

P.E.R.C. NO. 2001-71

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Petitioner,

-and-

Docket Nos. SN-2001-31
SN-2001-32

NEW JERSEY LAW ENFORCEMENT
SUPERVISORS ASSOCIATION,
PRIMARY LEVEL SUPERVISORS UNIT,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of two provisions in an expired agreement between the State of New Jersey and the New Jersey Law Enforcement Supervisors Association, Primary Level Supervisors Unit. The Commission holds that a work hours provision that includes an overlap between shifts is mandatorily negotiable. The Commission finds that this provision is not preempted by State regulations on salary and work hours and minimum work hours for certain titles. The Commission concludes that this issue may be addressed through the collective negotiations process. The Commission also holds that portions of a provision concerning assignments and job postings may remain in the contract for informational purposes only.

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. 2001-72

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Petitioner,

-and-

Docket Nos. SN-2001-21
SN-2001-22

NEW JERSEY SUPERIOR OFFICERS
LAW ENFORCEMENT ASSOCIATION
(LIEUTENANTS),

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of two provisions in an expired agreement between the State of New Jersey and the New Jersey Superior Officers Law Enforcement Association (Lieutenants). The Commission holds that a work hours provision that includes an overlap between shifts is mandatorily negotiable. The Commission finds that this provision is not preempted by State regulations on salary and work hours and minimum work hours for certain titles. The Commission concludes that this issue may be addressed through the collective negotiations process. The Commission also holds that portions of a provision concerning assignments and job postings may remain in the contract for informational purposes only.

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P.E.R.C. NO. 2001-73

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PBA LOCAL 152
NEW JERSEY STATE PBA,

Respondent,

-and-

Docket No. CI-H-99-55

KENNETH C. SMITH,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses allegations in a Complaint based on an unfair practice charge filed by Kenneth Smith against PBA Local 152 and the New Jersey State PBA. The unfair practice charge alleged that the respondents retaliated against Smith for successfully pursuing a previous unfair practice charge in 1998. A hearing examiner found that Smith's prior litigation did not trigger the PBA's actions and that instead, Smith's own improper or unprotected conduct led to the disciplinary charges and expulsion. He concluded that Smith's expulsion was not arbitrary, capricious or invidious. The Commission agrees with the Hearing Examiner's recommendation and dismisses the Complaint.

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P.E.R.C. NO. 2001-74

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LINDA PIANTONI,

Petitioner,

-and-

Docket No. TI-2001-1

HAMILTON TOWNSHIP BOARD
OF EDUCATION,

Respondent.

SYNOPSIS

The Public Employment Relations determines whether the Hamilton Township Board of Education transferred Linda Piantoni, a physical education teacher, between work sites for disciplinary reasons. The Commission notes that the Board has not suggested that the transfer was intended to address any concerns the school administration might have had with Piantoni's teaching performance and the only documented explanation for the transfer is the principal's letter referencing a previous letter from a parent who was unhappy with Piantoni's classroom techniques. The Commission concludes that Piantoni has proven that she was transferred between work sites for disciplinary reasons.

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P.E.R.C. NO. 2001-75

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF CLOSTER,

Respondent,

-and-

Docket No. CO-2001-208

CLOSTER PBA LOCAL NO. 233,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants the request of Closter PBA Local No. 233 for reconsideration of I.R. No. 2001-11. In that decision, a Commission designee denied the PBA's application for interim relief. The application was filed along with an unfair practice charge alleging that the Borough of Closter violated the New Jersey Employer-Employee Relations Act by changing health benefits without negotiations. The Commission finds that there are no extraordinary circumstances warranting revisiting the designee's ruling concerning whether a change occurred during the collective negotiations process based on the facts presented to her. However, the Commission believes that extraordinary circumstances warrant reconsideration of the ruling that the PBA had not established that the employees would be irreparably harmed by the change in prescription benefits. The Commission finds that the employer has not identified any specific harm to it from restoring the status quo and that the hardship that employees may suffer far outweighs any hardship to the employer. The Commission orders the employer to create an interim program that guarantees that employees have funds available to them to pay the up-front costs of prescription drugs during the pendency of this litigation.

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P.E.R.C. NO. 2001-76

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH CALDWELL BOARD OF
EDUCATION,

Petitioner,

-and-

Docket No. SN-2001-35

NORTH CALDWELL EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the North Caldwell Board of Education for a restraint of binding arbitration of a grievance filed by the North Caldwell Education Association. The grievance contests the withholding of a teacher's increment for the 2000-2001 school year for deficiencies in teaching performance, poor instructional planning, and an inconsistent and inappropriate classroom environment. The Commission concludes that the reasons cited by the Board for this withholding relate predominately to the evaluation of teaching performance and any appeal must be to the Commissioner of Education. The Commissioner can also consider the Association's questions concerning the superintendent's attitude towards the teacher and its effect on observation reports.

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P.E.R.C. NO. 2001-77

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY HIGHWAY AUTHORITY,

Petitioner,

-and-

Docket No. SN-2001-37

IFPTE, LOCAL 193, AFL-CIO
(TOLL SUPERVISORS OF AMERICA),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the New Jersey Highway Authority for a restraint of binding arbitration of a grievance filed by IFPTE, Local 193, AFL-CIO (Toll Supervisors of America). The grievance contests a denial of compensatory time. The Commission finds that Local 193 does not dispute the Authority's right to set staffing levels and its requirement that one supervisor be on duty at each toll plaza. Local 193 claims that the Authority could have granted the compensatory time off request and still met its goal by assigning another assistant supervisor to cover the toll plaza. The Commission concludes that an arbitrator may evaluate that factual question and determine whether a leave request was unreasonably denied given the Authority's staffing levels.

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P.E.R.C. NO. 2001-78

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TINTON FALLS BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-2000-137

TINTON FALLS EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Tinton Falls Board of Education. The Complaint was based on an unfair practice charged filed by the Tinton Falls Education Association. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act by terminating a library clerk in retaliation for her pursuing a grievance contesting a disciplinary letter placed in her personnel file. The Commission finds that the Association has not proved that it was the grievance, rather than the clerk's attendance and her unwillingness to work the last five days of the school year, that prompted the termination. Under all the circumstances, the Commission concludes that the termination was not motivated by protected activity and dismisses the Complaint.

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