 23-0381

After reviewing CSEA's petition for unit placement, which sought to accrete two Administrative Assistant 2s ("AA2s") into its Administrative Services Unit ("ASU"), the ALJ determined that only one would be accreted into the ASU. The ALJ found that the second AA2 met the definition of a confidential employee because her duties supporting the Executive Director of the Psychiatric

Center exposed her to confidential labor relations information, specifically, confidential documents regarding other employees and ASU members, as well as confidential information she heard during Executive Cabinet meetings. As such, it was inappropriate to add her to the ASU.

COURT CASES

Alexander v. City of Albany et al.
(Supreme Court, Appellate Division, Third Department)
Matter No. 24-0658

After reviewing Petitioner's appeal from a Supreme Court judgment which, in a CPLR Article 78 proceeding, granted Respondents' motion to dismiss, the Third Department reversed and remitted the matter to Respondents for further proceedings. The appeal stemmed from a Section 75 proceeding in which the Hearing Officer determined that the City presented sufficient evidence in support of the charges it issued against Petitioner and recommended his termination. The Hearing Officer read his decision into the record, and the City subsequently accepted his decision by terminating Petitioner. The City's final decision, however, was issued before it received the hearing transcript, which resulted in Petitioner claiming that the decision to terminate him was arbitrary, capricious, and affected by an error of law. The Court found that the City was required to review the Hearing Officer's complete report and findings before issuing a final decision to terminate him.

Melillo v. City of Mount Vernon
(Supreme Court, Appellate Division, Second Department)
Matter No. 20-0952

The Petitioner, a Senior Cashier at the City of Mount Vernon Office of the Comptroller, was terminated for misconduct and insubordination. On appeal of her Article 78 ruling, the Court

of Appeals reversed, finding that the Hearing Officer – the Comptroller of Mount Vernon – was not impartial and should have been disqualified. The member was reinstated under a suspension without pay pending a new hearing.

Town of Clarkstown, et al. v. Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, Town of Clarkstown Unit #8353, Rockland County 844
(Supreme Court, Appellate Division, Second Department)
Matter No. 23-0310

The Town of Clarkstown filed a motion to stay arbitration over a dispute regarding the filling of vacancies and a provision in the CBA giving preference to current Town employees. After the Supreme Court in Rockland County denied the motion, the Town appealed. The Appellate Division affirmed, finding no public policy against arbitrating the issue and that the parties had agreed to arbitrate.

Fabian v. Westchester County
(Supreme Court, Appellate Division, Second Department)
Matter No. 22-0242

The member appealed a Section 75 decision finding them guilty of mistreating patients and terminating them. The Appellate Division found that substantial evidence supported the Supreme Court's decision to deny the petition, except for one specification, and upheld the termination.

Adam v. Onondaga County Department of Social Services – Economic Security
(Supreme Court, Onondaga County)
Matter No. 24-0959

After reviewing the CPLR Article 78 petition regarding whether the Petitioner was appropriately advised of and provided with due process rights, the Court determined that DSS properly issued the Petitioner a preliminary review report, conducted a

formal review upon the Petitioner's demand, and then issued a final determination before disqualifying the Petitioner from receiving payments for child care services. As a result of this, DSS's determination to disqualify the Petitioner from receiving payments for child care services was not found to be arbitrary and capricious or an abuse of discretion, and the petition was dismissed.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ("EEOC")

Slovensky v. CSEA
(Acting District Director Nieto)
Matter No. 25-0548

The EEOC dismissed the Applicant's charge but made no determination about whether further investigation would establish violations of the applicable statute. The EEOC also issued her the right to sue the Respondents on her charge within ninety (90) days of her receipt of the official notice of dismissal.

OTHER

New York State Department of Health
(ALJ Arnold)
Matter No. 25-0518

A Certified Nurse Assistant was reported for abuse under Public Health Law § 2803-d(6) for allegedly striking a patient in a residential health care facility. The ALJ found that the Department failed to meet its burden of proof, and the charge was dismissed.