STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

SUFFOLK COUNTY COURT EMPLOYEES ASSOCIATION, INC.; NEW YORK STATE SUPREME COURT OFFICERS ASSOCIATION, ILA, LOCAL 2013, AFL-CIO; NEW YORK STATE COURT OFFICERS ASSOCIATION; CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFSCME, AFL-CIO; COURT OFFICERS BENEVOLENT ASSOCIATION OF NASSAU COUNTY; ASSOCIATION OF SUPREME COURT REPORTERS; NINTH JUDICIAL DISTRICT COURT EMPLOYEES ASSOCIATION; DISTRICT COUNCIL 37, LOCAL 1070, AFSCME, AFL-CIO; COURT ATTORNEYS ASSOCIATION OF THE CITY OF NEW YORK; NEW YORK STATE COURT CLERKS ASSOCIATION, INC.,

CASE NOS. U-38081, U-38084, U-38087, U-38090, U-38091, U-38093, U-38096, U-38099, U-38104, U-38107, U-38129

Charging Parties,

- and -

NEW YORK STATE UNIFIED COURT SYSTEM,

Respondent.

ARCHER, BYINGTON, GLENNON, & LEVINE, LLP (MARTY GLENNON of counsel), for SUFFOLK COUNTY COURT EMPLOYEES ASSOCIATION, INC.

DeNIGRIS LAW FIRM PLLC (STEPHEN G. DeNIGRIS of counsel), for NEW YORK STATE SUPREME COURT OFFICERS ASSOCIATION, ILA, LOCAL 2013, AFL-CIO

PAT BONANNO & ASSOCIATES, P.C. (PAT BONANNO of counsel), for NEW YORK STATE COURT OFFICERS ASSOCIATION

DAREN J. RYLEWICZ, GENERAL COUNSEL (STEVEN M. KLEIN of counsel), for CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFSCME, AFL-CIO

DAVIS & FERBER, LLP (ALEX KAMINSKI of counsel), for COURT OFFICERS BENEVOLENT ASSOCIATION OF NASSAU COUNTY

CLIFTON BUDD & DeMARIA, LLP (DOUGLAS P. CATALANO & STEFANIE R. TOREN of counsel), for ASSOCIATION OF SUPREME COURT REPORTERS

GREENBERG BURZICHELLI GREENBERG P.C. (SETH H. GREENBERG of counsel), for NINTH JUDICIAL DISTRICT COURT EMPLOYEES ASSOCIATION and COURT ATTORNEYS ASSOCIATION OF THE CITY OF NEW YORK

ROBIN ROACH, GENERAL COUNSEL (MICHAEL COVIELLO of counsel), for DISTRICT COUNCIL 37, LOCAL 1070, AFSCME, AFL-CIO

PITTA LLP (JOSEPH BONOMO of counsel), for NEW YORK STATE COURT CLERKS ASSOCIATION, INC.

PAUL WEISS RIFKIND WHARTON & GARRISON LLP (BRUCE BIRENBOIM, LINA DAGNEW, GREGORY F. LAUFER, ELIZA P. STRONG & LISA M. VELAZQUEZ of counsel), for NEW YORK STATE UNIFIED COURT SYSTEM

BOARD DECISION AND ORDER

These cases come to us on exceptions filed by the New York State Unified Court System (UCS) and cross-exceptions filed by the New York State Court Officers Association (NYSCOA), the Court Officers Benevolent Association of Nassau County (COBANC), and the Association of Supreme Court Reporters Within the City of New York (Association) to a decision of an Administrative Law Judge (ALJ).[1]

In her decision, the ALJ found that UCS violated § 209-a.1 (d) of the Public Employees' Fair Employment Act (Act) when it failed to negotiate the procedures

[1] 56 PERB ¶ 4513 (2023).

associated with its mandatory COVID-19 testing requirement for unvaccinated non-judicial employees (Testing Policy) and its mandatory COVID-19 vaccination program for non-judicial employees (Vaccination Policy) (together, the Policies). The ALJ also found that UCS violated § 209-a.1 (d) of the Act by failing to bargain the impact of the Policies with District Council 37, Local 1070, AFSCME, AFL-CIO (DC 37), the New York State Court Clerks Association, Inc. (CCA), the Court Attorneys Association of the City of New York (CAA), and the Ninth Judicial District Court Employees Association (NJDCEA).

