

P.E.R.C. NO. 2006-65

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY COLLEGE,

Public Employer,

-and-

Docket No. CU-2005-014

BURLINGTON COUNTY COLLEGE
SUPPORTIVE STAFF ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the request of Burlington County College for review of a portion of D.R. No. 2006-5, 31 NJPER 382 (¶150 2006). In that decision, the Director of Representation determined, in part, that the Administrative Assistant - N.J. Statewide Transfer, represented by the Burlington County College Supportive Staff Association is not a confidential employee within the meaning of the New Jersey Employer-Employee Relations Act. The College seeks to have that ruling overturned or in the alternative that a plenary hearing be scheduled. The Commission concludes that the statutory standard was properly applied. The Commission denies the College's request for an evidentiary hearing since the College did not respond to the Director's notice to the parties of his intended decision in this matter, nor has the College identified any material facts in dispute.

_____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. 2006-66

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF JERSEY CITY,

Respondent,

-and-

Docket No. CO-2005-128

JERSEY CITY POBA,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for summary judgment filed by the City of Jersey City and a cross-motion for summary judgment filed by the Jersey City POBA. The POBA filed an unfair practice charge alleging that the City violated the New Jersey Employer-Employee Relations Act when it paid police recruits an hourly rate rather than a rate that correlates with the salary guide in the parties' collective negotiations agreement, allegedly in violation of a grievance settlement agreement. In denying both motions, the Commission concludes that although the POBA has not met its burden of proving that recruits are covered by the parties' agreement, it cannot find that the City proved that they are not covered. The Commission holds that final resolution of this disputes requires the consideration of competing evidence.

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P.E.R.C. NO. 2006-67

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ENGLEWOOD,

Respondent,

-and-

Docket No. CO-2004-074

ENGLEWOOD PBA LOCAL 216 (SOA),

Charging Party.

SYNOPSIS

_____The Public Employment Relations Commission denies a motion for summary judgment filed by Englewood PBA Local 216 (SOA). The SOA filed an unfair practice charge against the City of Englewood alleging that the City violated the New Jersey Employer-Employee Relations Act when it refused to pay three lieutenants in accordance with the terms stated by the chief of police in his response at step one of the grievance procedure. The Commission concludes that although there are no material facts in dispute, on this limited record it cannot discern how payment in accordance with an arbitration award differs from payment under the chief's grievance responses and constitutes a repudiation of the contract.

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P.E.R.C. NO. 2006-68

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DIVISION OF STATE POLICE),

Petitioner,

-and-

Docket No. SN-2006-030

STATE TROOPERS SUPERIOR
OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission grants the request of the State of New Jersey (Division of State Police) for a restraint of binding arbitration of a grievance filed by the State Troopers Superior Officers Association. The grievance asserts that the State violated the parties' age discrimination clause by requiring lieutenants seeking promotion after September 1, 2004 to have a bachelor's degree. The Commission holds that the State is free to require a bachelor's degree for promotion to captain. The Commission finds that the STSOA's allegation that the degree attainment date discriminates on the basis of age is not legally arbitrable and must be presented in another forum.

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P.E.R.C. NO. 2006-69

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGENFIELD BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2006-044

BERGENFIELD EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Bergenfield Board of Education for a restraint of binding arbitration of a grievance filed by the Bergenfield Education Association. The grievance contests the withholding of a teaching staff member's increment. The Commission concludes that among the reasons proffered for this withholding, the non-teaching performance concerns predominated in the withholding decision. Those reasons included alleged failure to report to assigned classes and sleeping in class.

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P.E.R.C. NO. 2006-70

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-2005-049

AMALGAMATED TRANSIT UNION,
NEW JERSEY STATE COUNCIL,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission denies the request of New Jersey Transit Bus Operations, Inc. for a restraint of binding arbitration of a grievance filed by the Amalgamated Transit Union, New Jersey State Council. The grievance asserts that NJTBO violated Section 16(R) of the parties' collective negotiations agreement when it did not meet with the State Council before contracting with Southern New Jersey Rail Group to operate and maintain the River Line rail system. The Commission notes that Section 16(R) does not prohibit NJTBO from entering a subcontract for new work, and concludes that it is simply a procedural requirement that the employer meet with ATU if it is intending to bid new work and to supply the Council with the information supplied to all interested bidders.

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P.E.R.C. NO. 2006-71

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MERCER,

Petitioner,

-and-

Docket No. SN-2006-037

P.B.A. LOCAL 167,
MERCER COUNTY CORRECTIONAL OFFICERS,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission denies the request of the County of Mercer for a restraint of binding arbitration of a grievance filed by P.B.A. Local 167, Mercer County Correctional Officers. The grievance contests the Warden's memoranda adding restrictions on shift exchanges. The Commission concludes that Article 35.8 of the parties' agreement allowing for temporary shift exchanges conditioned on the Warden's approval is mandatorily negotiable and enforceable through binding arbitration.

