

P.E.R.C. NO. 2020-12

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY  
(DEPARTMENT OF TREASURY),

Respondent,

-and-

Docket No. CI-2019-020

COMMUNICATIONS WORKERS OF AMERICA  
LOCAL 1033,

Respondent,

-and-

SARAH FREEMAN,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the refusal of the Director of Unfair Practices to issue a complaint. D.U.P. 2020-1, 46 NJPER 25(¶8\_2019). Freeman claims that the State improperly refused to promote her, failed to properly compensate her for working out of title, and retaliated against her for engaging in protected activity. In view of the extensive record of the representational efforts of Communications Workers of America Local 1033 (CWA) on Freeman's behalf, the Commission agrees with the Director's findings that CWA did not: (1) breach its duty of fair representation to Freeman; or (2) interpret the collective negotiations agreement in a bad faith, discriminatory or arbitrary manner; and that (3) Freeman's factual allegations, even if true, at best support a finding of mere negligence, which does not establish a viable claim of a breach of the duty of fair representation. The Commission finds that Freeman, on her appeal repeating allegations and contentions from her amended charges, has not stated a factual or legal basis for not sustaining the Director's decision, and that Freeman's claim that the Director did not address certain allegations is without merit.

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. 2020-13

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EAST ORANGE BOARD OF EDUCATION,

Respondent,

-and-

Docket No. TO-2019-007

EAST ORANGE EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission grants the East Orange Education Association's petition for a contested transfer determination, finding that the East Orange Board of Education transferred a teacher between work sites for disciplinary reasons in violation of N.J.S.A. 34:13A-25. The Commission finds the Board's contemporaneous announcement on February 1, 2019 of both the transfer and a disciplinary suspension for the teacher's conduct during a December 5, 2018 incident in which she allegedly threatened a student indicates the Board's reasons for the transfer and the discipline were intertwined. The Commission further finds that the Board's delay in transferring the teacher undermines its assertion that it was motivated by a need to protect the student's safety and maintain a productive educational environment at the school. The Commission further finds that the record does not support that the transfer was effected predominately to fill a staffing need at another school.

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. 2020-14

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOUTH ORANGE MAPLEWOOD BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2019-046

SOUTH ORANGE MAPLEWOOD  
EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the South Orange-Maplewood Board of Education's request for a restraint of binding arbitration of a grievance filed by the South Orange-Maplewood Education Association asserting that the Board violated a provision of the parties' collective negotiations agreement (CNA) when it denied the grievant's request for supplemental paid sick leave. The Commission finds that the denial of the grievant's extended sick leave request was an exercise of the Board's discretion under N.J.S.A. 18A:30-6, which requires that such determinations must be based on a school board's discretion and consideration of individual circumstances, not on an application of a negotiated rule. The Commission finds that the remedy sought by the Association would substitute the Board's discretion for the arbitrator's judgment as to whether extended sick leave should have been granted to the grievant, which is prohibited by N.J.S.A. 18A:30-6.

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. 2020-15

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HARRISON BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2019-072

HARRISON TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses the Harrison Board of Education's petition for a scope of negotiations determination, as it is not related to the negotiability of a contract provision during negotiations for a successor collective negotiations agreement (CNA) or a demand for arbitration, and no "special circumstances" are present. The petition relates to a lawsuit filed against the Board in the New Jersey Superior Court, Chancery Division, by individual employees who alleged the Board violated their vested contractual rights (under the CNA between the Board and the Harrison Township Education Association) when the Board changed the threshold requirements to qualify for payment for accumulated sick leave upon retirement. The Commission finds the Board failed to prove "special circumstances" under applicable precedent. The Commission further finds that the dispute in the Chancery Division action (to which the Association is not a party) involves issues of individual contract rights and equitable principles that are outside the Commission's narrow scope jurisdiction.

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.