

## **FEBRUARY 2026**

### **Board Decisions:**

#### **U-39440, Village of Kings Point & Kings Point Police Benevolent Assn, dated February 5, 2026**

The Board affirmed in part and reversed in part the ALJ's decision. The Board affirmed the ALJ's finding that the Village violated § 209-a.1 (d) of the Act when it issued Sick Leave Directive #4-2024. This directive unilaterally implemented a new requirement for all employees returning from sick leave to submit a physician's note from an attending physician to the Commissioner of Police. The Village's prior practice was to not require such documentation from anyone.

The Board reversed the ALJ's finding regarding the requirement for "visits to a Department-designated physician in conjunction with sick leave". The Board found no violation of the Act in this regard because the Village had maintained rules since 1983 that already provided discretion to require a member to call or visit a physician when reporting sick. Therefore, the "new" policy did not constitute a change in the language or enforcement of this specific provision.

#### **U-39188, Board of Educ of the City Sch Dist of the City of New York & UFT & Ingrid Linton, dated February 5, 2026**

The Board affirmed the ALJ's decision, which had found that the UFT did not violate its duty of fair representation under §§ 209-a.2 (a) and (c) of the Act. The UFT's conduct was not found to be arbitrary, discriminatory, or undertaken in bad faith in its refusal to pursue Linton's complaint to arbitration, where the UFT provided a reasoned and rational response to Linton's appeals and where there is no evidence of bad faith or UFT treated Linton in a discriminatory fashion. Consequently, the charge against the UFT was dismissed.

#### **U-39947, New York City Department of Education & UFT & Eugenia Pinkard, dated February 5, 2026**

The Board affirmed the Director's decision to dismiss Eugenia Pinkard's amended improper practice charge alleging that the New York City Department of Education (DOE) violated §§ 209-a.1 (a) and (c) of the Act, and that the United Federation of Teachers (UFT) violated § 209-a.2 (c) of the Act. These allegations primarily concerned the DOE's alleged underpayment of pension contributions to the New York State Teachers Retirement System on Pinkard's behalf between 2005 and 2009. She also implied that both the DOE and UFT refused to assist her with these issues because she had previously brought them before PERB.

The Board affirmed the Director's findings for several reasons: (1) Pinkard's claims relating to her 2010 separation from service from the DOE were untimely. The Board

rejected her argument that a recent discovery made her claims timely, an argument they had rejected previously; (2) even if timely, Pinkard's charge did not allege sufficient facts to establish a violation. The Board reiterated that conclusory and unsupported allegations are insufficient to prove retaliation by the DOE or a breach of the duty of fair representation by the UFT.

**U-39999, Metropolitan Transit Authority – NYCTA & TWU, Local 100 & Brown, dated February 5, 2026**

The Board affirmed the Director's decision to dismiss Ralph Brown's improper practice charge against the Metropolitan Transit Authority – New York City Transit Authority (NYCTA) and the Transit Workers Union, Local 100 (Local 100). The charge alleged that NYCTA improperly extended Brown's probationary term, presented him with disciplinary allegations, suspended him without pay, and terminated him for unsatisfactory performance effective July 19, 2025. Brown also alleged that he filed two grievances with Local 100 on July 15, 2025, concerning "improper disciplinary actions" that were "retaliatory or discriminatory," and claimed Local 100 "failed to diligently pursue [his] grievances or provide effective representation".

The Board affirmed that individuals lack standing to allege violations of § 209-a.1 (d) because that duty runs between employers and employee organizations. The Board affirmed that claims related to the probationary term extension on November 19, 2024, were barred by the four-month limitations period. Regarding NYCTA's actions, the Board agreed that Brown failed to allege facts sufficient to demonstrate retaliation. The Board emphasized that the protected activity (filing grievances on July 15, 2025) occurred *after* NYCTA's disciplinary actions (July 10 and 14, 2025), and thus could not have motivated them. While the termination notice was served on July 17, 2025, shortly after the grievances, the Board noted that timing alone is insufficient to raise an inference of improper motivation.

The Board also found that Brown's conclusory allegations against Local 100 were insufficient to demonstrate a breach of the duty of fair representation.

**U-40008, New York City Transit Authority & Paolillo, dated February 5, 2026**

The Board affirmed the Director of Public Employment Practices and Representation's dismissal of Jean Paolillo's improper practice charge against the New York City Transit Authority (NYCTA). The charge alleged that NYCTA violated §§ 209-a.1 (a) and (b) of the Public Employees' Fair Employment Act (Act) by violating various provisions of the Family and Medical Leave Act (FMLA) and that her "Sick Control List" (SCL) status negatively impacted her ability to take time off with pay.

