

P.E.R.C. NO. 2016-46

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

AMALGAMATED TRANSIT UNION, LOCAL 540,

Respondent,

-and-

Docket No. CI-2014-026

THEODORE WARFIELD,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission affirms the decision of the Director of Unfair Practices refusing to issue a Complaint based on unfair practice charges filed by Theodore Warfield against the Amalgamated Transit Union, Local 540. The charges alleged that the ATU violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., by not providing him representation at multiple steps of the grievance procedure, refusing to provide him with discovery related to his disciplinary hearing, and conspiring with management regarding his disciplinary discharge. The Commission agrees with the Director that because the ATU ultimately represented Warfield during the arbitration proceeding and he did not criticize its handling of the arbitration, the ATU did not breach its duty of fair representation.

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. 2016-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MERCER COUNTY CORRECTIONS,

Respondent,

-and-

Docket No. CO-2014-145

PBA LOCAL 167 & PBA LOCAL 167
SUPERIOR OFFICER'S ASSOCIATION,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Examiner's decision and dismisses a complaint alleging that Mercer County Corrections violated N.J.S.A. 34:13A-5.4a(1), (5) and (6) when it failed to reduce to writing an alleged agreement to reduce the reckoning period for lateness infractions (i.e., the time within which an employee would need to remain infraction-free in order to reset his placement on the negotiated progressive discipline steps). The Commission adopts with one correction the Hearing Examiner's findings of fact and agrees with the Hearing Examiner's legal conclusion that the parties did not reach an agreement to reduce the reckoning period.

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.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WARREN COUNTY COMMUNITY COLLEGE,

Petitioner,

-and-

Docket No. SN-2015-055

WARREN COUNTY COLLEGE FACULTY
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of contract clauses in an expired collective negotiations agreement between Warren County Community College and Warren County College Faculty Association. The Commission finds mandatorily negotiable provisions concerning: a list of committees; faculty selection among different sections of the same course; consultation between administration and faculty to resolve scheduling conflicts; non-teaching reassignments to the extent they affect a faculty member's working hours, workload, or compensation; and the provision of a computer, and appropriate software, as defined by the administration to faculty members for work-related purposes.

The Commission finds not mandatorily negotiable provisions concerning: faculty rights pertaining to primary responsibility for determining appropriate learning materials and strategies; faculty selection of course assignments; requiring faculty member reassignment if he/she is unable to make load because of enrollment issues; requiring mutual agreement with a faculty member prior to making teaching area assignments where he/she has limited formal preparation/experience; establishing the primary purpose of the semester schedule and requiring the College to honor faculty course and scheduling preferences; requiring mutual agreement with a faculty member prior to assigning non-teaching duties; requiring the College to provide sufficient clerical support to meet faculty needs; substantive criteria for faculty promotion and academic rank; requiring faculty promotional recommendations come from the Professional Standards Committee and be included in the President's recommendation to the Board of Trustees; permitting the initiation of promotional recommendations to come from the President; substantive faculty self-evaluation criteria and elements of faculty annual evaluation.

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. 2016-49

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF WATCHUNG,

Petitioner,

-and-

Docket No. SN-2015-071

PBA LOCAL 193,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and restrains in part, the Borough's request for a restraint of binding arbitration of a grievance filed by PBA Local 193. The grievance contests the Borough's issuance of a Special Order that allegedly unilaterally changed numerous aspects of vacation and personal leave. Finding that the Borough has a managerial prerogative to include dispatchers in its determination of minimum staffing levels and that permitting arbitration over the requirement that dispatchers select vacation with their squads would substantially limit its policy-making powers in that regard, the Commission restrains arbitration over that aspect of the Special Order. The Commission also restrains arbitration to the extent the grievance challenges the Borough's determination that a sergeant or acting watch commander must be in charge of each squad and therefore may not take vacation on the same day. The Commission denies to restrain arbitration over the Local's remaining challenges to the Special Order, finding that the Borough's submissions fall short of showing that its staffing requirements cannot be met without the Special Order's limitations on the number of officers per squad and per platoon taking vacation during specified periods or its blanket ban on using personal leave on designated days.

