

P.E.R.C. NO. 2011-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BRIDGEWATER-RARITAN REGIONAL
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CI-2009-045

STAN J. SERAFIN,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands an amended unfair practice charge to the Director of Unfair Practices for complaint issuance on an unfair practice charge filed by Stan J. Serafin against the Bridgewater-Raritan Regional Board of Education. The charge alleges that Serafin was terminated by the Board in violation of the New Jersey Employer-Employee Relations Act, 34:13A-5.4a(1), (3), (4) and (7), in retaliation for his alleged protected activity. In P.E.R.C. No. 2010-43, the Commission remanded the charge to the Director holding that under the circumstances of the case, Serafin may have been prevented from filing a timely charge due to an alleged breach of the duty of fair representation on behalf of his majority representative and gave Serafin ten days to amend his charge to clearly and concisely allege how he was terminated for activity protected by the Act. Serafin appeals the Director's subsequent decision that his charge, as amended, does not meet the complaint issuance standard and is untimely. The Commission holds that the amended charge meets the complaint issuance standard and that the matter of timeliness was decided in its previous decision.

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. 2011-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BRIDGEWATER-RARITAN
TRANSPORTATION ASSOCIATION,

Respondent,

-and-

Docket No. CI-2009-046

STAN J. SERAFIN,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a request for special permission to appeal the decision of a Hearing Examiner refusing to recuse himself from conducting the unfair practice hearing of Stan J. Serafin against the Bridgewater-Raritan Transportation Association. The Commission holds that Serafin has not alleged any facts that meet the extraordinary circumstances required to intrude in pre-hearing proceedings.

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P.E.R.C. NO. 2011-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC COUNTY PROSECUTOR'S
OFFICE,

Respondent,

-and-

Docket No. CO-2009-240

PASSAIC COUNTY ASSISTANT
PROSECUTORS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Passaic County Assistant Prosecutors Association for special permission to appeal a Hearing Examiner's ruling deferring an unfair practice charge it filed against the Passaic County Prosecutor's Office to binding arbitration. The charge alleges the Prosecutor violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4a(1) and (5), by repudiating the parties' agreement when the Prosecutor laid off two employees inconsistent with the employee manual, County manual and the parties' agreement. The Commission holds that extraordinary circumstances are not present to warrant granting special permission to appeal when binding arbitration is the preferred mechanism for resolving a dispute when an unfair practice charge essentially alleges a violation of the obligation to negotiate in good faith interrelated with a breach of contract claim.

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P.E.R.C. NO. 2011-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LUIS SANTIAGO,

Appellant,

-and-

OAL Docket No. CSV 2700-08
Agency Docket No. 2008-3576

CITY OF BRIDGETON,

Respondent.

CITY OF BRIDGETON,

Respondent,

-and-

Docket No. CO-2008-262

BRIDGETON PBA LOCAL 94,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts an Administrative Law Judge's initial decision recommending that an unfair practice charge filed by Bridgeton PBA Local 94 against the City of Bridgeton be dismissed. The charge alleges that the City violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4 (1) and (3), when it disciplined the PBA president in retaliation for protected activity. The Commission holds that under the facts of this case, the City had the right to order the PBA president to provide information about allegations he set forth in a grievance regarding the department's internal affairs bureau and the City did not violate the Act when it disciplined him for refusing to cooperate. PERC transfers the case to the Civil Service Commission for consideration of the employee's consolidated Civil Service appeal.

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P.E.R.C. NO. 2011-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PATERSON,

Respondent,

-and-

Docket No. CO-2008-280

PATERSON POLICE PBA LOCAL 1,

Charging Party.

CITY OF PATERSON,

Respondent,

-and-

Docket No. CO-2008-282

PATERSON POLICE PBA LOCAL 1
SUPERIOR OFFICERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses unfair practice charges filed by Paterson Police PBA Local 1 and Paterson Police PBA Local 1 Superior Officers Association against the City of Paterson. The charges allege that the City's unilateral installation of cameras in the Police Department Radio Room without prior negotiations with the PBA and the SOA violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(1) and (5). The parties agreed to waive a hearing examiners report and recommended decision and submit stipulations of fact to the Commission for decision without a hearing. The Commission holds that a restriction on the employer's right to install the surveillance cameras would significantly interfere with the determination of governmental policy of ensuring that employees are not fighting or sleeping in the radio room where 911 calls are received and police and fire services are dispatched.

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P.E.R.C. NO. 2011-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF OCEAN,

Respondent,

-and-

Docket No. CO-2010-398

OCEAN COUNTY PBA LOCAL 258,

Charging Party.

