

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BRADLEY BEACH,

Petitioner,

-and-

Docket No. SN-2022-031

UFCW LOCAL 152,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Borough's request for restraint of binding arbitration of Local 152's grievance alleging that the Borough violated the collective negotiations agreement (CNA) by improperly calculating part-time vacation leave for multiple unit members. The Borough argues that because the CNA is silent on arbitrator selection, Local 152 should be restrained from utilizing the Commission's arbitration panel. The Borough also argues that Local 152 improperly converted its grievance from a single employee grievance to a class action grievance. The Commission finds that the Borough's objections to arbitration concern procedural arbitrability, which is outside of the Commission's scope jurisdiction and is for the arbitrator to determine. The Commission also finds that N.J.A.C. 19:12-5.1 does not preclude arbitration, as the record supports a prima facie showing of the parties' intent to use a Commission arbitrator based on their previous use of Commission arbitrators, the Borough's participation in the arbitrator selection process in this case with no objection, and no evidence of the parties' intent to use a different arbitration panel.

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. 2023-3

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT BUS  
OPERATIONS, INC.,

Petitioner,

-and-

Docket No. SN-2022-029

AMALGAMATED TRANSIT UNION,  
NEW JERSEY STATE COUNCIL,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies NJTBO's request for restraint of binding arbitration of the ATU's grievances contesting written disciplinary warnings issued to two bus operators. Finding that the ATU's grievances dispute whether NJTBO had proper cause for the disciplinary sanctions, but do not challenge NJTBO's managerial prerogative to upgrade its DriveCam bus surveillance system and use evidence from it in disciplinary actions, the Commission declines to restrain arbitration. The Commission also finds that, because issues of notice of changes to the DriveCam system and how it may be used in discipline are mandatorily negotiable, the ATU is not precluded from raising its claims of lack of sufficient notice of DriveCam changes as part of its proper cause defense in disciplinary arbitrations.

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P.E.R.C. NO. 2023-4

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET COUNTY PROSECUTOR'S OFFICE,

Petitioner,

-and-

Docket Nos. SN-2022-018  
SN-2022-019  
(Consolidated)

PBA LOCAL 307;  
PBA LOCAL 177A,

Respondents.

SYNOPSIS

The Public Employment Relations Commission denies the consolidated requests of the Somerset County Prosecutor's Office for restraints of binding arbitration of grievances respectively filed by PBA Locals 307 and 177A (PBA or Locals), which assert that the County violated its collective negotiations agreements (CNAs) with the Locals by requiring certain retired unit members to contribute toward the cost of their health insurance premiums in retirement, pursuant to P.L. 2011, c.78 (Chapter 78). The Commission finds that the level of retiree health benefits coverage is a mandatorily negotiable subject following expiration of the contract in which a unit reaches full Chapter 78 implementation, as both Locals have done here. For Local 307, the Commission finds that the question of whether the parties intended, following full implementation, to "reintegrate" into their CNA a County Freeholder Resolution granting lifetime health benefits to certain eligible retirees is a question for an arbitrator, not the Commission, to decide. For Local 177A, the Commission finds that the County's assertions that the parties never negotiated lower rates than the full Chapter 78 rates concern the merits of the grievance and are appropriate for the arbitrator. The Commission further finds that an arbitrator is empowered to consider and apply the 1.5% minimum contribution requirement set forth in P.L. 2010, c.2 in resolving this dispute.

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P.E.R.C. NO. 2023-5

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL FIRE & RESCUE,

Petitioner,

-and-

Docket No. SN-2022-028

IAFF LOCAL 3950,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the North Hudson Regional Fire & Rescue (Regional) for a restraint of binding arbitration of a grievance filed by IAFF Local 3950 (Local 3950), which alleges that the Regional violated the CNA when it discontinued inter-house overtime assignments and mutual swaps due to the COVID-19 pandemic. The Commission finds that, given the extraordinary circumstances presented by the COVID-19 pandemic, arbitration of Local 3950's grievance would substantially limit the Regional's governmental policy making powers in mitigating the spread of COVID-19 amongst its employees and to the public. The Commission concludes that the Regional had an emergent, non-negotiable managerial prerogative to implement its COVID-19 mitigation policies in disallowing inter-house mutual swaps and overtime assignments.

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P.E.R.C. NO. 2023-6

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PARSIPPANY-TROY HILLS  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2022-024

PARSIPPANY-TROY HILLS EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Parsippany-Troy Hills Board of Education's scope of negotiations petition seeking a restraint of binding arbitration of a grievance filed by the Parsippany-Troy Hills Education Association. The Commission finds that parties' dispute, over what the term "roll over" means under their collective negotiations agreement (CNA), with respect to what is supposed to happen to unexpended tuition reimbursement funds in a given school year, involves an issue of contract interpretation outside its scope of negotiations jurisdiction. The Commission further finds that certain statutes and regulations, requiring school boards to adhere to generally accepted accounting principles (GAAP), do not preempt arbitration, because they do not "expressly, specifically and comprehensively" set or control, as "a particular term or condition of employment," what must be done with unexpended tuition reimbursement funds.

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