

P.E.R.C. NO. 2008-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SHORE REGIONAL BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2005-098

SHORE REGIONAL EDUCATION
ASSOCIATION and LINDA CONWAY,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Shore Regional Board of Education. The Complaint was based on an unfair practice charge filed by the Shore Regional Education Association and Linda Conway. The charge alleged that the Board violated the New Jersey Employer-Employee Relations Act when the principal/superintendent assigned Conway to the computer lab rather than the Learning Center. The Commission concludes that Conway would not have been assigned to the Learning Center even if the principal/superintendent had not been hostile towards her role as Association president.

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. 2008-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MAPLEWOOD,

Petitioner,

-and-

Docket No. CU-2006-026

PBA LOCAL 44,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Maplewood for review of the Director of Representation's decision in D.R. No. 2007-13, 33 NJPER 105 (¶36 2007). In that decision, the Director granted the petition of the Township of Maplewood to clarify a mixed unit of police superior officers and patrol officers by ordering the removal of the superior officers from the unit. The Commission holds that there is no compelling reason warranting review of the Director's determination. The Director applied well-settled case law generally requiring that superior officers be removed from a mixed unit based on the potential for a conflict of interest with rank-and-file officers, despite a history of a long relationship in a combined unit.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF LEONIA,

Respondent,

-and-

Docket No. CO-2006-211

LEONIA PBA LOCAL NO. 381,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Borough of Leonia violated the New Jersey Employer-Employee Relations Act and orders the Borough to sign a successor agreement with Leonia PBA Local No. 381. The PBA filed an unfair practice charge alleging that the Borough violated the Act when it did not sign an agreement that accurately reflected the parties' prior agreement as modified by an interest arbitration award. The Commission holds that an interest arbitration award is final and binding unless vacated or modified on appeal and an award that is not appealed must be implemented immediately. Consistent with the obligation to implement the award is the obligation to reduce the award to writing and sign it. There is no duty to negotiate further after an award issues. The Commission therefore orders the Borough to sign the agreement presented to it by the PBA. If the PBA seeks to enforce a provision in a way that the Borough believes would substantially limit its governmental policymaking powers, it may file a scope petition seeking a restraint of binding arbitration.

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P.E.R.C. NO. 2008-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BERNARDSVILLE,

Respondent,

-and-

Docket No. CO-2004-253

PBA LOCAL 365,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Borough of Bernardsville. The Complaint was based on an unfair practice charge filed by PBA Local 365. The charge alleged that the Borough violated the New Jersey Employer-Employee Relations Act when it discontinued an alleged practice of permitting police officers assigned to full-day, off-site training to leave from and return directly to their homes without using compensatory time to make up the difference between the actual training time and their 12-hour shifts. The charge also alleges that the Borough refused the PBA's demand to negotiate over the alleged change or the impact of the change. The Commission finds that the PBA has not met its burden of proving that a February 2002 memorandum changed a term and condition of employment. Under the facts of this case, the Commission cannot conclude that an established practice entitled officers to end their shifts early without charging time.

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P.E.R.C. NO. 2008-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF PALMYRA

Respondent,

-and-

Docket No. CO-2006-301

PALMYRA POLICE ASSOCIATION,
AFFILIATED WITH FOP LODGE 2,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Borough of Palmyra. The Complaint was based on an unfair practice charge filed by the Palmyra Police Association, affiliated with FOP Lodge 2. The charge alleged that the Borough violated the New Jersey Employer-Employee Relations Act when its Borough Council refused to ratify a successor contract after its negotiations committee reached an agreement with the Association. The Commission holds, after considering all the evidence, including the parties' past history, that the Borough's negotiators did not have the apparent authority to enter into a successor contract without Borough Council ratification.

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P.E.R.C. NO. 2008-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY JUDICIARY,

Respondent,

-and-

Docket No. CO-2007-065

PROBATION ASSOCIATION OF NEW JERSEY,
CASE-RELATED PROFESSIONALS UNIT,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission extends the Chairman's grant of an application of the State of New Jersey Judiciary for a stay of an interim relief order involving the Probation Association of New Jersey, Case-Related Professionals Unit. A stay is granted until the Judiciary's motion of reconsideration can be considered.

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P.E.R.C. NO. 2008-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF RINGWOOD,

Appellant,

-and-

Docket No. IA-2005-082

RINGWOOD PBA LOCAL 247,

Respondent.

