

P.E.R.C. NO. 2018-37

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Petitioner,

-and-

Docket No. SN-2018-019

PBA STATE LAW ENFORCEMENT UNIT,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, the request of the State of New Jersey, Department of Environmental Protection (DEP) for a restraint of binding arbitration of grievances contesting the DEP's failure to advance Trainees to the Officer title and to the next salary guide level after 12 months. Finding that the unit members' appropriate placement on the salary guide is a mandatorily negotiable topic that is not preempted by Civil Service statutes or regulations, the Commission declines to restrain arbitration to the extent the grievances concern the proper contractual salary for the grievants. Finding that managerial decisions regarding promotional criteria are not mandatorily negotiable, the Commission restrains arbitration to the extent the grievances seek the automatic advancement of the affected unit members from Trainee to Officer.

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. 2018-38

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY COLLEGE,

Petitioner,

-and-

UNION COUNTY COLLEGE CHAPTER
OF THE AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS,

Docket Nos. SN-2017-053
SN-2017-054
SN-2017-055

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the College's request for a restraint of binding arbitration of grievances contesting the assignment of winter term and overload classes to non-unit part-time faculty members. Finding that the College did not show that its course assignments were made based on its determination of the respective qualifications of the faculty members seeking the same assignment, the Commission holds that arbitration of the grievances would not significantly interfere with the College's managerial prerogative to base course assignments on the qualifications of its faculty. The Commission also dismisses the College's petitions challenging the negotiability of language in the parties' collective negotiations agreement (CNA) because the parties finished negotiations on a successor CNA and did not mutually agree to have the Commission make a negotiability determination on the language. Thus there is no active negotiability dispute per N.J.A.C. 19:13-2.2(a)4 for the Commission to decide.

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P.E.R.C. NO. 2018-39

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEWARK STATE OPERATED SCHOOL DISTRICT,

Public Employer,

-and-

Docket No. RO-2018-005

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

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the request for review of the Acting Director's decision in a representation petition filed by the NTU. The Commission finds no compelling reason warranting review of the acting Director's determination and that the Acting Director properly found that the original petition was withdrawn and the instant petition was timely filed. The Commission also finds that the District failed to demonstrate that it suffered any harm resulting from the NTU's failure to name the SEIU as an interested party or the NTU's differing unit descriptions and that even if the petitions had been processed as wholly independent filings, the ultimate outcome would remain the same.

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P.E.R.C. NO. 2018-40

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Respondent,

-and-

Docket No. CO-2015-123

NEWARK DEPUTY CHIEFS ASSOCIATION,
FRATERNAL ORDER OF POLICE/
NJ LABOR COUNCIL,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Examiner's report and recommended decision granting the Association's motion for summary judgment and denying the City's cross-motion. The Association'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(3), (5) and (7), when it repudiated the parties' negotiated grievance procedure by refusing to abide by the police director's decision to sustain a grievance. The Commission holds that the City's refusal to abide by the police director's decision constitutes a refusal to negotiate in good faith in violation of subsection 5.4a(5) of the Act.

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P.E.R.C. NO. 2018-41

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY,

Respondent,

-and-

Docket No. CO-2013-269

POLICEMEN'S BENEVOLENT ASSOCIATION
LOCAL 269 (CORRECTION OFFICERS),

Charging Party.

SYNOPSIS

The Public Employment Relations Commission rejects a Hearing Examiner's recommended decision in an unfair practice case filed by the PBA. The Commission finds that the County violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(5), by repudiating the grievance procedure when it refused to implement a grievance decision of its authorized hearing officer regarding implementation of an interest arbitration award's provision requiring new seniority post/shift bidding for a new Pitman schedule with 12-hour shifts.

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. 2018-42

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(MONTCLAIR STATE UNIVERSITY),

Public Employer,

-and-

Docket No. CU-2016-022

COUNCIL OF NEW JERSEY
STATE COLLEGE LOCALS, AFT, AFL-CIO,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the request for review of the Acting Director of Representation's decision in a clarification of unit petition filed by the Council. The Commission finds no compelling reason warranting review of the Acting Director's determination and that the Acting Director properly found that the petition was timely filed and appropriately issued her decision clarifying the unit without a hearing.

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P.E.R.C. NO. 2018-43

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(KEAN UNIVERSITY),

Petitioner,

Docket No. SN-2017-052

-and-

COUNCIL OF NEW JERSEY STATE COLLEGE
LOCALS, AFT/AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies Kean University's request for a restraint of binding arbitration of a grievance contesting the University's denial of an associate professor's request for sabbatical leave. The University argued that the denial was a managerial prerogative implicating its academic judgment. Initially, the Commission declines to find that the denial implicated academic judgment given that the certification filed by the University does not explain how granting or denying the leave application related to the University's freedom to decide who may teach, what may be taught, how it shall be taught, and who may be admitted to study, which are the four bases of academic judgment recognized by the Court. In addition, the Commission declines to find that the denial of the application was an exercise of a managerial prerogative given that the certification likewise does not explain how granting or denying the grievant's application would significantly interfere with the determination of governmental or educational policy.

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P.E.R.C. NO. 2018-44

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FRANKLIN LAKES BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2018-026

FRANKLIN LAKES EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, the Board's request for a restraint of binding arbitration of a grievance contesting the replacement of an end-of-year duty free "pack and clean" day with a Professional Development Day (PDD) at the start of the school year. Finding that the Board has a managerial prerogative to rearrange the 2017 and 2018 teacher work years and to decide when teacher work days will involve student contact or be duty free, the Commission restrains arbitration of the grievance to the extent it challenges the replacement of a duty free day at the end of one year with a PDD day at the start of the next year. However, the Commission declines to restrain arbitration of the Association's challenge to the alleged workload increase without compensation caused by the replacement of a duty free day with a PDD day.

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P.E.R.C. NO. 2018-45

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF CARLSTADT,

Petitioner,

-and-

Docket No. SN-2018-027

PBA LOCAL 312,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Borough's request for a restraint of binding arbitration of a grievance contesting the modification of work schedules for the purpose of avoiding overtime payments. Finding that the Borough failed to sufficiently demonstrate that arbitration would substantially limit its prerogative to determine minimum staffing levels, the Commission declines to restrain arbitration.

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P.E.R.C. NO. 2018-46

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TRENTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. TO-2017-002

TRENTON EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission grants the Association's contested transfer petition alleging that the Board transferred a teacher between work sites for disciplinary reasons in violation of N.J.S.A. 34:13A-25. Finding that the verbal altercation between the teacher and the principal that prompted the transfer was a disciplinary reason and her transfer was not shown to be due to educational concerns, the Commission orders the teacher back to her previous position and work site.

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