EXCEPTIONS

UCS filed four exceptions to the ALJ's decision. UCS claims that the ALJ erred by *sua sponte* addressing whether decisional bargaining was required over UCS's decision to include procedures in the Policies.[2] UCS also excepts to the make-whole remedy ordered by the ALJ, contending that it had no obligation to bargain over procedures and that a make-whole remedy is therefore not appropriate.[3]

The Charging Parties support the ALJ's decision and contend that no basis has been demonstrated for reversal.[4]

NYSCOA, COBANC, and the Association except to the ALJ's decision to the extent it included a finding that none of them had alleged a violation of § 209-a.1 (d) of the Act through UCS' failure to bargain the impact of the Policies.

UCS filed a response supporting the ALJ's decision in this respect and contending that no basis has been demonstrated for reversal of that finding.

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[2] UCS Exceptions Nos. 1 and 2.
[3] UCS Exceptions Nos. 2-4.
[4] All Charging Parties except for the Suffolk County Court Employees Association, Inc. (SCCEA) submitted a combined brief. SCCEA submitted a separate brief.

For the reasons given below, we affirm the ALJ's decision with respect to certain Charging Parties but modify her recommended remedy as described herein.

FACTS

The facts are set forth fully in the ALJ's decision and are only included here as necessary to decide the exceptions. UCS operates all levels of state courts in the State of New York, which hear and decide legal cases and controversies, as prescribed by the New York State Constitution.[5] Historically, UCS has conducted its operations in person. The Charging Parties each represent different bargaining units of non-judicial employees of UCS. UCS has around 1,200 paid judges and around 14,000 non-judicial employees. Non-judicial employees have a variety of duties and titles, including but not limited to court officers, court clerks, reporters, interpreters, clerical staff, and technological staff.

In the wake of the emergence of COVID-19, and in accordance with guidance from state and federal public health officials,[6] beginning in or around March of 2020, UCS began instituting substantial changes to its operations.[7] Proceedings in many non-essential matters were halted or postponed, and many proceedings were conducted virtually. A return to larger in-person operations began in May of 2020 and expanded over that year. As part of the effort to return to in-person operations, UCS implemented various policies aimed at protecting public health, including use of personal protective equipment, social distancing, increased sanitization and hygiene protocols, and

[5] Tr, at 487, 490-91; *see also* Respondent's Ex. 45.
[6] *See generally* Respondent's Exs.12, 15, 16, 17, 20, 22, 36.
[7] *See generally* Respondent's Exs. 1-10, 13.

reconfiguring physical spaces.[8]

During the summer of 2021, UCS communicated to its employees its intention to implement a policy which would require employees, if not vaccinated, to provide proof of a COVID-19 test result, issuing memoranda explaining the new policy. On August 18, 2021, UCS issued another memorandum to all non-judicial staff regarding the new mandatory COVID-19 testing program, effective on September 7, 2021.[9] Under the Testing Policy, non-judicial staff who were not vaccinated against COVID-19 were required to test weekly for COVID-19 at a "licensed medical facility" and provide proof of such test to UCS no later than the next business day; those who were vaccinated against COVID-19 would not be required to test.

