

P.E.R.C. NO. 2016-31

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-2014-040

FRATERNAL ORDER OF POLICE,
LODGE NO. 62,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission reverses the Hearing Examiner's decision granting summary judgment in favor of the Fraternal Order of Police, Lodge No. 62 and grants summary judgment in favor of Rutgers, The State University of New Jersey. The charge alleges that Rutgers violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4(a)(5) and, derivatively, (a)(1), when it unilaterally implemented a sick leave verification policy requiring all unit employees to pay the cost of obtaining a medical certificate to verify sick leave. The Commission finds that although the parties' collective negotiations agreement is silent regarding who must pay for the cost of obtaining a medical certificate, Rutgers submitted undisputed evidence of numerous instances since 2003 when employees paid for medical certificates to verify sick leave and there is no evidence that the FOP objected or filed any grievance until Rutgers memorialized that practice in writing. Finding that past practices are binding for the life of a collective negotiations agreement, the Commission holds that the FOP must wait until negotiations for a successor agreement to negotiate the economic impact of Rutgers' sick leave verification policy.

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. 2016-32

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF PEMBERTON,

Petitioner,

-and-

Docket No. CU-2013-038

COMMUNICATIONS WORKERS OF
AMERICA, LOCAL 1040),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Communications Workers of America, Local 1040's request for review of the Director of Representation's decision in a clarification of unit petition. The Commission finds that the CWA did not identify any substantial factual issue decided by the Director that could be considered clearly erroneous or warrant an evidentiary hearing, and that the Director properly applied the managerial executive test for municipal employees in determining that the public works superintendent and supervisor of recreation formulated and implemented policy and should therefore be excluded from the unit.

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P.E.R.C. NO. 2016-33

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EDISON TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2015-027

EDISON TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Edison Township Board of Education's request for a restraint of binding arbitration. The grievance contests the withholding of a paraprofessional's salary increment. Finding that N.J.S.A. 18A:29-14 does not provide an administrative forum to review the merits of a salary increment withholding from a paraprofessional, and absent any mandate requiring that salary increment disputes involving paraprofessionals be treated the same as those involving teaching staff, the Commission denies a restraint of binding arbitration.

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P.E.R.C. NO. 2016-34

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ELIZABETH,

Petitioner,

-and-

Docket No. SN-2015-052

ELIZABETH FIRE OFFICERS ASSOCIATION,
IAFF LOCAL 2040,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, the City of Elizabeth's request for a restraint of binding arbitration of a grievance filed by the Elizabeth Fire Officers Association, IAFF Local 2040. The grievance challenges the City's selection of an Acting Deputy Chief where both candidates for the position achieved the same score on the promotional examination. The Commission holds that through its selection of an Acting Deputy Chief, the City was seeking to accomplish the important policy goal of training incoming firefighters. The Commission grants a restraint of binding arbitration to the extent the grievance challenges the City's selection of an Acting Deputy Chief. The Commission denies restraint of binding arbitration to the extent the grievance asserts that the City failed to provide timely notice of the reasons for its selection.

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P.E.R.C. NO. 2016-35

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY SHERIFF'S OFFICE,

Petitioner,

-and-

Docket No. SN-2015-063

PBA LOCAL NO. 108,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, the Union County Sheriff's Office's request for a restraint of binding arbitration of a grievance filed by PBA Local No. 108. The grievance contests the Sheriff's designation of the Crime Scene Unit (CSU) as a specialized unit and its replacement of two officers in the CSU with less senior employees. The Commission holds that the Sheriff's decision to fill the CSU positions based on its determination of the most qualified officers is not arbitrable, nor is the PBA's related claim for loss of overtime/call-in compensation. Finding that an alleged contractual requirement to provide a list of qualifications criteria used for selection to the CSU unit is arbitrable, the Commission denies restraint of binding arbitration to the extent the grievance asserts violation of a procedural obligation to promulgate a list of qualifications.

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P.E.R.C. NO. 2016-36

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY SHERIFF,

Petitioner,

-and-

Docket No. SN-2015-064

PBA LOCAL 108,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Union County Sheriff's request for a restraint of binding arbitration of a grievance filed by PBA Local No. 108. The grievance contests the Sheriff's new policy requiring a two-year commitment for officers serving in biddable posts in the Bureau of Criminal Identification (BCI). The Commission finds that the Sheriff has not demonstrated a particularized governmental policy need to deviate from an alleged contractual shift/assignment bidding clause, and therefore binding arbitration of whether the two-year minimum service requirement for the BCI post violates the contract will not inevitably significantly interfere with the Sheriff's policymaking prerogatives.

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P.E.R.C. NO. 2016-37

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2015-068

PASSAIC EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Passaic Board of Education's request for a restraint of binding arbitration of a grievance filed by the Passaic Education Association. The grievance contests the Board's non-renewal of a security aide as violating a contractual just cause provision. The Commission finds that whether the Board agreed to provide contractual tenure to non-professional employees such as security aides and whether, if so, it had just cause to dismiss them are legally arbitrable.

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P.E.R.C. NO. 2016-38

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
ROWAN UNIVERSITY,

Petitioner,

-and-

Docket No. SN-2015-030

COMMITTEE OF INTERNS AND
RESIDENTS SEIU HEALTHCARE,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Committee of Interns and Residents SEIU Healthcare's (CIR) motion for reconsideration of P.E.R.C. No. 2016-6, 42 NJPER 108 (¶30 2015). In that decision, the Commission granted the State of New Jersey, Rowan University's request for a restraint of binding arbitration of CIR's grievance contesting the University's termination of a physician resident from the urological surgery residency program. The Commission reiterates that the University's decision implicated its academic freedom and finds that CIR has not demonstrated extraordinary circumstances that would warrant reconsideration.

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