

P.E.R.C. NO. 2020-34

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF SAYREVILLE,

Petitioner,

-and-

Docket No. SN-2019-069

SAYREVILLE ASSOCIATION OF MUNICIPAL
SUPERVISORS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, and denies, in part, the request of the Borough of Sayreville for a restraint of binding arbitration of a grievance filed by the Sayreville Association of Municipal Supervisors which alleges that the Borough violated the parties' collective negotiations agreement (CNA) when it discontinued health insurance opt-out payments for certain members. The Commission grants the Borough's request to the extent that N.J.S.A. 40A:10-17.1 and N.J.S.A. 52:14-17.31a preempt arbitration over the decision to allow employees to waive coverage and the amount of consideration to be paid therefore, which, the statute expressly states, "shall not be subject to the collective bargaining process." But the Commission finds that, to the extent the grievance relates to employees who waived the Borough's health care coverage for 2019 prior to the Borough announcing that it would eliminate opt-out payments for that year, an arbitrator may consider whether the Borough's application of its waiver and opt-out system violated the CNA and the statutes by failing to pay the promised consideration for the 2019 health insurance waivers.

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. 2020-35

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF SAYREVILLE,

Petitioner,

-and-

Docket No. SN-2019-071

AFSCME LOCAL 3527,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, and denies, in part, the request of the Borough of Sayreville for a restraint of binding arbitration of a grievance filed by AFSCME Local 3527 which alleges that the Borough violated the parties' collective negotiations agreement (CNA) when it discontinued health insurance opt-out payments for certain members. The Commission grants the Borough's request to the extent that N.J.S.A. 40A:10-17.1 and N.J.S.A. 52:14-17.31a preempt arbitration over the decision to allow employees to waive coverage and the amount of consideration to be paid therefore, which, the statute expressly states, "shall not be subject to the collective bargaining process." But the Commission finds that, to the extent the grievance relates to employees who waived the Borough's health care coverage for 2019 prior to the Borough announcing that it would eliminate opt-out payments for that year, an arbitrator may consider whether the Borough's application of its waiver and opt-out system violated the CNA and the statutes by failing to pay the promised consideration for the 2019 health insurance waivers.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF EAST ORANGE,

Respondent,

-and-

Docket No. CO-2018-131

EAST ORANGE FIRE OFFICERS' ASSOCIATION,

Charging Party.

SYNOPSIS

Upon review of the exceptions of both parties to the report and recommended decision of a Hearing Examiner (HE) on an unfair practice charge filed by the East Orange Fire Officers' Association, the Public Employment Relations Commission adopts the HE's decision, as modified, finding that the City of East Orange violated subsection 5.4a(5) and, derivatively, 5.4a(1) of the Act when, in revising departmental rules and regulations the City, without negotiation: (1) altered the schedule of potential disciplinary penalties that could be imposed on firemen; and (2) established minor disciplinary review procedures by reference to N.J.S.A. 40A:14-147, which does not apply to municipal fire departments, and to the Civil Service Act, which does not provide for review of minor discipline of municipal firemen. The Commission also modifies the HE's findings of fact to reflect that the City unilaterally imposed a new rule concerning the calendar period authorized for the wearing of shorts by uniformed officers. However, the Commission finds that the City's unilateral imposition of that timetable is not an unfair practice since it concerns a newly imposed rule on a permissively negotiable subject. The Commission rejects all other exceptions to the HE's report and recommended decision.

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P.E.R.C. NO. 2020-37

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DEPARTMENT OF CORRECTIONS),

Petitioner,

-and-

Docket No. SN-2019-057

NEW JERSEY LAW ENFORCEMENT
SUPERVISORS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the Department's request for a restraint of binding arbitration of the Association's grievance alleging violations of the parties' CNA when the Department modified a policy requiring a female supervisor to supervise strip searches performed by females at a female prison. The Commission finds that arbitration of the Association's grievance would substantially limit the Department's strong governmental policy interests in preventing sexual abuse, complying with federal law, maintaining security, and ensuring that strip searches are conducted safely and effectively. However, the Commission does not restrain arbitration of the Association's claims that the CNA's safety provisions were violated by the Department's policy change, so long as the arbitration is advisory only.

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P.E.R.C. NO. 2020-38

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY JUDICIARY/
HUDSON VICINAGE,

Petitioner,

-and-

Docket No. SN-2019-065

PROBATION ASSOCIATION OF NEW JERSEY
(CASE-RELATED UNIT),

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the Judiciary's request for a restraint of binding arbitration of the Association's grievance alleging violation of the parties' CNA when the Judiciary determined the grievant was ineligible for promotion because she did not possess a valid driver's license. The Commission finds that the Judiciary had a non-negotiable managerial prerogative to determine the qualifications for the position and establish that a valid driver's license is required to qualify for the promotional positions.

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P.E.R.C. NO. 2020-39

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WAYNE TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2019-068

WAYNE TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Board's request for a restraint of binding arbitration of the Association's grievance alleging violation of the parties' CNA when it failed to allow Association members to borrow a second personal day from the 2018-2019 school year to cover the scheduling of a fourth school day which had to be made up in April 2018 to account for days when inclement weather closed schools. The Commission finds that this dispute does not challenge the Board's right to set and revise the school calendar, but rather it concerns the mandatorily negotiable subject of the use of paid leave, which may be resolved through binding arbitration.

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