

P.E.R.C. NO. 2018-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ROBBINSVILLE TOWNSHIP
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2010-484

WASHINGTON TOWNSHIP
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Association's motion for summary judgment in an unfair practice charge remanded to the Commission from the Supreme Court. The charge alleged that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4a(1) and (5), by unilaterally imposing three furlough days without negotiations. The Commission finds that the determination of whether the Board violated 5.4a(5) is dependent upon whether the interpretation of Article 4.1 provides a contractual defense to the Board's actions. The Commission therefore refers the matter to the Director of Conciliation for assignment to a grievance arbitrator and retains jurisdiction of the unfair practice charge.

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. 2018-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ESSEX FELLS BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2016-012

ESSEX FELLS TEACHERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Examiner's report and recommended decision granting the Board's motion for summary judgment and dismissing the complaint. The Association's charge alleged that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4a(1) and (5), by unilaterally implementing a teacher work year commencing on August 31 despite never previously requiring teachers to report to work prior to September 1. The Commission holds that the Board had a non-negotiable managerial prerogative to set the school calendar for teachers and students. The Commission also finds that the record is devoid of any evidence that the change in the start of the school year resulted in any adverse impact on Association members.

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P.E.R.C. NO. 2018-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PATERSON STATE-OPERATED
SCHOOL DISTRICT,

Respondent,

-and-

Docket No. CO-2016-197

PATERSON EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for summary judgment filed by the District seeking to dismiss the Association's amended unfair practice charge on grounds of untimeliness. The Association's original and amended charge allege that the District violated N.J.S.A. 34:13A-5.4a(1) and (3) by transferring a unit member in retaliation for her exercise of protected activity and her activity as Association delegate. The Commission finds that the action challenged in the amended unfair practice charge remains the same as the action challenged in the original charge and that the amendment merely provides additional factual background about the protected activity alleged. The Commission also finds that the amendment should be considered timely since the District did not demonstrate that it was prejudiced by the amendment or that the amendment would be futile.

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P.E.R.C. NO. 2018-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF MILLVILLE,

Respondent,

-and-

Docket No. CO-2016-251

NEW JERSEY CIVIL SERVICE ASSOCIATION,
CUMBERLAND COUNCIL 18,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Examiner's report and recommended decision granting Council 18's motion for summary judgment and denying the City's cross-motion. Council 18's charge alleged that the City violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4a(1) and (5), by adopting ordinances that unilaterally reduced the maximum salary range of unit members in contravention of the parties' collective negotiations agreement. The Commission holds that by unilaterally reducing salary ranges for titles included within the negotiations unit, the City repudiated the parties' collective negotiations agreement and violated subsection 5.4a(5), and derivatively 5.4a(1), of the Act.

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P.E.R.C. NO. 2018-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GOVERNMENT WORKERS UNION,

Respondent,

-and-

Docket No. CO-2017-074

AFSCME DISTRICT COUNCIL 71,
LOCAL 3408,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission substantially adopts a Hearing Examiner's report and recommended decision finding that GWU violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when its agents removed funds from the bank account of Local 3408, the then incumbent majority representative of certain Atlantic county employees, for the purpose of purchasing gift cards to distribute to the employees to induce them to sign authorization cards for GWU to replace Local 3408 as majority representative. The Commission agrees with the Hearing Examiner that Local 3408's then president and secretary-treasurer were acting as GWU's agents when they removed the Local's funds and told employees they would receive gift cards purchased with the funds if they voted for GWU. The Commission finds that the promised benefit of gift cards as inducement to secure signatures in support of GWU violates subsection 5.4b(1) of the Act because it would tend to interfere with and coerce unit members in the exercise of their rights under the Act to select, or change, a majority representative. The Commission modifies the Hearing Examiner's remedy that would have precluded the processing of petitions on behalf of GWU to represent unit members until the open period after a second successor agreement (or until 2022), and instead limits the representation bar until the open period after the collective negotiations agreement now in effect or being negotiated. The Commission also declines to order GWU to modify its website to include a link to the Commission's decision.

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P.E.R.C. NO. 2018-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ACADEMY FOR URBAN LEADERSHIP
CHARTER HIGH SCHOOL,

Respondent,

-and-

Docket No. CO-2017-090

ACADEMY URBAN LEADERSHIP
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for summary judgment filed by the Charter School seeking to dismiss the Association's unfair practice charge. The charge alleges that the Charter School violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., by changing the last day of the school year for staff from June 28 to June 30, 2016 in retaliation for the Association filing a representation petition. The Commission finds there are genuine issues of material fact requiring an evidentiary hearing, including when the Charter School made the change to the calendar in relation to the filing of the petition.

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P.E.R.C. NO. 2018-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF MORRISTOWN,

Petitioner,

-and-

Docket No. SN-2017-038

MORRISTOWN MUNICIPAL EMPLOYEES
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the Town's request for a restraint of binding arbitration of an Association grievance alleging that the Town violated the collective negotiations agreement (CNA) when it denied a retired unit member's request that the Town pay 50% of the premium cost it saved due to the member's waiver of health insurance coverage. The Commission holds that N.J.S.A. 40A:10-17.1 preempts arbitration to the extent the CNA provides an opt-out payment in excess of the statutory maximum, 25% of the employer's savings, or \$5,000, whichever is less.

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P.E.R.C. NO. 2018-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PLEASANTVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2017-039

PLEASANTVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Board's request for a restraint of binding arbitration of grievances alleging that two untenured non-certified employees were terminated without just cause. The district superintendent had recommended that the Board terminate the employees, but the Board voted not to. However, pursuant to the District Fiscal Accountability Act, N.J.S.A. 18A:7A-54 et seq., the district State Monitor overturned the Board vote and terminated the employees. The Board argued that arbitration was preempted by the Accountability Act and that it could not defend the actions at arbitration because it was the State monitor, not the Board, that terminated the employees. The Commission rejects the Board's arguments, noting that the Accountability Act makes a State monitor's authority "subject to the education, labor, and employment laws" and a district's collective negotiations agreements.

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P.E.R.C. NO. 2018-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2017-044

SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 167,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the City's request for a restraint of binding arbitration of a grievance alleging that a provisional employee in the SEIU unit was terminated without just cause. The Commission finds that public employers in Civil Service jurisdictions may agree to arbitrate disciplinary terminations of provisional employees but also holds that any arbitral remedy cannot conflict with Civil Service laws.

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