Staff subject to the Testing Policy were directed to coordinate with their supervisor to take their test during their regularly scheduled work time and were granted one hour of excused leave to get tested. They could also choose to test outside of work hours, but they would not be granted leave or compensatory time under this option. The Testing Policy also states that employees who were not compliant would be designated as "unfit for service" and charged annual or compensatory leave, and those without leave would have their "pay docked."[10] The Testing Policy also allowed staff to request from UCS a medical exception by providing a letter from a medical health provider, and, if approved, an employee would "not be required to submit proof of

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[8] Respondent's Ex. 13.
[9] Joint Ex. 2. UCS also expressed "supplemental information" regarding the mandatory testing in a memorandum dated September 1, 2021, which is included in the record as Joint Ex 4. A policy pertaining to judicial staff was outlined in a separate document issued the same day, which is contained in the record as Joint Ex. 1.
[10] Joint Ex. 2.

testing for the period of time prescribed by the medical health provider."[11] On September 7, 2021, the Testing Policy became effective.

On August 25, 2021, by email to its employees, UCS announced that all employees, both judicial and non-judicial, would be required to be vaccinated for COVID-19, effective September 27, 2021.[12] The email set forth that, "absent a valid medical or religious exemption, judges and non-judicial personnel will be required to provide proof of full vaccination [and those] who receive a medical or religious exemption will have to submit proof of a weekly COVID test."[13]

In a memorandum dated September 10, 2021, UCS set forth the terms of its new mandatory COVID-19 vaccine requirement for all non-judicial personnel (Vaccination Policy).[14] The Vaccination Policy required that staff provide proof, by September 27, 2021, of either full COVID-19 vaccination or a first vaccine dose with the second within about three weeks. Staff who had not yet received their second dose of vaccine or who were waiting for a response from UCS regarding an exemption request were required to continue testing pursuant to the Testing Policy.

The Vaccination Policy provided a process for staff to apply for medical and religious exemptions. Employees would also be eligible for excused leave and/or compensatory time, but only up to 3.5 hours for each vaccination appointment for which proof was provided. Further, the Vaccination Policy stated that those who were non-compliant may be "absent without authorization," that approval to charge leave could be

[11] *Id*.
[12] Joint Ex. 3.
[13] *Id*.
[14] Joint Ex. 5.

denied until an employee had "taken steps to remedy their non-compliance," and that "[c]ontinued failure to comply may result in disciplinary action, up to and including termination."[15]

DISCUSSION

The ALJ found that UCS' decision to institute the Policies was not a mandatory subject of bargaining because the Policies "were implemented in response to COVID-19 and in furtherance of [UCS'] 'defining mission . . . to provide an accessible forum to every litigant seeking redress of grievances'"[16] and because the Policies did not "unnecessarily intrude on protected interests of the employees in the bargaining units, nor did the Policies go beyond what is necessary to further UCS' effort to ensure an accessible forum."[17]

In accord with this finding, the ALJ found that UCS did not violate the Act when it decided to require employees to test and subsequently required employees to be vaccinated against COVID-19. No party filed any exceptions to the ALJ's finding that UCS had no obligation to bargain over its decision to establish the Policies. As a result, any such exceptions are waived, and this finding is not before us for review.[18]

Separate from the decision to institute the Policies, the ALJ found that UCS violated § 209-a.1 (d) of the Act by failing to negotiate the impact of the Policies with DC 37, CAA, NJDCEA, and CCA. There are no exceptions to the ALJ's finding with respect to these

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[15] *Id.*
[16] 56 PERB ¶ 4513, at 4582, quoting Tr 639.
[17] *Id.*, at 4583.
[18] Section 203.2 (b) of PERB Rules of Procedure (Rules). *See eg, Vil of Tuxedo Park*, 55 PERB ¶ 3002, 3010 n 2 (2022); *Vil of Endicott*, 47 PERB ¶ 3017, 3052, n 5 (2014); *NYCTA (Burke)*, 49 PERB ¶ 3021, 3072, n 4 (2016), *confd sub nom Burke v NYC Tr Auth*, 51 PERB ¶ 7009 (Sup Ct, New York County 2018).

Charging Parties. Again, any such exceptions have been waived, and this finding is not before us for review.