COUNTY OF OCEAN and
OCEAN COUNTY SHERIFF,

Respondents,

-and-

Docket No. CO-2010-411

OCEAN COUNTY SHERIFF'S PBA LOCAL 379,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the motions for reconsideration of I.R. Nos. 2010-20 and 2010-23 filed by the County of Ocean and Ocean County Sheriff. In these decisions, a Commission designee ordered the respondents to immediately pay eligible employees the salary increments they were due. The Commission dismisses the motion as to I.R. 2010-20 as untimely. The Commission denies the motion as to I.R. 2010-23 finding that the contract language requiring payment of the increments is clear and the designee's decision followed relevant judicial and Commission precedent.

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P.E.R.C. NO. 2011-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OLD BRIDGE TOWNSHIP FIRE DISTRICT 2,

Public Employer-Petitioner,

-and-

Docket No. CU-2008-13

OLD BRIDGE TOWNSHIP CAREER FIRE
FIGHTERS ASSOCIATION, LOCAL 3311, IAFF,

Employee Organization-Respondent.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Officer's Report and Recommended decision that the secretary to the Board of Fire Commissioners of the Old Bridge Township Fire District 2 is not a confidential employee within the meaning of the New Jersey Public Employer-Employee Relations Act, N.J.S.A. 34:13-1 et seq., and that the District's clarification of unit petition seeking a determination of confidential status be dismissed.

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P.E.R.C. NO. 2011-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC,

Appellant,

-and-

Docket No. IA-2007-057

FOP LODGE #34,

Respondent.

SYNOPSIS

The Public Employment Relations Commission remands an interest arbitration award to the arbitrator for clarification and issuance of a supplemental decision opinion and award. The Commission finds that the arbitrator must clarify three areas of his award relating to a \$1200 equity adjustment, eligibility for retiree health benefits and holiday pay. The parties have ten days to submit supplemental briefs addressing the issues in the supplemental award.

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P.E.R.C. NO. 2011-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WAYNE,

Petitioner,

-and-

Docket No. SN-2009-045

WAYNE PATROLMEN'S BENEVOLENT
ASSOCIATION, LOCAL NO. 136,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Township of Wayne for a restraint of binding arbitration of a grievance filed by Wayne Patrolmen's Benevolent Association, Local No. 136. The grievance asserts that off-duty Patrol Division Officers have been improperly denied overtime opportunities due to the use of on-duty Traffic and Communications Bureau officers to cover vacancies in the Patrol Division. The grievance further alleges that officers have been improperly denied use of leave time because the Township is redeploying Traffic and Communications Bureau officers only for unscheduled absences, and is not counting three particular officers toward minimum staffing requirements for scheduled absences. The Commission restrains arbitration to the extent the PBA claims that officers are being deprived of overtime opportunities due to the Township's using Traffic and Communications Bureau officers to cover vacancies in the Patrol Division because the employer has a managerial prerogative to temporarily reassign employees during their regularly scheduled work hours. The Commission holds that the PBA's claims that the Township is restricting unit members' ability to use contractual leave time relate to the negotiable and legally arbitrable issue of the use of contractual leave time.

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P.E.R.C. NO. 2011-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ORANGE TOWNSHIP,

Petitioner,

-and-

Docket No. SN-2010-021

FIRE OFFICERS ASSOCIATION, LOCAL 210,
FMBA,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the City of Orange Township's request for a restraint of binding arbitration of a grievance filed by the Fire Officers Association, Local 210. The grievance asserts that the City violated the parties' agreement when the Fire Director issued a memorandum that: decreased the minimum staffing on the day tour; required captains to act as deputy chiefs to fill-in for a deputy chief vacancy; and requires a senior line firefighter to act as a captain to fill-in for a captain vacancy. The Commission holds that the City has a non-negotiable managerial prerogative to determine staffing levels and restrains arbitration to the extent the grievance challenges the City's staffing levels. The Commission permits arbitration of the remaining aspects of the grievance.

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P.E.R.C. NO. 2011-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE-OPERATED SCHOOL DISTRICT
OF THE CITY OF PATERSON,

Petitioner,

-and-

Docket No. SN-2010-040

PATERSON EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the State-Operated School District of the City of Paterson for a restraint of binding arbitration of a grievance filed by the Paterson Education Association. The grievance contests the increment withholding of a teaching staff member. Because the reasons cited by the District for the withholding relate predominately to an evaluation of teaching performance, the Commission grants the request for a restraint.

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P.E.R.C. NO. 2011-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LITTLE SILVER BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2010-045

LITTLE SILVER EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Little Silver Board of Education for a restraint of binding arbitration of a grievance filed by the Little Silver Education Association. The grievance contests the increment withholding of a guidance counselor. Because the withholding is predominately based upon an evaluation of the counselor's performance, the Commission restrains arbitration.

