

P.E.R.C. NO. 2005-14

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SHAMONG TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-045

SHAMONG TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Shamong Township Board of Education for a restraint of binding arbitration of a grievance filed by the Shamong Township Education Association. The grievance asserts that the Board violated the parties' collective negotiations agreement when it terminated a non-tenured special education teacher in the middle of a school year without just cause. The Commission concludes that, on balance, this dispute is legally arbitrable. The Commission finds that the employees' interests in seeking to obtain limited back pay for allegedly unjust terminations outweigh the employer's interests in terminating employees mid-year without neutral review or possibly having to pay an employee for the rest of the contract year. The Commission grants a restraint to the extent the grievance seeks reinstatement or seeks back pay for any period beyond the 2003-2004 school year. The request is denied to the extent the grievance seeks back pay for the balance of the 2003-2004 school year.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 2005-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WASHINGTON,

Petitioner,

-and-

Docket No. SN-2004-061

P.B.A. LOCAL 318,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Washington for a restraint of binding arbitration of a grievance filed by P.B.A. Local 318. The grievance contests performance notices received by three police officers. The Commission concludes that an employer has a non-negotiable right to select evaluation criteria and that a law enforcement agency has a managerial prerogative to determine how it will deliver services to the public. The Commission further concludes that arbitration would substantially limit the employer's prerogative to use motor vehicle contacts as an evaluation criterion.

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P.E.R.C. NO. 2005-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY STATE JUDICIARY
(MIDDLESEX VICINAGE),

Petitioner,

-and-

Docket No. SN-2004-080

PROBATION ASSOCIATION OF NEW
JERSEY, PROFESSIONAL SUPERVISORS
UNION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the New Jersey State Judiciary (Middlesex Vicinage) for a restraint of binding arbitration of a grievance filed by the Probation Association of New Jersey, Professional Supervisors Union. The grievance seeks the elimination of an assignment that supervisors complete a Competency Development Plan for every employee who does not achieve all the competencies required for a promotion. The Commission concludes that the employer has a managerial prerogative to require supervisors to complete the Competency Development Plans given that such an assignment is within the scope of a supervisor's job duties.

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P.E.R.C. NO. 2005-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SUSSEX COUNTY VOCATIONAL SCHOOL
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-077

SUSSEX COUNTY VOCATIONAL-TECHNICAL
EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Sussex County Vocational School Board of Education for a restraint of binding arbitration of a grievance filed by the Sussex County Vocational-Technical Education Association. The grievance contests the decision not to pay the school nurse a stipend for services provided to Charter School students. The Commission concludes that the dispute over the contractual recognition clause does not present a negotiability issue and the Association's compensation claim is legally arbitrable.

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P.E.R.C. NO. 2005-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FRANKLIN TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-072

FRANKLIN TOWNSHIP SUPPORT
STAFF ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of certain provisions in an expired collective negotiations agreement between the Franklin Township Board of Education and the Franklin Township Support Staff Association. The Commission finds not mandatorily negotiable: portions of a provision concerning filling vacancies by involuntary transfer or reassignment if there is a qualified volunteer available to fill the position and requiring the filling of a first vacancy by seniority; portions of an article that would limit the Board's right to deny a transfer request as opposed to an employee's procedural right to have a request considered, and portions of a provision dealing with transporting kindergarten students.

The Commission finds mandatorily negotiable a portion of an article that addresses notice of vacant positions and an article requiring that interested bus drivers' names be placed on an eligibility list by district seniority for field trips is mandatorily negotiable.

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P.E.R.C. NO. 2005-19

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF CLAYTON,

Petitioner,

-and-

Docket No. SN-2004-066

FOP LODGE NO. 130,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Borough of Clayton for a restraint of binding arbitration of a grievance filed by FOP Lodge No. 130. The grievance contests the police chief's order banning all off-duty employment. The Commission concludes that there is no indication that any overtime was mandated, that any emergency existed, or that the City could not fill positions without suspending the opportunity to engage in off-duty work.

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P.E.R.C. NO. 2005-20

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2004-002

FMBA LOCAL NO. 6,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by FMBA Local No. 6. The grievance challenges the City's requirement that all doctors' certificates verifying sick leave indicate the condition for which the employee was treated and the application of that requirement to an individual firefighter. The Commission has balanced the employees' strong privacy interest in protecting against inquiries into their medical conditions and the employer's strong interest in seeking to verify illness when necessary to ensure compliance with sick leave rules, to protect against sick leave abuse, and to ensure that employees are fit for duty. The Commission holds that nothing in this record suggests that the grievant was a sick leave abuser or otherwise not entitled to sick leave and permits the FMBA to proceed to binding arbitration over the application of this aspect of the sick leave policy. An arbitrator may determine exactly what medical information the employer was seeking from the employee, what information the employee provided, and whether seeking that information violated the parties' contract. The Commission also permits a broader challenge to the establishment of this aspect of the verification policy, but holds that the arbitral remedy sought is overbroad in that it would prevent the employer from ever seeking those medical details to combat sick leave abuse, ensure that returning employees are fit for duty, or comply with other contractual or statutory obligations.

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P.E.R.C. NO. 2005-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF CAMDEN,

Petitioner,

-and-

Docket No. SN-2004-073

CAMDEN COUNCIL NO. 10, NJCSA,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the County of Camden for a restraint of binding arbitration of a grievance filed by Camden Council No. 10, NJCSA. The grievance alleges that a more senior employee was denied a shift preference in violation of the parties' contract. The Commission concludes that the County's prerogatives to match the best qualified employee to this position bars Council 10 from seeking to have an arbitrator second-guess that determination.

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P.E.R.C. NO. 2005-22

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY (DEPARTMENT
OF CORRECTIONS),

Petitioner,

-and-

Docket No. SN-2004-058

NEW JERSEY SUPERIOR OFFICERS
ASSOCIATION, CAPTAINS, F.O.P.
LODGE 187,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the State of New Jersey (Department of Corrections) for a restraint of binding arbitration of a grievance filed by a captain represented by the New Jersey Superior Officers Association, Captains, F.O.P. Lodge 187. The grievance challenges the captain's step placement on the captains' salary guide. The Commission concludes that any appeal from a Department of Personnel action interpreting N.J.A.C. 4A:3-4.9 must be made to the Merit System Board or in court.

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P.E.R.C. NO. 2005-23

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF DENVILLE,

Petitioner,

-and-

Docket No. SN-2004-64

P.B.A. LOCAL 142,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Denville for a restraint of binding arbitration of a grievance filed by P.B.A. Local 142. The grievance alleges that three Township police officers lost an overtime opportunity when the police chief permitted two police officers from another municipality and a school board security guard to work a security detail. Applying the negotiability balancing test to the unusual facts of this case, the Commission concludes that the Township's decision to enter into a contract permitting Rockaway Township and school to provide a portion of the security services and not to provide more than seven of its own police officers was a governmental policy decision not subject to mandatory negotiations.

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