

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OPERATED SCHOOL DISTRICT,
CITY OF NEWARK,

Respondent,

-and-

Docket No. CO-2014-098

NEWARK TEACHER'S UNION LOCAL 481,
AFT, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts in part, and modifies in part, the Hearing Examiner's recommended decision granting the NTU's motion for summary judgment as to its unfair practice charges. The charges allege that the District violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4a(1), (3) and (5), by: (1) unilaterally requiring teachers desiring to attend the 2013 NJEA convention to submit information that they had not previously been required to provide; (2) refusing to disclose to the NTU the names and addresses of unit members receiving "ineffective" performance evaluations for the 2012-2013 school year; (3) blocking email sent from the NTU's Director of Operations to District employees other than the District's Director of Labor/Employee Relations. With respect to the first charge, the Commission finds that the District violated sections 5.4a(1) and (5) of the Act when it failed to rescind a unilaterally-imposed requirement that unit members complete "Travel Authorization Request" and "Justification of Need" forms, or not be considered to have applied for convention leave under N.J.S.A. 18A:31-2, until two days before the 2013 NJEA convention. With respect to the second charge, the Commission finds that the District did not violate the Act by refusing to provide a list of unit members who received "ineffective" performance evaluations for the 2012-2013 school year given that teacher evaluation ratings are confidential under N.J.S.A. 18A:6-120(d). With respect to the third charge, the Commission finds that the District violated section 5.4a(1) of the Act when it restricted the NTU's Director of Operations email access with unit members.

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. 2017-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MERCER COUNTY SHERIFF'S OFFICE,

Respondent,

-and-

Docket No. CO-2015-156

FRATERNAL ORDER OF POLICE
LODGE 140,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Sheriff's motion for reconsideration of P.E.R.C. No. 2017-2. In that decision, the Commission denied the Sheriff's motion for summary judgment as to the FOP's 5.4a(1) charge, finding that facts regarding that claim were not sufficiently developed. The Commission declines to consider in a motion for reconsideration an argument raised for the first time in that motion.

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P.E.R.C. NO. 2017-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEWARK STATE-OPERATED
SCHOOL DISTRICT,

Public Employer,

-and-

Docket No. CU-2015-012

SEIU LOCAL 617,

Petitioner,

-and-

NEWARK TEACHERS UNION LOCAL 481,
AFT, AFL-CIO,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies the request for review of the Director of Representation's decision in a clarification of unit petition filed by the SEIU and the NTU. The Commission finds no compelling reason warranting review of the Director's determination and that the Director properly found that a clarification of unit petition was not the appropriate vehicle to add newly-created job titles to an existing unit given that they were not specifically or generically identified in the recognition clause of the parties' most recent collective negotiations agreements.

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P.E.R.C. NO. 2017-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,

Petitioner,

-and-

Docket No. SN-2016-058

FRATERNAL ORDER OF POLICE,
LODGE 62,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, the request of Rutgers for a restraint of binding arbitration of a grievance filed by the FOP. The grievance contests a unit member's 96-hour suspension and the denial of senior officer status as a result of the suspension. The Commission holds that arbitration of the merits of major discipline, which includes a 96-hour suspension, are precluded from binding arbitration and that an alleged contractual violation regarding senior officer status is legally arbitrable. The Commission declines to restraint arbitration with respect to alleged violations of contractual disciplinary procedures.

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P.E.R.C. NO. 2017-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

READINGTON TOWNSHIP
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2016-075

READINGTON TOWNSHIP
ADMINISTRATORS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Board for a restraint of binding arbitration of a grievance contesting the Board's failure to pay 100% of the premium cost of dental coverage for unit members after changing to a private health insurance carrier. The Commission finds that the Board has a managerial prerogative to select a private health insurance carrier and that Chapter 78 preempts negotiations regarding employee contributions for dental benefits when a public employer is not a participant in the School Employees' Health Benefits Program.

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P.E.R.C. NO. 2017-19

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF WANAQUE,

Petitioner,

-and-

Docket No. SN-2016-079

TEAMSTERS LOCAL 11,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough for a restraint of binding arbitration of a grievance filed by Local 11 seeking the permanent reinstatement of a temporary appointee after the expiration of his six-month term. The Commission holds that arbitration is preempted by civil service regulations that limit temporary appointments to no more than six months in a 12-month period. The Commission further holds that the Borough has a managerial prerogative to not hire the grievant as a permanent employee following the expiration of his temporary appointment.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DIVISION OF STATE POLICE),

Appellant,

-and-

Docket No. IA-2016-003

STATE TROOPERS FRATERNAL
ASSOCIATION OF NEW JERSEY,

Respondent/Cross-Appellant.

SYNOPSIS

The Public Employment Relations Commission affirms in part, and modifies in part, an interest arbitration award on remand establishing the terms of a successor collective negotiations agreement between the State of New Jersey, Division of State Police (State), and the State Troopers Fraternal Association of New Jersey (STFA). The State appealed and the STFA cross-appealed. The State argued that the arbitrator's award of step movement on the last day of the successor contract (June 30, 2017) as though increment movement had not been frozen in 2015 did not comply with the 2% cap, was not calculated for compliance with the 2% cap, and attempts to side-step the limitations of the compulsory interest arbitration law. The STFA responded that the resumption of step movement on the last day of the successor contract did not violate the law. The STFA also argued that the arbitrator did not consider all of the 16g statutory factors in analyzing the transportation allowance and education incentive proposals.

The Commission finds that the resumption of salary increments on the last day of the award circumvents the legislative purpose of the 2% cap by allowing a significant salary increment that is not accounted for in this award or in the next contract. The Commission holds that the arbitrator's grant of increments on the last day of the award violates the Act because it handicaps the next round of negotiations, undermines the legislative intent to control costs, and disregards the financial impact of the step movement on the taxpayer. Accordingly, the Commission modifies the arbitrator's remand award to remove the granting of increments on the last day. With respect to the transportation allowance and education incentive, the Commission finds that the arbitrator appropriately considered each of the 16g statutory factors and based his award on substantial credible evidence in the record.

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P.E.R.C. NO. 2017-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MORRIS,

Charging Party,

-and-

Docket No. CO-2015-227

MORRIS TOWNSHIP
SUPERIOR
OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the Township's motion for summary judgment and denies the SOA's cross-motion for summary judgment. The SOA's charge alleged that the Township disciplined a sergeant in retaliation for exercising rights guaranteed to him by the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., in violation of subsections 5.4a(1) and (3) of the Act. The Commission finds that the subject email for which the sergeant was disciplined was not protected by the Act because it was extreme and crude, demonstrated unprofessional and disrespectful behavior, undermined authority, and showed contempt for the administration and township manager. The Commission also finds that the email had the potential to promote disharmonious labor relations and that the Township had a legitimate business justification for disciplining the sergeant because his e-mail was inconsistent with departmental rules of conduct. Accordingly, the Commission dismisses the complaint.

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