The Board affirmed the Director's decision, finding no error in the dismissal. The Board agreed that Paolillo's charge failed to allege facts sufficient to arguably demonstrate that either §§ 209-a.1 (a) or (b) of the Act had been violated. The Board also highlighted that Paolillo appeared to misunderstand PERB's limited jurisdiction, which only extends to

rights derived from the Taylor Law, not FMLA violations or discrimination (unless it's based on union activity).

#### **U-40009, New York City Transit Authority & Paolillo, dated February 5, 2026**

The Board affirmed the Director's dismissal of Jean Paolillo's improper practice charge against the New York City Transit Authority (NYCTA), which alleged that NYCTA violated §§ 209-a.1 (a), (b), (c), (d), and (e) of the Act by violating provisions of the Family and Medical Leave Act (FMLA) and placing her on the "Sick Control List" (SCL) on March 25, 2025. Paolillo further alleged that NYCTA improperly denied her grievance seeking removal from the SCL and violated contractual timelines for grievance processing. She later clarified that her charge was based on alleged discrimination for filing grievances, seeking union assistance, and "possibly coercing the union to ignore the facts and violations," and that she "may be being discriminated against" based on her minority status and sexual orientation.

The Board agreed that Paolillo's charge failed to allege facts sufficient to arguably demonstrate violations of §§ 209-a.1 (a), (b), or (c) of the Act. For alleged retaliation under §§ 209-a.1 (a) and (c), Paolillo failed to allege facts sufficient to raise an inference of improper motivation. The Board noted that Paolillo's placement on the SCL occurred *prior to* any alleged protected activity, and she did not allege any adverse employment actions taken *after* her protected activity. The Board reiterated that the "but for" element requires demonstrating that the employment action would not have been taken *but for* the protected activity, and timing alone is insufficient to establish this.

Regarding the alleged violation of § 209-a.1 (b) (domination or interference with an employee organization), the Board agreed Paolillo failed to allege facts showing NYCTA sought to dominate or interfere with a union to deprive employees of their rights. The Board also upheld the Director's finding that Paolillo lacked standing to allege violations of §§ 209-a.1 (d) and (e) of the Act, as these can only be alleged by an employee organization.

#### **U-40010, New York City Transit Authority & TWU, Local 100 & Paolillo, dated February 5, 2026**

The Board affirmed the Director's decision to dismiss Jean Paolillo's improper practice charge against the Transport Workers Union of America, Local 100, AFL-CIO (TWU) and the New York City Transit Authority (NYCTA).

Regarding the allegations against TWU, the Board found that Paolillo incorrectly alleged violations of §§ 209-a.1 (a), (b), (d), and (e) of the Act. These sections apply to the employer, not an employee organization. Violations against an employee organization can only be alleged under §§ 209-a.2 (a), (b), and (c). Paolillo, as an individual, lacked standing to allege violations of § 209-a.2 (b) of the Act. The facts provided by Paolillo did not sufficiently demonstrate a breach of TWU's duty of fair representation. The Board noted that employee organizations have broad discretion in handling grievances,

and mere dissatisfaction with representation quality does not constitute a breach unless actions are arbitrary, discriminatory, or in bad faith.

Regarding the allegations against NYCTA, the Board found that Paolillo failed to allege facts sufficient to demonstrate a violation of §§ 209-a.1 (a), (b), (c), or (g) of the Act. Specifically, she did not provide facts to show that NYCTA's actions would not have occurred "but for" her protected activity, that NYCTA sought to dominate or interfere with an employee organization, or that she was denied union representation during disciplinary questioning.

### **Administrative Law Judge/Director Decisions:**

#### **U-39913, Wappingers Central School District & Wappingers Federation of Workers & Joseph Kennedy, dated February 4, 2026**

The ALJ dismissed the improper practice charge in its entirety because it was untimely. The allegation concerning bus run seniority language in the Collective Bargaining Agreement (CBA) was deemed untimely because the language had been included in the CBA for a period of years, meaning it was negotiated more than four months prior to the charge being filed. Similarly, the allegation that the Wappingers Federation of Workers (Federation) ignored Kennedy's concerns about the seniority language was also untimely, as Kennedy himself asserted he had raised these concerns approximately one year prior to filing the charge.

Even if the charge had been timely filed, the ALJ found that Kennedy did not present sufficient evidence to prove that the Federation breached its duty of fair representation to him. The charge and offer of proof lacked evidence to show that the Federation's actions—either in negotiating the seniority language or disregarding his concerns—were arbitrary, discriminatory, or undertaken in bad faith.