NYSCOA, COBANC, and the Association assert that they should also be included among the parties with whom UCS must negotiate the impact of the Policies. We find no error by the ALJ in excluding NYSCOA and the Association from the Order. The charges filed by NYSCOA and the Association do not allege a violation based on a demand and refusal to bargain impact[19] and neither of these Charging Parties ever moved to amend their charge to allege such a violation or to conform the pleadings to the evidence. We have often held that we will not find a violation of the Act that is not pled in the charge, a timely amendment thereto, or a in motion before the ALJ to conform the pleadings to the evidence, even if such a violation is litigated.[20]

We find that COBANC's charge did allege a failure to bargain the impact of the Policies.[21] Although it could have been more artfully pled, the allegations in COBANC's charge make it clear that COBANC made demands to bargain both the requirements of the Policies and their impacts, and that COBANC alleges both that the refusal to bargain over

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[19] *See* ALJ Exs. 5, 13.

[20] *See, eg Board of Educ of the City Sch Dist of the City of New York (Smith)*, 51 PERB ¶ 3035, 3152 (2018); *Cayuga Community College*, 50 PERB ¶ 3003, 3015 (2017), *enforcement granted sub nom NYS Pub Empl Relations Bd v Cayuga Community Coll*, 50 PERB ¶ 7010 (Sup Ct, Albany County 2017); *County of Rockland and Rockland County Sheriff*, 31 PERB ¶ 3062, 3136 (1998). *See also City of Niagara Falls (Drinks-Bruder)*, 52 PERB ¶ 3002, 3009 (2019) (allegation of bad faith raised before Board but not before the ALJ cannot be considered); *Bd of Educ, City Sch Dist of City of NY (Bagarozzi)*, 51 PERB ¶ 3032, 3139 (2018) (deferral argument not considered when raised before Board but not before ALJ because it "is well established that the Board will not address arguments raised for the first time on exceptions.") (quoting *State of New York (Unified Court System)*, 50 PERB ¶ 3042, 3170 (2017) (other citations omitted).

[21] ALJ Ex. 11.

the decision to implement the Policies and their impact violated the Act.[22] The ALJ analyzed the Policies here as work rules, and neither party has excepted to this framing of the issue.[23] We look only to whether the ALJ erred in finding that, while the decision to implement the Policies was non-mandatory, the procedures associated with implementation were mandatory subjects of bargaining.

UCS asserts that the ALJ erred by "*sua sponte*" addressing this issue because none of the Charging Parties separately alleged in their charges that UCS violated § 209-a.1 (d) of the Act by failing to bargain over the procedures necessary to implement the testing and vaccination requirements. Although none of the Charging Parties used the precise framework adopted by the ALJ, we find that many of the charges gave ample notice that the Charging Party was contesting the lawfulness of the procedures implemented by UCS. Specifically, the charges filed by the New York State Supreme Court Officers Association, ILA, Local 2013, AFL-CIO (NYSSCOA), the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO (CSEA), COBANC, NJDCEA, DC 37, CAA, and CCA contested UCS' failure to bargain over subjects such

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[22] *Id.,* at ¶¶ 7, 8, 11, 15, 17.

[23] As such, we need not address whether the Policies were also a new qualification for continued employment. While certain rulings by the Supreme Court, New York County, and the Second Circuit Court of Appeals have found vaccination to constitute a qualification of employment, that argument has not been addressed before or by us. *See NYC Mun Labor Committee v City of New York*, 75 Misc3d 411, 416-417 (Sup Ct, New York County 2022); *Maniscalco v NYC Dept of Educ*, 563 FSupp3d 33, 38 (EDNY 2021), *affd* 2021 WL 4814767 (2d Cir Oct 15, 2021), *cert denied* 142 SCt 1668 (2022). We further note that new qualifications for continued employment are mandatorily negotiable as are generally the "grounds for the imposition of discipline and the penalty to be imposed." *NYCTA*, 30 PERB ¶ 3030, 3074 (1997), *confd sub nom NYC Tr Auth v NYS Pub Empl Relations Bd*, 33 PERB ¶ 7020 (2d Dept 2000), *reargument and lv denied* 34 PERB ¶ 7010 (2d Dept 2001), *lv denied* 34 PERB ¶ 7022 (2001).

