

P.E.R.C. NO. 2022-14

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-2021-040

FOP LODGE 164,
SUPERIOR OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, Rutgers' request for restraint of binding arbitration of the FOP's grievance alleging that the grievant's termination violated the parties' collective negotiations agreement (CNA) both substantively and procedurally. The Commission finds that, to the extent the grievance challenges Rutgers' substantive decision to impose major discipline on a police officer, arbitration must be restrained. The Commission also finds that, to the extent the grievance alleges violations of contractual grievance procedures, it does not significantly interfere with Rutgers' ability to impose major discipline and is legally arbitrable.

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. 2022-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF EAST ORANGE,

Petitioner,

-and-

Docket No. SN-2022-003

EAST ORANGE FIRE OFFICERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the City's request for restraint of binding arbitration of the FOA's grievance alleging that the City violated the parties' collective negotiations agreement (CNA) by improperly deducting the grievant's sick and vacation leave while he was absent from work due to a positive COVID-19 diagnosis. Finding that paid leave is generally mandatorily negotiable and that P.L. 2020, c. 84 does not specifically preempt arbitration over the issue of restoration of paid leave while absent for a work-related illness, the Commission declines to restrain arbitration.

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. 2022-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MONTCLAIR,

Petitioner,

-and-

Docket No. SN-2021-046

FMBA LOCAL 20,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies, in part, the Township of Montclair's request for a restraint of binding arbitration of FMBA Local 20's grievance. The grievance asserts that the Township violated the parties' collective negotiations agreement when it failed to backdate the Grievant's promotion to February 1, 2020 and compensate him accordingly. The Commission finds that to the extent Local 20's grievance is seeking to backdate the Grievant's promotion to a date earlier than his actual promotion date, that would significantly interfere with the Township's managerial prerogative to decide whether and when to promote an employee. However, the Commission also finds that the primary concern of Local 20's grievance is its claim that the Grievant is entitled to additional compensation for the duties he performed as Acting Fire Lieutenant, which is a legally arbitrable claim.

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. 2022-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SAYREVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2022-002

SAYREVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Sayreville Board of Education for a restraint of binding arbitration of a dispute as to whether the withholding of an increment of a teaching staff member (TSM) represented by the Sayreville Education Association is disciplinary or predominately relates to the evaluation of teaching performance. The Commission finds the Board placed the most emphasis on the TSM's alleged teaching performance deficiencies during a period of time when she was, in effect, absent from duty, as she claims she was too sick to perform most if not all of her teaching duties as a result of contracting COVID-19, and also, allegedly, negligently failed to sign out sick on a number of days. Allegations of absenteeism are disciplinary reasons for increment withholdings that do not predominately relate to evaluation of teaching performance. Under such circumstances, the Commission finds that the bulk of the alleged teaching performance deficiencies stem from a factual dispute (whether and to what extent the TSM was too sick to work and/or failed to properly log her sick days) that would not require the Commissioner of Education's review.

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. 2022-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOWELL TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2021-045

HOWELL TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Howell Township Board of Education's request for a restraint of binding arbitration of the Howell Township Education Association's grievances. The grievances assert that the Board violated the parties' collective negotiations agreement by failing to properly post school bus driver runs assigned to standby drivers, not allowing the bus drivers to pick said runs based on seniority, and to compensate the bus driver for the runs accordingly. The Commission finds that the aspects of the Association's grievances challenging whether the bus drivers were properly compensated for the standby runs is legally arbitrable. The Commission also finds that the factual record did not establish that the use of standby drivers for the subject runs was temporary or brought about by emergent circumstances. The Commission concludes that the Association's claim that the subject runs performed by standby drivers should have been subject to the CNA's posting and seniority provisions is legally arbitrable.

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. 2022-19

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF BERGEN,

Petitioner,

-and-

Docket No. SN-2022-004

PBA LOCAL 49,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the County of Bergen for a restraint of binding arbitration of a grievance filed by the Policemen's Benevolent Association, Local 49, seeking to enforce a contractual provision by which, the PBA asserts, the County agreed to bear the cost of certain members' health benefits upon retirement. Given its narrow scope jurisdiction, the Commission declines to address the County's assertion that Local 49 lacks standing because it no longer has members as the result of a departmental merger of the County's police and sheriff's departments. The Commission highlights that the grievance arose in 2017 at a time when, it is undisputed, Local 49 represented all County police officers and sought to avoid layoffs resulting from the merger; and Local 49 continued to represent officers and retirees in the unit after the merger. The Commission finds the County may raise its standing argument to the grievance arbitrator. The Commission further finds that Local 49 has a cognizable interest in ensuring the receipt of retirement benefits that were contracted for at the time the employees identified in its grievance retired; and the County did not assert preemption or demonstrate that arbitration over the grievance would significantly interfere with the exercise of managerial prerogatives.

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.