#### **U-40103 & U-40104, The City University of New York & Amilcar Barnett, dated February 5, 2026**

The Director dismissed both improper practice charges, filed by Amilcar Barnett against The City University of New York (CUNY), in their entirety. The Director found that Barnett's claims were grossly untimely, as they were filed well beyond PERB's four-month limitations period. Even if the claims had been timely, they would have been dismissed for failing to allege facts that would arguably establish a violation of §§ 209-a.1(a) or (c) of the Act. Barnett failed to allege that he engaged in pre-termination conduct protected by the Act. The arbitration award cited by Barnett, which formed the basis for many of his allegations, did not involve CUNY. Instead, it was an award between the United Federation of Teachers (UFT) and the New York City Department of Education (DOE). CUNY was not a party to this award or the collective bargaining agreement it addressed. The Director found that PERB lacks jurisdiction to enforce such agreements or awards and that Barnett would need to seek enforcement in an

appropriate forum if he believed the award was binding on CUNY.

**U-39688 & U-39703, Town of Brookhaven & Brookhaven Town Blue Collar Unit, CSEA, dated February 5, 2026**

The ALJ dismissed both improper practice charges. The ALJ rejected CSEA's narrow definition of the "at-issue work," which attempted to limit the work to specific waste categories (construction and demolition debris, furniture), a single task (use of roll-off containers), and a specific destination (local transfer stations). Instead, the ALJ determined that the unit work was the "tasks associated with the transportation of residential and commercial solid waste generally". This broader definition was supported by prior cases between the same parties.

CSEA alleged that the Town violated the Act by signing an agreement with Winters Bros. on December 23, 2024, for the removal and disposal of residential construction and demolition debris via roll-off containers. The ALJ found that, based on the broad definition of unit work, the work in question had not been performed exclusively by CSEA. Evidence showed that other companies had historically handled various materials like clothing, tanks, hazardous waste, e-waste, and waste oil, and private/commercial contractors also hauled construction and demolition debris to the landfill. Due to the lack of requisite exclusivity, CSEA failed to prove the violation, and therefore, the charge was dismissed.

CSEA alleged that the Town also violated the Act when, on January 13, 2025, Winters Bros. brought in a payloader and operator to the residential drop-off area to prepare debris in roll-off containers for transport. The ALJ found that Winters Bros. had used its own payloader once to compress debris, but there was no evidence that the Town directed or was even aware of this action. The ALJ further noted that even if it occurred, the incursion would be considered *de minimis* but, more importantly, the work was not exclusive bargaining unit work.

**U-39176, Town of Irondequoit & CSEA, dated February 5, 2026**

The ALJ dismissed the charge in its entirety, finding that the record was devoid of any facts that could support the claim that the Town deliberately interfered with, restrained, or coerced public employees in the exercise of their rights in violation of §§ 209-a.1(a) and (d) of the Public Employees' Fair Employment Act (Act). CSEA also alleged that the Town engaged in direct dealing with a unit member however, the ALJ found that the record lacked sufficient facts to support a claim that the employer impermissibly bypassed the employee organization to negotiate with an employee or group of employees to reach an agreement on the subject under discussion and further held that the CSEA did not attempt to prove direct dealing. The CSEA further contended that requiring the Drafting Technician to be on-call for emergencies, including sanitary, snow, and ice, was a new duty that went beyond the essential character of the title and should have been a mandatory subject of negotiation. However, the ALJ noted that the facts in the record established that the individual who worked under this title previously

performed those same duties during his tenure with the Town and thus, these duties were not new duties. Thus, the ALJ found that the CSEA failed to establish that including the Drafting Technician on the on-call list constituted a change in a term or condition of employment. The ALJ concluded that the duties were incidental duties within the scope of the Drafting Technician's overall responsibilities as an employee of the Department of Public Works (DPW). Given that employees of the DPW are expected to be on these on-call lists by virtue of their department affiliation, the ALJ determined that the Town's requirement for the Drafting Technician to be on-call was not a mandatory subject of negotiation.

**U-39280, Manhattan and Bronx Surface Transit Operating Authority & TWU Local 100 & George E. Batista, dated February 6, 2026**

The core of Batista's charge was that Local 100 violated § 209-a.2(c) of the Public Employees' Fair Employment Act by not filing a grievance on his behalf to challenge his pre-disciplinary suspension without pay.