as "the loss of time and accruals, the costs of surveillance testing,"[24] and excused leave for testing, breaks, costs associated with testing, and the impact of out-of-pocket expenses.[25] These subjects would clearly be at issue during bargaining over procedures, and the charges, read in full, adequately allege that the failure to bargain these subjects violated the Act. The ALJ is not limited to theories of the violation as explicitly expressed by the parties as long as "fair notice of the actions intended to be proved as violations" is provided.[26] Such was clearly the case in this matter with respect to Charging Parties NYSSCOA, CSEA, COBANC, NJDCEA, DC37, CAA, and CCA.

By contrast, the remaining charges[27] are not sufficiently broad to encompass the allegation that UCS violated the Act by failing to bargain over the procedures attendant to its decision to implement the Policies. The parties that did not allege a failure to bargain over procedures are bound by their charges, and we have long held that we will not find a violation of the Act upon an allegation which has not been pleaded, even if that allegation has been litigated.[28]

Second, we find that the ALJ did not err in finding the procedures associated with the decision to implement the Policies to be mandatory subjects of bargaining. It is well-established that, even if certain subjects are removed from collective bargaining, the

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[24] CSEA Charge, ALJ Ex 7, at ¶ 11.
[25] NYSSCOA Charge, ALJ Ex 3, at ¶¶ 18-23, 26-28, 32, 34. *See also* COBANC's Charge, ALJ Ex 11, at ¶ 8, 17; NJDCEA Charge, ALJ Ex 15, at ¶ 25, DC37 Charge, ALJ Ex 17, at ¶ 22; CAA Charge, ALJ Ex 19, at ¶ 27, and CCA Charge, ALJ Ex 21, at ¶ 44.
[26] *County of Nassau*, 32 PERB ¶ 3034, 3077 (1999) (quoting *Wappingers Cent Sch Dist*, 28 PERB ¶ 3016 (1995); *Civ Serv Empls Assn (Dennis)*, 26 PERB ¶ 3059 (1993)).
[27] Filed by the Suffolk County Court Employees Association, Inc. (ALJ Ex 1), NYSCOA (ALJ Ex 5), and the Association (ALJ Ex 13).
[28] See cases cited in fn 20.

procedures associated with them may not be.[29] For example, procedures associated with permissive subjects of bargaining are themselves mandatory to the extent they impact terms and conditions of employment.[30] Even procedures related to prohibited subjects of bargaining may be bargainable.[31] Contrary to UCS' assertion, the procedures here are not so inextricably intertwined with the non-bargainable decisions as to make the procedures a non-mandatory subject of bargaining.[32]

We recognize the unique circumstances here. The COVID-19 pandemic presented unprecedented challenges for society as a whole, including public employers such as UCS seeking to fulfill their statutory and constitutional mandates. However, the fact that a public

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[29] *See, eg, City of Long Beach v NYS Pub Empl Relations Bd*, 39 NY3d 17 (2022) (while termination under Civil Service Law (CSL) § 71 is not bargainable, pre-termination procedures are mandatorily bargainable); *City of Watertown v State of NY Pub Empl Relations Bd*, 95 NY2d 73, 79 (2000) (finding that procedures for contesting City's determinations under General Municipal Law (GML) § 207-c are mandatory subject of bargaining but initial determinations are not); *City of Schenectady*, 19 PERB ¶ 3051, 3108 (1986), *confd sub nom City of Schenectady v NYS Pub Empl Relations Bd*,135 Misc2d 1088 (Sup Ct, Albany County 1986), *affd* 132 AD2d 242 (3d Dept 1987), *lv denied* 71 NY2d 803 (1988) (procedures to apply for mandated benefits for injuries incurred in the line of duty under GML § 207-c are mandatory subjects of bargaining, but subjects specifically covered by GML § 207-c are not).

