

P.E.R.C. NO. 2021-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PATERSON CHARTER SCHOOL
FOR SCIENCE AND TECHNOLOGY,

Respondent,

-and-

Docket No. CO-2020-143

PATERSON CHARTER
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands to the Director of Unfair Practices for the issuance of a complaint on an unfair practice charge filed by the Paterson Charter Education Association against the Paterson Charter School for Science & Technology, which alleged that the School violated N.J.S.A. 34:13A-5.4a(1) and (5) when it unilaterally changed terms and conditions of employment for the 2019-2020 school year by failing to provide all teaching staff members at the 7-12th grade campus with a 45-minute duty-free lunch period, in violation and repudiation of the parties' collective negotiations agreement (CNA). On the Association's appeal from the Director's refusal to issue a complaint, the Commission finds that it appears that the allegations of the charge, if true, may constitute unfair practices on the part of the School, requiring formal proceedings in order to afford the parties an opportunity to litigate relevant legal and factual issues. The Commission finds that the School's assertion that it complied with the CNA by giving teaching staff members the discretion to fit their lunch periods within whatever 46-minute interval(s) happened to exist between classes in their individual schedules to be more akin to a contractual defense rather than merely stating a dispute over conflicting interpretations of the parties' contract; and that where one party alleges a violation of the statutory duty to negotiate and the other party raises a contractual defense, a complaint will normally issue.

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. 2021-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF BAYONNE,

Respondent,

-and-

Docket No. CO-2020-268

FIREFIGHTERS MUTUAL BENEVOLENT
ASSOCIATION LOCAL NO. 11 AND
BAYONNE FIRE SUPERIOR ASSOCIATION
FMBA LOCAL 211,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission denies the FMBA Local No. 11 and Bayonne Fire Superior Association FMBA Local 211's (FMBA) motion for reconsideration of a Commission Designee's interim relief decision. The Designee's decision restrained the City of Bayonne from denying outside employment opportunities to FMBA members who chose not answer several new questions in the City's outside employment questionnaire and required the City to promptly review and decide on outside employment requests. The FMBA sought reconsideration based on the City's temporary ban on all outside employment that occurred from March 20 until April 17, 2020. Finding that the City has been reviewing and approving outside employment applications in compliance with the Designee's partial interim relief order, the Commission holds that the FMBA failed to establish extraordinary circumstances warranting reconsideration of the Designee's interim decision.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF NEPTUNE,

Respondent,

-and-

Docket No. CO-2017-230

POLICEMEN'S BENEVOLENT ASSOCIATION,
LOCAL NO. 74, INC.,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts, as modified, a Hearing Examiner's Recommended Decision and Order dismissing a Complaint issued on an unfair practice charge filed by the Policemen's Benevolent Association, Local No. 74, against the Township of Neptune, which alleged that the Township violated N.J.S.A. 34:13A-5.4a(1), (3), and (5) by removing two unit members from the Monmouth County Emergency Response Team (MOCERT) in retaliation for their role in a letter jointly sent by the PBA and FOP Lodge No. 19 to the Township's Chief of Police and its then-Director of Police, outlining the unions' concerns about the Police Department. In rejecting all but two exceptions filed by the PBA, the Commission finds that the record, on the whole, supports the Hearing Examiner's central findings as to the legitimacy of the Township's business justifications for the removals, and that the removals would have taken place absent the protected conduct. The Commission finds the record evidence to be consistent with a conclusion that a variety of legitimate considerations (expressed in the Township's Answer and as adduced at the hearing, including, among other things, regarding ongoing concerns with scheduling and manpower issues as they were impacted by MOCERT training requirements), influenced the challenged decisions, and that the Township's witnesses testified consistently with and/or did not contradict the reasons provided by the Township in its answer to the charge. The Commission otherwise modifies the Hearing Examiner's decision to reflect that the Township did not sufficiently establish the Chief's disapproval of the fact that officers were attending MOCERT training on their own time as one of the grounds for the decisions he made in 2017 about MOCERT participation; and by striking a brief mention in its findings of fact of testimony concerning mediation efforts related to the charge, as N.J.A.C. 19:14-6.3 prohibits the admission of facts pertaining to offers of settlement or proposals of adjustment absent the agreement of all parties.

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