

STATE OF NEW JERSEY
MERIT SYSTEM BOARD
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of	:		
	:		
DONALD E. DUDICH,	:		
	:		
Appellant,	:		JOINT ORDER
	:		ON CONSOLIDATION AND
v.	:		PREDOMINANT INTEREST
NEW JERSEY STATE PRISON,	:		
	:		
Respondent.	:	OAL Docket No.	CSV 661-01
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STATE OF NEW JERSEY,	:		
(DEPARTMENT OF CORRECTIONS),	:		
	:		
Respondent,	:	PERC Docket Nos.	CI-H-2000-42
	:		CI-H-2001-4
-and-	:		CI-H-2001-7
	:		CI-H-2001-48
DONALD E. DUDICH,	:		
	:		
Charging Party.	:		
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SYNOPSIS

The Chair of the Public Employment Relations Commission and the Merit System Board entered a joint order consolidating unfair practice charges filed with the Commission and an appeal filed with the Merit System Board by Donald E. Dudich against the State of New Jersey (Department of Corrections) and New Jersey State Prison. The consolidated case will be heard by an Administrative Law Judge. The Judge's initial decision and the record will be forwarded to the Commission first to determine whether the employer has retaliated against Dudich for activity protected by the Employer-Employee Relations Act; and if the Commission determines that the 25-day suspension was in retaliation for Dudich's protected activity, the matter will be transferred to the Board for its consideration of whether specialized relief is warranted under its Act. If the Commission determines that the 25-day suspension was not in retaliation for Dudich's protected activity, the matter will be transferred to the Board for its consideration of the sufficiency of the underlying disciplinary charges.

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. 2003-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY SHERIFF,

Petitioner,

-and-

Docket No. SN-2002-50

P.B.A. LOCAL NO. 108,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Union County Sheriff for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 108. The grievance asserts that the reassignment of an officer from a detective position to a sheriff's officer position was disciplinary. The Commission concludes that the reassignment or transfer of a police officer may not be arbitrated, even if it was disciplinary.

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P.E.R.C. NO. 2003-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WEST MORRIS REGIONAL HIGH
SCHOOL BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2002-37

WEST MORRIS REGIONAL EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the West Morris Regional High School Board of Education for a restraint of binding arbitration of a grievance filed by the West Morris Regional Education Association. The grievance contests the placement of a teacher into Pathway III of the District's Professional Supervision Evaluation System. The Commission finds that the Pathway III placement was an application of evaluative criteria, not a disciplinary action and restrains arbitration of the grievance to the extent it challenges that placement.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLESEX COUNTY SHERIFF,

Respondent,

-and-

Docket No. CI-H-98-59

JOSEPH A. KASHA and STEVEN ECKEL,

Charging Parties.

COUNTY OF MIDDLESEX,

Respondent,

v.

OAL Dkt. No. CSV 10229-98

STEVEN ECKEL,

Appellant.

SYNOPSIS

The Public Employment Relations Commission finds that the Middlesex County Sheriff violated the New Jersey Employer-Employee Relations Act when it reassigned Steven Eckel, a sheriff's officer, from his courtroom post to a Probation Department post and when it suspended him for ten days. Eckel, the president of FOP Local 59, and Joseph Kasha, former FOP president, filed amended unfair practice charges against the Middlesex County Sheriff. The charges allege that the employer violated the Act by creating a hostile atmosphere towards members of the FOP, a minority labor organization, treating FOP members differently than members of the majority representative PBA, and reassigning Eckel and suspending him for 10 days. A Complaint was issued on the amended unfair practice charges. Eckel also filed an appeal of the suspension with the Merit System Board. The Complaint and MSB appeal were consolidated for hearing before a Special Administrative Law Judge. The Commission concludes the Eckel was reassigned and suspended for questioning unit members about drug testing. It orders that he be reassigned to a courtroom post and that his suspension be modified in conformance with the Final Action of the Merit System Board. The Commission dismisses allegations that the reassignments of the six other sheriff's officers were illegally motivated.

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P.E.R.C. NO. 2003-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

IRVINGTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CI-H-2001-8

GWENDOLYN E. SMITH,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Irvington Board of Education violated the New Jersey Employer-Employee Relations Act when it repudiated a 1999 agreement settling a previous unfair practice charge. Gwendolyn E. Smith filed an unfair practice charge against the Board alleging that it failed to comply with the settlement agreement, particularly by giving negative references, even though it agreed not to, and is blocking her from obtaining or keeping a job.

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P.E.R.C. NO. 2003-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLESEX COUNTY COLLEGE,

Petitioner,

-and-

Docket No. SN-2002-40

MIDDLESEX COUNTY COLLEGE
FACULTY UNION, LOCAL 1940,
AFT, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of Middlesex County College for a restraint of binding arbitration of a grievance filed by Middlesex County College Faculty Union, Local 1940, AFT, AFL-CIO. The grievance contests the denial of a promotion to the rank of associate professor and asserts, in particular, that the College failed to adhere to its promulgated promotion criteria and changed the criteria without advance notice. The Commission concludes that decisions of public employers to promote employees are not mandatorily negotiable or reviewable in binding arbitration. Promotional procedures, however, including the requirement that an employer announce in advance promotional criteria, are mandatorily negotiable. Arbitration is restrained to the extent the grievance seeks to challenge the employer's right to set promotional criteria or to apply those criteria. The request for a restraint is otherwise denied.