[30] *See eg, City of Utica*, 32 PERB ¶ 3056, 3132 (1999) (finding that procedures related to unilaterally implemented non-mandatory requirement were negotiable).

[31] *See eg, City of Long Beach*, 39 NY3d at 24 (explaining how procedures to terminate are mandatorily bargainable even though "public policy prohibits an employer from bargaining away its right to remove those employees satisfying the plain and clear statutory requisites for termination") (quoting *Economico v Village of Pelham*, 50 NY2d 120, 129 (1980), *partially abrogated, Prue v Hunt*, 78 NY2d 364 (1991)).

[32] We note that the New York City mini-PERB has similarly so held. *See City of New York*, 15 OCB2d 34, at 2-3 (BCB 2022) (NYC Board of Collective Bargaining finding that the City had obligation to bargain over "mandatory subjects contained in its policies to implement the Vaccine Mandate" with respect to City employees). *See also City of Cohoes*, 25 PERB ¶ 3042, 3086 (1992) (employer required to bargain the impact of policy regarding testing for tuberculosis where employer had multiple options regarding testing but refused to bargain, unilaterally imposed one, and the "unilateral choice of testing procedures implicated many of the employees' terms and conditions of employment apart from the grounds for the imposition of discipline").

health emergency existed did not suspend or preempt the obligations of public employers under the Act, especially where, as in this matter, rights under the Act did not interfere with the employer's ability to secure a safe environment, as the employer's ability to restrict in-person access to its facilities and personnel is unchallenged.

Rights conferred by the Act do not, and did not, interfere with the employer's ability to immediately and effectively address the public health emergency.[33] As such, we agree with the ALJ that UCS had an obligation to bargain over the procedures associated with implementation of the Policies, such as whether paid time off was available for employees testing and/or receiving a vaccination and the process through which employees could apply for religious or medical exemptions prior to implementing the Policies.

In terms of the remedy, we find it appropriate to order a make-whole remedy, but not to order reinstatement. The Policies here were enacted in response to an unprecedented public health crisis and in furtherance of UCS' mission. Further, the Policies did not unnecessarily intrude on protected interests of employees in the bargaining units. Bargaining over the procedures associated with the Policies would not have exempted employees from the obligation to be tested and subsequently vaccinated, and there is no showing on the record before us that any negotiable procedures would have led to

[33] UCS responded to the health emergency by March 2020 with the restriction on in-person services, followed by several unchallenged protocols related to returning to in-person services in May 2020 (use of personal protective equipment, social distancing, increased sanitization and hygiene protocols, and reconfiguring physical spaces). The Policies at issue here were not implemented until August and September 2021, well over a year later. No effort at bargaining over procedures to implement the Policies was undertaken by UCS in the 16 months between the pandemic closing most in-person access to the courts and the implementation of the Policies.

compliance with the Policies.[34] Our make-whole remedy in the Order below therefore does not require reinstatement of employees separated from service as a result of non-compliance with the Policies. Employees' separation from service does not stem from the failure to bargain procedures, but rather from employees' choice not to comply with UCS' non-mandatorily bargainable decision to test and subsequently to vaccinate.[35] Ordering reinstatement in these circumstances would essentially eviscerate any incentive for employees to comply with the lawfully enacted Policies.[36]

We do not limit the make-whole remedy to Charging Parties who specifically requested such a remedy, as UCS urges.[37] Neither our improper practice charge forms nor our Rules require that a charging party enumerate the specific relief sought. We have "construe[d] our authority to effectuate the purposes and policies of the Act pursuant to § 205.5 (d) of the Act to include the authority to fashion appropriate relief, whether relief has been specifically requested or not."[38]

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[34] *See City of Cohoes*, 25 PERB ¶ 3042, at 3086 (rejecting the employer's public policy argument that it could unilaterally impose procedures related to testing but noting that "[b]argaining about the choice of testing procedures and the timing of that testing would not have exempted the employees from an obligation to be tested nor would the bargaining otherwise have interfered with the City's effort to cooperate with the County Health Department in the accomplishment of a public health goal").