The ALJ dismissed the charge in its entirety, finding that there was no record evidence demonstrating that Local 100's conduct was arbitrary, discriminatory, or founded in bad faith. Specifically, the ALJ found that Local 100's representative, did not act arbitrarily because he investigated the matter, considered the serious charges against Batista, the contractual standards for a PDS (pre-disciplinary suspension) hearing, and his extensive past experience with similar cases. Local 100's representative did not act discriminatorily as he treated Batista consistently with how he treated other members facing pre-disciplinary suspensions due to pending criminal proceedings. Finally, there was no evidence that Local 100's representative acted in bad faith. The representative also communicated his decision and reasoning to Batista on multiple occasions.

**U-39586, Triborough Bridge & Tunnel Authority & Superior Officers Benevolent Assn, dated February 6, 2026**

The ALJ held that the Triborough Bridge & Tunnel Authority (Authority) violated § 209-a.1(d) of the Public Employees' Fair Employment Act by unilaterally installing and activating video surveillance cameras in employee gyms without first engaging in good faith bargaining with the Superior Officers Benevolent Association (Association).

The ALJ determined that the installation of surveillance cameras in the gyms was a mandatory subject of negotiations. Applying the Nanuet framework, the ALJ concluded that the 24/7 recorded surveillance of employee-only gym facilities during off-duty hours was not necessary and proportional to the Authority's core mission of providing safe and efficient bridges and tunnels or a safe workplace. Balancing the interests, the ALJ found that the privacy and personal reputation interests of the Association's members significantly outweighed the Authority's interest in monitoring the security of these gym facilities. Concerns included intrusion on privacy, potential for revealing personal life aspects (like workplace romance or embarrassing habits), and the potential for images to be released via Freedom of Information Law requests and distributed online.

The ALJ also determined that the Authority's actions constituted a change in terms and conditions of employment, as there had been no cameras in the gyms prior to 2024. The Authority instituted this change without prior negotiation and refused to negotiate the decision itself, only offering to discuss "impact bargaining" after the Association raised objections.

**U-40140, New York State Unified Court System & CSEA & Rosmarie Laun, dated February 25, 2026**

The Director dismissed the improper practice charge filed by Rosmarie Laun in its entirety, finding that the charge was untimely because it was filed on December 11, 2025, which was almost six months after the alleged conduct occurred on June 13, 2025. PERB Rules require charges to be filed within four months of when the charging party knew or reasonably should have known of the alleged improper practice. Despite Laun's assertion that the NLRB told her she had six months to file with PERB, and that she was unsure who represented her until November 7, 2025, this four-month limitation period is strictly applied and not tolled.

The Director further found that, even if the charges had been filed on time, they would still be dismissed for failing to allege facts that would arguably establish a violation of the Act. Regarding UCS, Laun failed to allege facts that would establish violations of §§ 209-a.1(a), (c), or (f) of the Public Employees' Fair Employment Act (Act). Specifically, there were no facts to support a violation of § 209-a.1(f) (which concerns using State funds to oppose union organization). For violations under §§ 209-a.1(a) or (c), Laun did not allege engaging in protected activities, that UCS knew of such activities, or that UCS's actions were taken *because* of her exercise of protected rights, despite her claim that UCS did not follow proper termination procedures or have a union representative present during disciplinary proceedings. The charge against CSEA for violating § 209-a.2(c) of the Act (duty of fair representation) was also dismissed as untimely.

**U-40157, Southampton Union Free School District & United Public Service Employees Union & Claudia Maria Robles, dated February 27, 2026**

The charge was initially filed on December 17, 2025 and alleged that UPSEU violated §§ 209-a.2(a) and (c) of the Act by failing to properly represent Robles regarding inquiries about work assignments. She also alleged that the District violated §§ 209-a.1(a) and (c) of the Act due to inconsistent redaction practices in work assignment postings. However, Robles's submissions indicated that UPSEU had provided timely and substantive responses to her inquiries, and the basis for her allegations against the District was unclear.

Robles was notified that her charge was deficient because she failed to allege specific facts, in clear and concise factual statements, that would constitute or be relevant to violations of the Act by either her employer or her union. Regarding UPSEU, her

apparent disagreement with the union's stance on the merits of her dispute was deemed insufficient to establish a violation. Similarly, her charge against the District lacked clear, concise, and relevant factual statements to constitute a violation.

Robles was given an opportunity to file an amended improper practice charge to address these deficiencies. Instead of amending, she submitted a letter stating her wish to preserve her right to file exceptions to the deficiency determination.

Because Robles did not amend her charge, the Director determined that it remained deficient. Therefore, the charge was dismissed.