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. 2016-50

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MONMOUTH COUNTY SHERIFF'S OFFICE,

Petitioner,

-and-

Docket No. SN-2015-080

PBA LOCAL 240,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Monmouth County Sheriff's request for a restraint of binding arbitration of a grievance filed by PBA Local 240. The grievance contests the Sheriff's directive prohibiting employees who use more than seven days of unverified sick leave annually from participating in post-bidding and "day-off exchanges." The Commission finds that there is insufficient evidence to support the contention that all corrections officers who use more than seven days of unverified sick leave are unqualified for all biddable posts and "day-off exchanges."

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. 2016-51

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ROBBINSVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2016-003

ROBBINSVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Robbinsville Board of Education for a restraint of binding arbitration of a grievance filed by the Robbinsville Education Association. The grievance contests the withholding of two teachers' salary increments. Finding that the reasons for the withholdings predominately relate to an evaluation of the grievants' teaching performance, the Commission restrains arbitration and notes that nothing within the statutory framework of the Teacher Effectiveness and Accountability for the Children of New Jersey Act (TEACHNJ), N.J.S.A. 18A:6-117 et seq., or related Educator Effectiveness regulations, N.J.A.C. 6A:10-1.1 et seq., prohibits a board of education from using any criteria it deems appropriate for purposes of making increment withholding determinations pursuant to N.J.S.A. 18A:29-14.

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. 2016-52

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WEST CALDWELL,

Petitioner,

-and-

Docket No. SN-2016-004

WEST ESSEX PBA LOCAL 81
(WEST CALDWELL UNIT),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of West Caldwell for a restraint of binding arbitration of a grievance filed by West Essex PBA Local 81 (West Caldwell Unit). The grievance contends that the Township violated the parties' collective negotiations agreement when it denied officers' requests for out-of-rank pay. The Commission holds that the grievance involves compensation for alleged performance of higher rank work, which is a mandatorily negotiable issue. However, the Commission reiterates its directive in a previous case between these parties regarding out-of-title pay (P.E.R.C. No. 2012-73), that the arbitrator may not interpret the parties' out-of-title pay provision to allow for unauthorized assumption of acting duties or an automatic "double bumping" when the next ranking officers assume vacancies left by officers assigned to work out-of-title, because those concern the Township's managerial prerogative to determine the number and type/rank of officers assigned at any given time.

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. 2016-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PEMBERTON TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2016-024

PEMBERTON TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies, in part, a school board's request for a restraint of binding arbitration of a grievance alleging that the board terminated a custodian without just cause. The board contended that it terminated the custodian for violating the New Jersey First Act, N.J.S.A. 52:14-7, by failing to maintain her principal residence within the State. Though declining to restrain arbitration, but based upon its conclusion that the statute preempts negotiations over an employee's residency outside of the State, the Commission held that the arbitrator must sustain the termination if he or she finds that the custodian did not reside within the State throughout the 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. 2016-54

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ELIZABETH BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2016-025

ELIZABETH EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Elizabeth Board of Education for a restraint of binding arbitration of a grievance filed by the Elizabeth Education Association. The grievance contests the withholding of a teacher's salary increment. Finding that the reasons for the withholding predominately relate to an evaluation of teaching performance, the Commission restrains arbitration.

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. 2016-55

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF CLARK,

Petitioner,

-and-

Docket No. SN-2016-028

UNION COUNCIL NO. 8,
I.F.P.T.E., AFL-CIO,

SYNOPSIS

The Public Employment Relations Commission grants the Township of Clark's request for a restraint of binding arbitration of a grievance filed by Union Council No. 8, I.F.P.T.E., AFL-CIO. The grievance contests the Township's unilateral change of the grievant's work hours/schedule. Finding that the Township curtailed the grievant's evening hours because municipal court sessions were no longer scheduled after 5 p.m. and did not normally run past 5 p.m., in addition to the Police Chief's belief that modern technology obviated the public's need for physical access to a records clerk in the evening, the Commission restrains arbitration and notes that the predominate interest affected by the grievance is the Township's managerial prerogative to determine when the public should have access to a records clerk and when to assign work outside of regular work hours/schedule.

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.