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P.E.R.C. NO. 2003-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF DUMONT,

Petitioner,

-and-

Docket No. SN-2002-33

PATROLMAN'S BENEVOLENT ASSOCIATION
(PBA) LOCAL 83 (DUMONT UNIT),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Borough of Dumont for a restraint of binding arbitration of a grievance filed by the Patrolman's Benevolent Association (PBA) Local 83 (Dumont Unit). The grievance protests a home visit that the Borough contends was conducted in part to verify that an officer on sick leave was at his residence. The Commission concludes that the grievance is legally arbitrable; it does not challenge the Borough's adoption of a sick leave verification policy, but protests a November 22, 2000 home visit. The Commission concludes that an arbitrator may evaluate whether the visit was conducted for reasons other than implementing a sick leave verification policy or constituted an egregious and unjustifiable violation of the officer's privacy.

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P.E.R.C. NO. 2003-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PHILLIPSBURG BOARD OF
EDUCATION,

Petitioner,

-and-

Docket No. SN-2002-45

PHILLIPSBURG ADMINISTRATORS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Phillipsburg Board of Education for a restraint of binding arbitration of a grievance filed by the Phillipsburg Administrators Association. The grievance contests the withholding of an assistant principal's salary increment. The Commission concludes that, under all the circumstances, the reasons for this withholding predominately involved the evaluation of the assistant principal's performance as an educational leader and manager. The reasons for the withholding involve the assistant principal's alleged failure to perform his duties to ensure student safety on various occasions throughout the school year. Any appeal of this withholding must be filed with the Commissioner of Education.

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. 2003-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY INSTITUTE OF TECHNOLOGY,

Petitioner,

-and-

Docket No. SN-2002-55

NJIT SUPERIOR OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the New Jersey Institute of Technology for a restraint of binding arbitration of a grievance filed by the NJIT Superior Officers Association. The grievance alleges that NJIT violated the parties' collective negotiations agreement when it refused to allow a sergeant to have legal representation during a disciplinary proceeding. The Commission concludes that police officers may not challenge major discipline through binding arbitration. But the question of whether an officer is entitled to be represented by an attorney at a due process hearing is a procedural one that is legally arbitrable. The Commission restrains arbitration to the extent, if any, the grievance challenges the substantive decision to impose major discipline. The request is otherwise denied.

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P.E.R.C. NO. 2003-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BETHLEHEM TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2002-52

BETHLEHEM TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Bethlehem Township Board of Education for a restraint of binding arbitration of a grievance filed by the Bethlehem Township Education Association. The grievance contests the Board's denial of a teacher's request for professional leave days to attend the annual convention of the New Jersey School Boards Association. The Commission concludes that the number of personal leave days and the reasons for allowing personal leave are negotiable and that although a Board may have a managerial prerogative to deny leaves when necessary to assure adequate staffing, the Board did not cite staffing in denying the grievance.

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P.E.R.C. NO. 2003-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF TEANECK,

Appellant/Cross-Respondent,

-and-

Docket No. IA-97-45

TEANECK FIREMEN'S MUTUAL
BENEVOLENT ASSOCIATION,
LOCAL NO. 42

Respondent/Cross-Appellant.

SYNOPSIS

The Public Employment Relations Commission remands an interest arbitration matter to the arbitrator to determine whether the award of the 24/72 work schedule to this unit would impair supervision and, if so, whether, based on all the circumstances there are compelling reasons to award the schedule that outweigh any supervision concerns. The Commission does so pursuant to an Appellate Division decision affirming in part and reversing and remanding in part the Commission's decision in P.E.R.C. No. 2000-33. The Court reversed and remanded the portion of the Commission's decision modifying the arbitrator's award to state that the 24/72 shall not be implemented for the firefighters "unless the 24/72 schedule is agreed to, or awarded, with respect to the fire officers' unit."

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P.E.R.C. NO. 2003-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF ROSELLE,

Petitioner,

-and-

Docket No. SN-2002-57

OPEIU, LOCAL 32,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough of Roselle for a restraint of binding arbitration of a grievance filed by OPEIU, Local 32. The grievance challenges the discharge of an employee. The Commission concludes that since the Borough is a civil service community, any appeal of this discharge must be to the Merit System Board of the Department of Personnel. The Commission does not address severable procedural issues that may be arbitrable since those issues were not addressed by the parties.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of	:	
	:	
MATILDA ENDRESS,	:	
	:	
Appellant,	:	
	:	
-and-	:	OAL Docket No. CSV 8330-00
	:	
BURLINGTON COUNTY,	:	
	:	
Respondent.	:	
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	:	
BURLINGTON COUNTY,	:	
	:	
Respondent,	:	
	:	
-and-	:	PERC Docket No. CO-H-2001-98
	:	
COMMUNICATIONS WORKERS OF	:	
AMERICA, LOCAL 1034.	:	
	:	
Charging Party.	:	

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against Burlington County. The Complaint was based on an unfair practice charge filed by Communications Workers of America, Local 1034 alleging that the County suspended and subjected Matilda Endress to spurious charges as part of an effort to destroy the bargaining unit. Endress appealed the suspension to the Merit System Board. The unfair practice Complaint and the Merit System Board appeal were consolidated and heard by an Administrative Law Judge. The ALJ concluded that Endress' transfer to another facility did not constitute an unfair practice. The Commission adopts the ALJ's findings of fact and conclusions of law and dismisses the Complaint. The Commission transfers the case to the Merit System Board for further proceedings consistent with the consolidated order

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