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P.E.R.C. NO. 2006-72

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF JERSEY CITY,

Petitioner,

-and-

Docket No. SN-2006-053

JERSEY CITY POLICE OFFICERS
BENEVOLENT ASSOCIATION,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission grants the request of the City of Jersey City for a restraint of binding arbitration of a grievance filed by the Jersey City Police Officers Benevolent Association. The grievance asserts that the City violated the parties' collective negotiations agreement when it delayed the effective date of promotions of 24 police officers to detective until two weeks after they were sworn in. The Commission holds that the City has a managerial prerogative to determine who will be promoted to detective and whether that prerogative encompasses deciding when officers will begin performing detective duties. The Commission further adds that a compensation claim cannot be severed from exercise of the prerogative.

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P.E.R.C. NO. 2006-73

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF OCEAN,

Petitioner,

-and-

Docket No. SN-2005-091

P.B.A. LOCAL NO. 57,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission denies the request of the Township of Ocean for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 57. The grievance contests the denial of an officer's request for temporary shift exchanges on three Thursdays during August 2005. The Commission holds that it cannot conclude that the employer's policy goal of improving the continuity of supervision would be substantially limited if the PBA were given the opportunity to prove to an arbitrator that the August shift exchange requests were arbitrarily denied.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,
-and-

Docket No. SN-2006-026

NEWARK FIRE OFFICERS UNION,
IAFF LOCAL 1860,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of existing contract clauses or successor contract proposals made by the Newark Fire Officers Union, IAFF Local 1860. The Commission finds: the criteria to be considered in making transfers to be not mandatorily negotiable, consultation before making transfers to be mandatorily negotiable except in an emergency; equalization of tours to be not mandatorily negotiable; no reduction in the number of fire companies in service without consultation with the union to be mandatorily negotiable, except in an emergency; the establishment of rules and regulations and the opportunity to grieve the continuation of any rule or regulation for 30 days after promulgation to be mandatorily negotiable, unless it does not involve a negotiable employment condition; the institution of a safety committee/accident review board to be mandatorily negotiable, except that a requirement that the recommendations of the Board be implemented as soon as possible is not mandatorily negotiable to the extent those recommendations address managerial prerogatives; a provision requiring consultation with the union concerning non-firefighting duties such as community relations activities to be mandatorily negotiable; a provision that requires that the Fire Officers be offered any work schedule change offered to the Firefighters Union is not mandatorily negotiable. The Commission declines to make negotiability determinations on "concept proposals." The Commission finds that a proposal concerning an annual stipend for the use of personal vehicles during the work day can be considered by an interest arbitrator. The Commission declines to make negotiability determinations on "concept proposals."

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P.E.R.C. NO. 2006-75

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2006-038

EDUCATION ASSOCIATION OF PASSAIC,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission decides the negotiability of certain sections of the expired agreement between the Passaic Board of Education and the Education Association of Passaic. The Commission finds: the removal of derogatory material in personnel files to be not mandatorily negotiable; a portion of a sick leave provision to be mandatorily negotiable because the clause permits the restoration of sick leave days used in the limited instances where the employer itself excluded employees from school; a provision that requires that employees immediately report cases of assault suffered by them or students to be a governmental policy determination of who interacts with the police and the courts and to be not mandatorily negotiable; a provision requiring that upon notification by a teacher that a child needs attention, the principal shall arrange for a conference to be not mandatorily negotiable; a provision that teachers shall not be required to maintain a record of absences or tardiness to be not mandatorily negotiable; a provision concerning the qualifications for mentors to be not mandatorily negotiable; and a provision requiring that all training programs conducted outside the teacher workday, work year and during the summer shall be voluntary to be not mandatorily negotiable.

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P.E.R.C. NO. 2006-76

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HUDSON COUNTY,

Public Employer,

-and-

Docket No. RO-2006-059

UNITED WORKERS OF AMERICA, LOCAL 322,

Petitioner,

-and-

DISTRICT 1199J, NUHHCE, AFSCME, AFL-CIO,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies a request for review and stay of an election filed by Patrick Desmond. United Workers of America, Local 322 petitioned to represent a unit of County employees currently represented by District 1199J, NUHHCE, AFSCME, AFL-CIO. Following the execution of a Consent Election Agreement a dispute arose as to who represents Local 322. The Commission denies the review and stay, finding that the Director properly exercised his authority in determining that the representation petition was supported by a valid showing of interest and that showing is not subject to collateral attack now. Any factional dispute that arose after the Consent Agreement was signed is an internal union matter that need not be resolved before an election. That question can be decided by a court of competent jurisdiction if a dispute persists after the election.

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