

P.E.R.C. NO. 2000-89

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF UNION CITY,

Petitioner,

-and-

Docket No. SN-2000-79

UNION CITY EMPLOYEES ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Union City for a restraint of binding arbitration of a grievance filed by the Union City Employees Association. The grievance asserts that the City violated the parties' collective negotiations agreement and an employee's due process rights when it discharged her. The Commission concludes that this dispute cannot proceed to arbitration because the City is a civil service employer and major disciplinary disputes must be appealed to the Merit System Board.

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. 2000-90

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FRANKLIN TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-71

FRANKLIN TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Franklin Township Board of Education for a restraint of binding arbitration of a grievance filed by the Franklin Township Education Association. The grievance contests the withholding of a teacher's salary increment for the 1999-2000 school year as discipline without just cause. The Commission concludes that the withholding is based predominately on the alleged failure of the teacher to comply with an administrative directive to contact a parent and not an evaluation of teaching performance.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

OCEAN CITY BOARD OF EDUCATION,
Charging Party,

-and-

Docket No. CE-2000-9

OCEAN CITY EDUCATION ASSOCIATION,
Respondent.

OCEAN CITY BOARD OF EDUCATION,
Charging Party,

-and-

Docket No. CE-2000-10

OCEAN CITY DEPARTMENT SUPERVISORS'
ASSOCIATION,
Respondent.

OCEAN CITY BOARD OF EDUCATION,
Charging Party,

-and-

Docket No. CE-2000-11

OCEAN CITY EDUCATIONAL SUPPORTIVE
STAFF ASSOCIATION,
Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Ocean City Board of Education's motion for reconsideration of I.R. No. 2000-13. In that decision, a Commission designee denied the Board's application for interim relief on its unfair practice charge against the Ocean City Education Association, the Ocean City Department Supervisors Association, and the Ocean City Educational Supportive Staff Association. The Board contends that the Associations repudiated a reopener provision on health insurance premium rates. Given the limited record before him, the designee found that the contract may be susceptible to multiple interpretations and that the Board had not demonstrated a likelihood of success on the merits. The Commission concludes that there are no extraordinary circumstances warranting reconsideration of the designee's determination.

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P.E.R.C. NO. 2000-92

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FAIRVIEW BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-66

FAIRVIEW EDUCATION ASSOCIATION
(SUPPORTIVE STAFF UNIT),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Fairview Board of Education for a restraint of binding arbitration of a grievance filed by the Fairview Education Association (Supportive Staff Unit). The grievance asserts that the Board violated the parties' collective negotiations agreement when a custodian was not offered an overtime opportunity. The Commission concludes that whether the contract ties overtime assignments to building seniority or district seniority is a dispute for the arbitrator to resolve. The Commission also concludes that the portion of the grievance seeking a statement of reasons for the denial of overtime is legally arbitrable.

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P.E.R.C. NO. 2000-93

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF WATCHUNG,

Petitioner,

-and-

Docket No. SN-2000-63

WATCHUNG P.B.A. LOCAL 193,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Borough of Watchung for a restraint of binding arbitration of a grievance filed by Watchung P.B.A. Local 193. The grievance contests the Borough's refusal to pay health insurance premiums for a police officer who retired on a disability pension. The Commission concludes that N.J.S.A. 40A:10-23 does not prohibit the payment of premiums for retirees on disability pensions unless the employer has first adopted an enabling ordinance or resolution. The Commission further concludes that the ordinance or resolution language is not preemptive since it assumes that the employer can exercise its discretion through a collective negotiations agreement, subject to later incorporation in an ordinance or resolution.

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P.E.R.C. NO. 2000-94

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF LONG BRANCH,

Petitioner,

-and-

Docket No. SN-2000-67

F.M.B.A. LOCAL NO. 68,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of a work schedule proposal made by F.M.B.A. Local No. 58 during negotiations for a successor collective negotiations agreement with the City of Long Branch. The FMBA has proposed a 24/72 hour work schedule where unit members would work one 24-hour tour of duty followed by 72 hours, or 3 days, off. The Commission concludes that the City's concerns are not so clearcut and dominant to preclude an interest arbitrator from evaluating both parties' evidence and arguments concerning the benefits and detriments of the proposed schedule. An arbitrator can evaluate the parties' concerns in light of the public interest and all the statutory criteria. The Commission makes no judgment on the merits of the work schedule issue in interest arbitration and notes that it has jurisdiction to review interest arbitration awards.

