

P.E.R.C. NO. 2014-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CWA LOCAL 1040, CWA DISTRICT
ONE AND STATE OF NEW JERSEY
(JUVENILE JUSTICE),

Respondents,

-and-

JUDY THORPE,

Docket Nos. CI-2010-046
CI-2010-047
CI-2010-049

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for reconsideration of P.E.R.C. No. 2013-29 filed by Judy Thorpe. In that decision, the Commission affirmed the Deputy Director of Unfair Practice's refusal to issue a complaint based on allegations in unfair practice charges filed by Thorpe against her employer and majority representative. The Commission finds that Thorpe has not set forth any extraordinary circumstances warranting a grant of reconsideration, and that she has asserted a conflict of interest argument for the first time which nonetheless does not present the appearance of impropriety.

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. 2014-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PATERSON STATE-OPERATED SCHOOL DISTRICT,

Respondent,

-and-

Docket No. CO-2011-283

PATERSON EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission accepts in part and rejects in part a Hearing Examiner's report and recommended findings in an unfair practice case filed by the Paterson Education Association against the Paterson State-Operated School District. That Hearing Examiner recommended that the Commission find that the District violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(1), in two different instances involving interactions between the Principal and the Association Treasurer. The Commission agrees with the Hearing Examiner that comments regarding the Treasurer's protected activity that were in letters placed in her personnel file interfered with her rights to represent Association members. The Commission rejects the Hearing Examiner's finding that the Principal's comment that if she had to comply with the collective negotiations agreement's teacher schedules, then so did everyone else including teachers losing perquisites such as leaving school during prep periods, was a threat and independent a(1) violation. The Commission finds that employers may always expect compliance with the precise terms of an agreement, the timing of the statement did not escalate it into a threat, the record does not support a clear past practice allowing teachers to leave the building outside the limitations of the agreement, and there was no evidence in the record that the Principal took any action limiting teachers' ability to leave the building.

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P.E.R.C. NO. 2014-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOWELL TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2011-333

HOWELL TOWNSHIP EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission affirms the Hearing Examiner's recommended dismissal of a complaint issued in an unfair practice case filed by the Howell Township Education Association against the Howell Township Board of Education. The Association alleged that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it placed all replacement teachers (long-term substitutes) at step one of the salary guide instead of continued with past practice by crediting them for previous years of experience. The Commission rejects the Association's exceptions, holding that the Hearing Examiner did not err in finding that the replacement teachers are not members of the negotiations unit, and therefore the Board did not violate the duty to negotiate changes in their terms and conditions of employment.

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P.E.R.C. NO. 2014-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GLOUCESTER COUNTY COLLEGE,

Respondent,

-and-

Docket No. CU-2012-019

GLOUCESTER COUNTY COLLEGE
DIRECTORS' ASSOCIATION, NJEA,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Gloucester County College Directors' Association, NJEA for review of a Director of Representation decision. The Director denied the Association's petition to clarify a negotiations unit to include the newly-created title of Director of Business Services. The Commission finds no compelling reason warranting review of the Director's decision, noting that the Director thoroughly examined the duties of the position and determined that the new title is confidential under N.J.S.A. 34:13A-3(g) and therefore excluded from the unit under N.J.S.A. 34:13A-3(d).

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P.E.R.C. NO. 2014-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PATERSON STATE-OPERATED
SCHOOL DISTRICT,

Petitioner,

and

Docket No. SN-2011-087

PATERSON EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Paterson State-Operated School District for a restraint of binding arbitration of a grievance filed by the Paterson Education Association. The grievance asserts that the District violated the parties' collective negotiations agreement by ceasing to permit employees choosing the "summer payment option" to request and receive portions of their summer salary payments during the school year. The Commission holds that N.J.S.A. 18A:29-3 bars payment of funds earmarked for the summer payment plan at times other than the three ways enumerated in the statute, and therefore negotiations over payments during the school year are preempted.

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P.E.R.C. NO. 2014-14

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-2013-010

AFSCME, AFL-CIO, COUNCIL 52,
LOCAL 1761,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of Rutgers, the State University of New Jersey, for a restraint of binding arbitration of a grievance filed by AFSCME, AFL-CIO, Council 52, Local 1761. The grievance asserts that the Township violated the parties' collective negotiations agreement when it failed to promote a unit member to the position of Head Clerk Bookkeeper and instead hired a new employee. The Commission holds that posting requirements cannot interfere with an employer's right to determine that the most qualified candidate is not a current employee. The Commission finds that AFSCME's assertion that Rutgers violated the parties' promotional procedures is an attempt to contest the employer's hiring decision, and is therefore not legally arbitrable.

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P.E.R.C. NO. 2014-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAINESPORT TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2013-021

HAINESPORT EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Hainesport Township Board of Education for a restraint of binding arbitration of a grievance filed by the Hainesport Education Association. The grievance contests the withholding of a teacher's salary increment. Finding that an inability to keep a classroom clean and organized primarily relates to teaching performance, the Commission holds that the withholding was based predominately on an evaluation of teaching performance and therefore restrains binding arbitration.

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P.E.R.C. NO. 2014-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF GLEN RIDGE,

Petitioner,

-and-

Docket No. SN-2013-025

PBA LOCAL 58,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough of Glen Ridge for a restraint of binding arbitration of a grievance filed by PBA Local 58. The grievance asserts that the County violated a sidebar agreement on minimum staffing and overtime coverage when it ordered a civilian dispatcher to perform desk dispatch duty after a patrol officer called out sick, and did not add another patrol officer to cover the dispatch desk after the assigned dispatcher also called out sick. The Commission holds that changes to police officer staffing levels alleged to violate employer-set minimum staffing levels may not be challenged through binding grievance arbitration. The Commission notes that the PBA's assertion that its grievance also concerns employee safety impacts of the Borough's decision to operate below normal staffing levels was not supported by a certification of specific safety issues. The Commission also finds that this case does not involve allocation of overtime among qualified employees in the same unit because dispatching is the primary duty of the civilian dispatchers who are in a different negotiations unit.

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P.E.R.C. NO. 2014-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2013-035

PBA LOCAL 11,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by PBA Local 11. The grievance asserts that the City violated the parties' collective negotiations agreement by terminating a unit member's detective pay while she was assigned to detective duty. The Commission holds that whether a detective stipend is linked to a detective assignment or to other law enforcement duties is a question of contract interpretation reserved to an arbitrator.

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P.E.R.C. NO. 2014-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2013-036

PBA LOCAL 11,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by PBA Local 11. The grievance asserts that the City violated the seniority preference clause of the collective negotiations agreement by reassigning two officers from Patrol Administration to Patrol Operations. The Commission holds that where no issue of special qualifications is present, or where the employer has not shown how governmental policy would be impeded, grievances asserting that seniority should govern shift reassignments are legally arbitrable.

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P.E.R.C. NO. 2014-19

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2013-037

PBA LOCAL 11,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by PBA Local 11. The grievance asserts that the City violated the seniority preference clause of the collective negotiations agreement by reassigning two officers from the Vice section to other sections. The Commission holds that where no issue of special qualifications is present, or where the employer has not shown how governmental policy would be impeded, grievances asserting that seniority should govern shift reassignments are legally arbitrable.

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