[35] *Compare City of Long Beach*, 39 NY3d at 25, 55 PERB ¶ 7014 (2022) (finding that the Act requires bargaining over pretermination procedures under CSL § 71, which is "fundamentally different from requiring the City to negotiate over the right to terminate an employee after the year-long period of absence protected by section 71").

[36] We retain jurisdiction for a compliance proceeding to resolve any disputes regarding the make whole remedy.

[37] UCS Brief in Support of Exceptions, at 18-19.

[38] *Uniondale Union Free Sch Dist*, 21 PERB ¶ 3044, 3098 n 2 (1998), *affd and enforcement order granted sub nom Uniondale Union Free Sch Dist v Newman*, 167 AD2d 475 (2d Dept 1990), *lv denied* 77 NY2d 809 (1991).

In sum, we affirm the ALJ's finding that UCS violated § 209-a.1 (d) of the Act when it failed to negotiate the procedures associated with its mandatory Testing Policy and Vaccination Policy with the parties enumerated below, but we modify her recommended remedy as explained above.

IT IS, THEREFORE, ORDERED that UCS will forthwith:

1. Cease and desist from unilaterally imposing procedures that employees must follow in order to be tested or vaccinated for COVID-19 for employees in the units represented by NYSSCOA, CSEA, COBANC, NJDCEA, DC 37, CAA, and CCA;
2. Make whole bargaining unit employees for any economic losses resulting from UCS' failure to bargain procedures associated with implementation of the Testing Policy and Vaccination Policy, with interest at the maximum legal rate for employees in the units represented by NYSSCOA, CSEA, COBANC, NJDCEA, DC 37, CAA, and CCA;
3. Bargain with DC 37, CAA, NJDCEA, CCA, and COBANC regarding the impacts, if any, of the Policies;
4. Sign and post the attached notice at all physical and electronic locations normally used to post notices to unit employees.

DATED: November 8, 2023
Albany, New York

John F. Wirenius, Chair

Anthony Zumbolo, Member

Rosemary A. Townley, Member

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE DECISION AND ORDER OF THE

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

We hereby notify all employees of the New York State Unified Court System (UCS) in the bargaining units represented by the Suffolk County Court Employees Association, Inc.; the New York State Supreme Court Officers Association, ILA, Local 2013, AFL-CIO (NYSSCOA); New York State Court Officers Association (NYSCOA); Civil Service Employees Association, Inc; Local 1000, AFSCME, AFL-CIO (CSEA); Court Officers Benevolent Association of Nassau County (COBANC); Association of Supreme Court Reporters; Ninth Judicial District Court Employees Association (NJDCEA); District Council 37, Local 1070, AFSCME, AFL-CIO (DC 37); Court Attorneys Association of the City of New York (CAA); and New York State Court Clerks Association, Inc. (CCA), that UCS will forthwith:

1. Stop unilaterally imposing procedures that employees must follow in order to be tested or vaccinated for COVID-19 for employees in the units represented by NYSSCOA, CSEA, COBANC, NJDCEA, DC 37, CAA, and CCA;

2. Make whole bargaining unit employees for any economic losses resulting from UCS' failure to bargain procedures associated with implementation of the Testing Policy and Vaccination Policy, with interest at the maximum legal rate for employees in the units represented by NYSSCOA, CSEA, COBANC, NJDCEA, DC 37, CAA, and CCA;

3. Bargain with DC 37, CAA, NJDCEA, CCA, and COBANC regarding the impacts, if any, of the Policies.

Dated . . . . . . **By . . . . . .**

on behalf of New York State Unified Court System

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.