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P.E.R.C. NO. 2000-95

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WINSLOW TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-9

WINSLOW TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of provisions in an expired collective negotiations agreement between the Winslow Township Board of Education and the Winslow Township Education Association. The Commission finds mandatorily negotiable a sick leave bank provision, with the clarification that employees cannot donate days granted by N.J.S.A. 18A:30-2; and a provision that when making transfers and reassignments, length of service be the deciding factor when the superintendent has decided that all other factors are equal. The Commission finds not mandatorily negotiable provisions concerning removal of derogatory material from personnel files; academic freedom; granting extended sick leave, and class size.

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P.E.R.C. NO. 2000-96

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MANASQUAN BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-75

MANASQUAN EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies, in part, the request of the Manasquan Board of Education for a restraint of binding arbitration of a grievance filed by the Manasquan Education Association. The grievance contests statements included in the annual performance reports issued to three fourth grade teachers. The Commission restrains arbitration over any contention that a portion of the statements constitutes a reprimand or discipline without just cause. The Commission concludes, however, that an arbitrator may consider the contention that contractual procedures were violated.

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P.E.R.C. NO. 2000-97

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF RARITAN,

Petitioner,

-and-

Docket No. SN-2000-73

I.B.T. LOCAL 866,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Raritan for a restraint of binding arbitration of a grievance filed by I.B.T. Local 866. The grievance contests a sick leave policy for sick days taken on Fridays and Mondays. The parties agree that the sick leave verification policy is not mandatorily negotiable. However, Local 866 asserts that the policy was adopted to harass employees during negotiations and violates the duty to negotiate in good faith. That contention must be pursued through an unfair practice charge.

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P.E.R.C. NO. 2000-98

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF EGG HARBOR CITY,

Petitioner,

-and-

Docket No. SN-2000-38

P.B.A. LOCAL #77,

Respondent.

Appearances:

For the Petitioner, Robert J. Pinnizzotto, attorney

For the Respondent, Schaffer, Plotkin & Waldman, consultants (Myron Plotkin, on the brief)

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Egg Harbor City for a restraint of binding arbitration of a grievance filed by P.B.A. Local #77. The grievance alleges that the City violated the parties' agreement when it changed police officers from steady to rotating shifts. The Commission declined to restrain arbitration in a previous case with these parties involving a work schedule issue finding that the employer did not show any particularized governmental policy need to change work schedules in the middle of a contract despite an alleged agreement, rather than at the end of the contract and through the normal collective negotiations process. The Commission concludes that the City has advanced the same arguments in this case and has not pointed to any change in the law or the facts.

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P.E.R.C. NO. 2000-99

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL FIRE
AND RESCUE,

Petitioner,

-and-

Docket No. SN-2000-56

NORTH HUDSON FIREFIGHTERS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants a motion for reconsideration filed by the North Hudson Firefighters Association of P.E.R.C. No. 2000-77. In that decision, the Commission restrained binding arbitration of a grievance filed by the Association against the North Hudson Regional Fire and Rescue. The grievance contested the transfer of fire officers from other divisions to fill vacant captain positions in the West New York division and asserted that promotions should have been made for those positions. The Commission concluded that the employer had a non-negotiable right to transfer fire officers under the circumstances presented. Reconsideration is granted to allow the Association to identify any temporary assignments in question and provide pertinent details. The Regional may then seek a restraint of arbitration specifying any governmental policy reasons for the reassignments.

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P.E.R.C. NO. 2000-100

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Public Employer,

-and-

Docket No. RO-2000-19

ASSOCIATION OF GOVERNMENT
ATTORNEYS,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the City of Newark's request for review of D.R. No. 2000-11. In that decision, the Director of Representation ordered an election among attorneys employed by the City. In rejecting the City's arguments concerning the Rules of Professional Conduct, the Commission concludes that there is no inherent or obvious tension between collective negotiations over terms and conditions of employment and the delivery of professional services. The Commission further concludes that the New Jersey Constitution guarantees all public employees the right to organize and elect representatives and that the New Jersey Employer-Employee Relations Act covers professional employees, including attorneys, not otherwise covered by a specific statutory exclusion. The Commission finds that the City has not presented any contrary case law which suggests that the Rules of Professional Conduct prohibit collective representation for its attorneys. The Commission also finds that the City has not presented any extraordinary circumstances warranting review of the Director's determination on the showing of interest or any showing that the Director made substantial factual errors in his determination that the attorneys are not managerial executives.

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