

P.E.R.C. NO. 2019-39

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF LINDEN,

Respondent,

-and-

Docket No. CO-2015-101

TEAMSTERS LOCAL 469,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts, in part, a Hearing Examiner's recommended decision following a hearing on a Complaint issued on unfair practice charges filed by Teamsters Local 469, finding that the City of Linden independently violated 5.4a(1) through its conduct in connection with: the grievant's protected activity of filing a grievance challenging his assignment to "mail duty"; the imposition of discipline against the grievant following a councilwoman's complaint for his being out of uniform; incidents in City Hall in which the councilwoman photographed the grievant's footwear with her cell phone and made a lewd hand gesture to the grievant; and the councilwoman's pursuit of a desk audit of the grievant's job, all of which had a tendency to interfere with employees' protected rights. However, the Commission finds that the record does not establish that the City violated 5.4a(3) with regard to the imposition of discipline for the grievant being out of uniform. The Commission otherwise rejects the City's exceptions, including its argument that the doctrine of *res judicata* should apply to bar the prosecution of unfair practice charges in light of Local 469's successful subsequent challenge via grievance arbitration to the discipline imposed on the grievant.

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. 2019-40

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ORANGE TOWNSHIP,

Respondent,

-and-

Docket No. CO-2018-162

PBA LOCAL 89,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Examiner's recommended decision on cross motions for summary judgment filed by PBA Local 89 and the City of Orange Township, finding that the City violated 5.4a(5) and, derivatively, 5.4a(1) when it adopted an ordinance which announced the elimination of the payment of terminal leave to PBA unit members on December 31, 2020 or at the expiration of the parties' current agreement, whichever is later, unless already agreed to otherwise by the parties in an existing agreement. The Commission rejects the City's exceptions, finding that under either the Hearing Examiner's or the City's interpretation, the ordinance violates the Act, both through its announcement and its implementation of a unilateral change to the terminal leave benefit, a mandatorily negotiable subject.

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P.E.R.C. NO. 2019-41

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOUTHAMPTON TOWNSHIP  
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2018-269

SOUTHAMPTON TOWNSHIP  
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Southampton Township Board of Education violated 5.4a(5) and, derivatively, 5.4a(1), by unilaterally changing the 2018-19 faculty work year so that two non-student faculty workdays no longer immediately preceded the start of the student school year, contrary to the prior practice. The Commission finds that the timing of non-student faculty work days and the overall length of the faculty work year beyond the student school year are terms and conditions of employment that intimately and directly affect the work and welfare of public employees, and that negotiations over faculty work days within the dates a school is open is neither preempted by statute nor would significantly interfere with the determination of governmental policy. However, the Commission finds that the Board did not refuse to negotiate over potential negotiable impacts of the calendar change, where the Southampton Township Education Association identified no specific impacts beyond mere speculation.

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P.E.R.C. NO. 2019-42

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MATAWAN-ABERDEEN REGIONAL  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2018-048

MATAWAN-ABERDEEN REGIONAL  
EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Matawan-Aberdeen Regional Board of Education's request for a restraint of binding arbitration of a grievance filed by the Matawan-Aberdeen Regional Education Association which alleged the Board violated the parties' CNA when it stopped paying the full premium cost of dental coverage after the Board terminated its participation in the School Employees Health Benefits Plan (SEHBP) and contracted with a private health insurance carrier to provide medical benefits to its employees. An employer's choice of health insurance carriers is mandatorily negotiable when changing the identity of the carrier changes the level of benefits or the administration of the plan. The Commission finds that allocating dental premiums to employees when the employer has previously paid the full cost affects both the level of insurance benefits and the administration of the plan. Fundamental to the Commission's holding is that the Board's decision to move to a private plan was voluntary, and was not mandated by Chapter 78 or any other law. In choosing to move to the SEHBP, the Board then failed to fulfill a contractual commitment under the CNA to cover the full cost of dental coverage.

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P.E.R.C. NO. 2019-43

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY (STATE POLICE),

Petitioner,

-and-

Docket No. SN-2019-009

STATE TROOPERS FRATERNAL ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the motion of the State Troopers Fraternal Association (STFA) for reconsideration of P.E.R.C. No. 2019-30, in which the Commission granted the request of the State of New Jersey (State Police) for a restraint of binding arbitration of a grievance challenging the State's decision to deny the substitution of paid sick leave for unpaid leave under the NJFLA and FMLA, for childbirth/bonding and/or to care for the grievant's fiancée following childbirth. The Commission finds that, in raising new arguments for the first time and otherwise repeating arguments that the Commission previously considered and rejected, the STFA has not met its burden under N.J.A.C. 19:13-3.12(a) to demonstrate extraordinary circumstances and exceptional importance warranting reconsideration. The Commission further finds that proposed rule changes by the Civil Service Commission that would modify the definition of "immediate family" under the NJFLA provide no basis for reconsideration given that this dispute is associated with the birth of the grievant's child two years prior to the announcement of the proposed rule change. Moreover, the proposed rule changes have no retroactivity provision.

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P.E.R.C. NO. 2019-44

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-2019-035

FOP LODGE 164, SUPERIOR OFFICERS  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of Rutgers, the State University of New Jersey, for a restraint of binding arbitration of a grievance filed by FOP Lodge 164, Superior Officers Association, challenging the termination of a Senior Sergeant. The Commission finds, as in previous cases involving Rutgers and its police unions, and in accordance with the pertinent rulings of appellate courts, that police officers may not contest the merits of major disciplinary sanctions (suspensions or fines of more than five days, demotions, and terminations) through contractual binding arbitration.

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