

P.E.R.C. NO. 2023-44

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

QUEEN CITY ACADEMY CHARTER SCHOOL,

Public Employer,

-and-

Docket No. CU-2021-009

QUEEN CITY EDUCATION
ASSOCIATION,

Petitioner.

SYNOPSIS

The Commission denies the Queen City Education Association's request for review of a decision by the Director of Representation dismissing its clarification of unit (CU) petition. The Director found that certain administrative employees of the Queen City Academy Charter School whom the Association sought to include in its bargaining unit had functional responsibilities or knowledge of the collective negotiations process rendering them confidential within the meaning of the New Jersey Employer-Employee Relations Act, such that union membership would be incompatible with their official duties. The Commission finds that while the Association's linking of the employees' confidential status to an improper motive of the School to reduce Association membership may, if true, support a claim the School violated the Act's unfair practice provisions, that claim must be resolved not through a CU petition but an unfair practice proceeding, and the Association filed no such related charges. The Commission further rejects the Association's speculative argument that the School could reduce the number of confidential employees by re-assigning duties or changing the way it operates, because an employer's distribution of confidential work to employees is not challengeable in a CU proceeding.

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.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TRENTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2020-186

TRENTON EDUCATIONAL
SECRETARIES ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission largely denies the Board's exceptions and adopts a Hearing Examiner's decision granting TESA's motion for summary judgment on its unfair practice charge. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq. (Act) when it sent an employee a letter limiting her right to union representation during a DCF interview investigating an allegation of child abuse at school. The Commission finds that the DCF witness interview had the potential to impact the employee's terms and conditions of employment and that the Board was legally required to cooperate and arrange the interview. The Commission partially grants the Board's exception to the Hearing Examiner's characterization of the Board's letter as implying that the employee's "continued employment" was at risk. However, the Commission finds that even without that specific implication, the Board's letter reasonably implicated the employee's terms and conditions of employment, including potential discipline. Therefore, the Commission holds that the Board's letter restricting TESA to only non-participatory representation during the DCF interview violated subsection 5.4a(1) of the Act because it objectively had the tendency to interfere with the employee's rights under the Act to be represented by and communicate with her union, and the Board did not prove a substantial, legitimate business justification for the restrictions.

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. 2023-46

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF LITTLE EGG HARBOR,

Petitioner.

-and-

Docket No. SN-2023-020

USWU LOCAL 255,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies Little Egg Harbor Township's scope of negotiations petition requesting the exclusion of a contractual provision from ongoing negotiations submitted by United Service Workers Union Local 255, which provided, in part, for the limited conversion of unused sick leave to vacation leave. Finding that paid leave is generally mandatorily negotiable and that N.J.S.A. 11A:6-19.2 does not specifically preempt negotiation over the issue of the conversion of sick leave to other forms of leave, the Commission denies the petition and finds that the contract provision is mandatorily negotiable.

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. 2023-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF MILLVILLE,

Petitioner.

-and-

Docket No. SN-2023-022

NEW JERSEY CIVIL SERVICE
ASSOCIATION CUMBERLAND COUNTY COUNCIL 18,

Respondent.

SYNOPSIS

The Public Employment Relations Commission partially grants, and partially denies, the City's request for restraint of binding arbitration of Council 18's grievant challenging the City's failure to appoint the grievant to the Secretarial Assistant title, and to provide her with back pay, following the Civil Service Commission's (CSC) April 7, 2022 determination to provisionally appoint her to Secretarial Assistant retroactive to October 10, 2021. Finding that CSC laws and regulations do not preempt arbitration over the issue of back pay following a reclassification decision, the Commission declines to restrain arbitration over the issue of back pay from the date the CSC provisionally appointed the grievant until the date the City adjusted her job duties to conform back to the Clerk 2 title. However, to the extent the grievance contests the City's decision not to appoint the grievant to the Secretarial Assistant title and to instead adjust her job duties to conform with the Clerk 2 title, it is preempted by CSC regulations and is not 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. 2023-48

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PATERSON,

Petitioner,

-and-

Docket No. CO-2021-269

AFSCME COUNCIL 63,
LOCAL 3724,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms a Hearing Examiner's decision, H.E. No. 2023-4, 49 NJPER 335 (¶81 2023), granting AFSCME's motion for summary judgment on its unfair practice charge and denying the City's cross-motion for summary judgment. The charge alleges that that the City violated subsections 5.4a(1), (5), and (7) of the Act by negotiating salary and other terms and conditions of employment directly with several AFSCME unit members. The Commission finds that the City directly negotiated salary and title changes with two employees prior to seeking negotiations over those changes and that the notification to AFSCME that the Department of Community Affairs had already approved of the salary and title changes appeared to be merely a formality, rather than an invitation to negotiate. The Commission also finds that that the City engaged in direct dealing with the grand-funded employee and provided no support for its argument that the terms and conditions of that position were controlled by the terms of the grant.

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.