SYNOPSIS

_____The Public Employment Relations Commission affirms an interest arbitration award issued to settle successor contract negotiations between the Borough of Ringwood and Ringwood PBA Local 247. The arbitrator issued a conventional award that awarded salary increases, significant health insurance cost containment measures, and health benefits for retirees. The Borough argues that the arbitrator did not adequately consider the cost impact of a preexisting retiree prescription benefit; improperly considered the savings associated with the elimination of a retiree medical stipend; and failed to render a final and definite award concerning the retiree prescription benefit. The Commission finds that the arbitrator calculated the cost of the retiree insurance benefit over 15 years, subtracted the savings the Borough will achieve by not paying the \$2000 stipend and then balanced those costs with the cost containment achieved by changes to the health plan he awarded for active employees and a salary increase rate at the lower end of the range. The Commission also finds that the retiree prescription benefit was not a disputed issue before the arbitrator and the arbitrator was not required to consider its proposed elimination as part of the parties' unratified memorandum of agreement. Nor was the arbitrator required to separately address the cost of that benefit as part of his award. The Commission holds that the Borough has not presented a basis for disturbing the arbitrator's judgment, discretion and labor relations expertise.

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P.E.R.C. NO. 2008-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF BERKELEY,

Respondent,

-and-

Docket No. SN-2007-007

BERKELEY TOWNSHIP POLICE S.O.A.,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission finds mandatorily negotiable a modification to a contractual health benefits provision to include premium sharing for dependent coverage sought by the Township of Berkeley during successor contract negotiations with Berkeley Township Police S.O.A. The Commission had held in a prior decision that the proposal was not negotiable because it was preempted by a State Health Benefits Program regulation requiring any employer who elected to pay any portion of the cost for dependent coverage to pay the same proportion of the cost of such coverage for all employees. P.E.R.C. No. 2007-25, 32 NJPER 344 (¶144 2006). After the Township appealed the decision, a statute was enacted permitting parties to negotiate employee contributions to the cost of SHBP coverage by negotiations unit. The Appellate Division granted the Commission's motion for a temporary remand to allow the parties to present argument concerning the impact of the new legislation. Given the new law, the Commission concludes that the regulation no longer preempts negotiations over premium sharing for dependent coverage.

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P.E.R.C. NO. 2008-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF PASSAIC,

Petitioner,

-and-

Docket No. SN-2007-056

C.W.A. LOCAL 1032,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies, in part, the request of the County of Passaic for a restraint of binding arbitration of two grievances filed by C.W.A. Local 1032. The grievances assert that the County violated the just cause clause of the parties' collective negotiations agreement when it terminated two juvenile detention officers who held provisional appointments. The Commission restrains arbitration over any effort to have these employees reinstated since the positions previously held by these two employees have been filled by employees who passed Civil Service exams and were selected from an eligibility list. The Commission notes that N.J.A.C. 4A:4-1.5 mandates termination from a provisional title if an employee fails to file for and take the Civil Service exam for that title; this regulation thus preempts arbitration over a termination for that reason. The Commission holds however that the County did not terminate the two employees for that reason, but instead based their terminations on allegations of poor attendance and poor job performance so an arbitrator may consider CWA's contention that the employees should have their names cleared.

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P.E.R.C. NO. 2008-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MERCER COUNTY and the
MERCER COUNTY SHERIFF'S OFFICE,

Petitioner,

-and-

Docket No. SN-2007-059

MERCER COUNTY SHERIFF'S
OFFICERS, P.B.A. LOCAL NO. 187

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of Mercer County and the Mercer County Sheriff's Office for a restraint of binding arbitration of a grievance filed by Mercer County Sheriff's Officers, P.B.A. Local No 187. The grievance alleges that the Sheriff's Office violated the parties' collective negotiations agreement when it refused to implement the work schedule approved in negotiations. The Commission holds that the employers could have filed a scope of negotiations petition during the interest arbitration process and argued that a proposed ten-hour work schedule was not mandatorily negotiable. N.J.A.C. 19:16-5.5. By not doing so, they have effectively forfeited their ability to argue that the work schedule is not mandatorily negotiable. The Commission finds that the employers' efficiency concerns could have been addressed in the recently completed negotiations and can be addressed in any future negotiations. The Commission further finds that the employers have not argued or shown that arbitration seeking implementation of the recently negotiated work schedule would substantially limit any governmental policymaking powers. The grievance is therefore at least permissively negotiable.

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P.E.R.C. NO. 2008-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF LIVINGSTON,

Petitioner,

-and-

Docket No. SN-2007-064

P.B.A. LOCAL NO. 263,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Livingston for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 263. The grievance alleges that the Township violated the contractual sick leave policy by calling an officer at home. The Commission determines that prohibiting the employer from calling an employee until after three consecutive days would substantially limit the employer's ability to determine if there was sick leave abuse and that an employer's right to verify sick leave does not require a prior finding of sick leave abuse.

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