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P.E.R.C. NO. 2011-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

POHATCONG BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2010-047

POHATCONG EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Pohatcong Board of Education for a restraint of binding arbitration of a grievance filed by the Pohatcong Education Association. The grievance asserts that the Board underpaid a teacher who was on unpaid leave for the last three days that teachers were required to work during the 2008-2009 school year. The Commission holds that the grievance concerns a mandatorily negotiable compensation issue.

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P.E.R.C. NO. 2011-14

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF EVESHAM,

Petitioner,

-and-

Docket No. SN-2010-082

TEAMSTERS LOCAL 676,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Evesham for a restraint of binding arbitration of a grievance filed by Teamsters local 676. The grievance alleges that a 30-year Township employee was discharged without just cause. The Commission holds that there is a factual dispute over the employee's physical condition that involves the mandatorily negotiable issue of whether the employee meets the employer's physical requirements for the position.

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P.E.R.C. NO. 2011-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GALLOWAY TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. TO-2009-001

GALLOWAY TOWNSHIP EDUCATION
ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission adopts a Hearing Examiner's recommendation that a contested transfer petition filed by the Galloway Township Education Association be dismissed. The Association filed exceptions to the Hearing Examiner's report. The petition alleged that a school psychologist was transferred in violation of N.J.S.A. 34:13A-25 for disciplinary reasons in retaliation for the psychologist's refusing to evaluate a student for special needs placement and the subsequent filing of a complaint against the Board with the Department of Education. The Hearing Examiner found that the Board transferred the psychologist to best serve the needs of the District's children with behavioral disabilities. The Commission adopts the Hearing Examiner's recommendation noting that her determinations were based on witness credibility which the Commission will not disturb unless the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent evidence in the record.

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P.E.R.C. NO. 2011-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY INSTITUTE OF TECHNOLOGY,

Respondent,

-and-

Docket No. DA-2010-002

FOP LODGE #93,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the appeal of FOP Lodge #93 from the decision of the Director of Arbitration dismissing its request for appointment of an arbitrator from the Special Disciplinary Arbitration Panel. The Commission holds that the FOP's request was untimely as it was filed outside the 20-day limitations period set forth in N.J.S.A. 40A:14-210(b).

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P.E.R.C. NO. 2011-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ASBURY PARK,

Petitioner,

-and-

Docket No. IA-2008-069

PBA LOCAL 6,

Respondent.

CITY OF ASBURY PARK,

Petitioner,

-and-

Docket No. IA-2008-047

PBA LOCAL 6, SUPERIOR OFFICERS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award involving the City of Asbury Park and PBA Local 6 and PBA Local 6, Superior Officers Association. The City appealed the award arguing that the arbitrator failed to apply and give due weight to the statutory factors and that the delay in the arbitrator's issuance of the award without reopening the record resulted in an award not based on updated financial information. The Commission holds that the arbitrator's award is supported by substantial credible evidence, the arbitrator properly addressed the statutory factors and the City has not shown how the evidence, including the evidence it sought to submit if the record was reopened, require that the award be vacated or remanded for reconsideration.

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P.E.R.C. NO. 2011-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF PARSIPPANY-TROY HILLS

Petitioner,

-and-

Docket No. SN-2010-041

PARSIPPANY PUBLIC EMPLOYEES LOCAL 1,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of the subject of an unfair practice charge filed by Parsippany Public Employees Local 1 against the Township of Parsippany-Troy Hills. The charge alleges that the Township violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4a(1) when it required an employee to complete a Family Medical Leave Act medical certification form when the employee wanted to use paid leave rather than take FMLA leave. The Commission holds that where the parties have not reached an agreement requiring the use of paid leave concurrently with FMLA leave and where an employee has declined to take FMLA leave, the employer has neither a managerial prerogative nor a preemptive right to require employees to complete the form.

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P.E.R.C. NO. 2011-19

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC,

Petitioner,

-and-

Docket No. SN-2010-071

PBA LOCAL 243,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of a work schedule proposal PBA Local 243 seeks to submit to interest arbitration for a successor agreement with the County of Atlantic. The County filed a scope of negotiations petition seeking a determination that the hours and days of work in its Legal and Investigative, Warrants, Canine, and Bicycle Units are not mandatorily negotiable and could not be included in a successor agreement with the PBA. The Commission holds that the PBA's proposals would not significantly interfere with the ability of the Sheriff to meet its governmental policy need to provide effective law enforcement services and the interest arbitrator may consider the proposals.

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