

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WILMA J. FARMER,

Petitioner,

-and-

Docket No. TI-2001-3

CAMDEN BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a petition for contested transfer determination filed by Wilma J. Farmer. Farmer, who was the Assistant Superintendent for Administration and Support Services for the Camden School District, alleged that the Board violated N.J.S.A. 34:13A-25 by transferring her to the position of Director, Curriculum and Instruction for disciplinary reasons. The Board filed a motion for summary judgment asserting that there are no disputed material factual issues, that Farmer was not transferred between work sites, and that her retirement made the petition moot. The Commission concludes that the N.J.S.A. 34:13A-25 and 27 apply only to disciplinary transfers where the employee's work site has been changed. Since Farmer's work site did not change, the Commission dismisses the petition. The Commission does not consider the Board's alternative assertion that the petition is moot.

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. 2003-77

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-2001-53

CAMDEN CITY FEDERATION OF SCHOOL  
ADMINISTRATORS, LOCAL 39,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Camden Board of Education violated the New Jersey Employer-Employee Relations Act transferring a vice-principal and not paying her commensurate with her new position, in retaliation for union activities. The Commission concludes that the vice-principal's acting pay grievance motivated the Board's decision to transfer her and the Board did not prove that it would have transferred her absent its hostility to her protected activity. However, the Commission concludes that the Federation did not prove that the vice-principal was not appointed to several positions because of anti-union animus. The Commission orders the Board to immediately transfer the vice-principal back to her original school or to another school by mutual consent of the parties.

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P.E.R.C. NO. 2003-78

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET HILLS REGIONAL  
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-2001-215

SOMERSET HILLS EDUCATION  
ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Somerset Hills Regional Board of Education. The Complaint was based on an unfair practice charge filed by the Somerset Hills Education Association alleging that the Board violated the New Jersey Employer-Employee Relations Act by changing a custodian's shift from morning/day hours to afternoon/evening hours to keep him from serving as an Association grievance representative. The Commission concludes that the Association did not meet its burden of proving, by a preponderance of the evidence, that anti-union animus motivated the decision to transfer the custodian to the evening shift.

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P.E.R.C. NO. 2003-79

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OLD BRIDGE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-34

OLD BRIDGE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Old Bridge Board of Education for a restraint of binding arbitration of a grievance filed by the Old Bridge Education Association. The grievance contests staffing levels and workload distribution in the high school attendance office. The Commission concludes that a public employer has a managerial prerogative to determine when governmental services will be delivered and the staffing levels associated with the delivery of those services. There are no allegations that employees had to work longer, nor are there any compensation claims, severable or otherwise.

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P.E.R.C. NO. 2003-80

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CLIFTON BOARD OF EDUCATION,

PETITIONER,

-and-

Docket No. SN-2002-49

CLIFTON TEACHERS ASSOCIATION,

RESPONDENT.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Clifton Board of Education for a restraint of binding arbitration of a dispute between the Board and the Clifton Teachers Association. The dispute concerns the assignment of a sixth teaching period to 18 teachers. The Commission grants the Board's request to the extent, if any, the grievance contends that the Board is obligated to adjust class size or course offerings before assigning additional teaching periods. The restraint is otherwise denied. The Commission holds that if the arbitrator finds a contractual violation, the board may refile its scope petition within 30 days after the award is received if it believes that the award significantly interferes with its ability to assign qualified staff to carry out its educational objectives.

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P.E.R.C. NO. 2003-81

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF UNION,

Petitioner,

-and-

Docket No. SN-2003-31

UNION TOWNSHIP SUPERIOR  
OFFICERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Union for a restraint of binding arbitration of a grievance filed by the Union Township Superior Officers' Association. The grievance alleges that the chief's order that patrol supervisors could no longer bid for platoons by seniority violates the parties' contract. The Commission concludes that, under all the circumstances, the enforcement of an alleged right to have platoon assignments determined by seniority would substantially limit government's policymaking powers.

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P.E.R.C. NO. 2003-82

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF HILLSBOROUGH,

Respondent,

-and-

Docket No. CO-H-2002-280

HILLSBOROUGH TOWNSHIP  
PBA LOCAL 205,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies motions a motion for summary judgment filed by the Township of Hillsborough and a cross-motion for summary judgment filed by the Hillsborough Township PBA Local 205. The PBA filed an unfair practice charge alleging that the Township violated the New Jersey Employer-Employee Relations Act by denying the request of five duly authorized PBA representatives to attend the State PBA Mini-Convention. The Commission concludes that N.J.S.A. 40A:14-177 provides that leave be granted to duly authorized PBA representatives subject to a maximum of ten percent of the membership. The Commission also concludes that the statute does not grant the employer discretion to determine the number of employees between two and ten, and that the employer did not have a managerial prerogative to deviate from the statutory requirement. With respect to the PBA's cross-motion, the Commission concludes that nothing in the record indicates the size of the PBA's unit and therefore the Commission has no basis for determining whether the Township repudiated the contract.

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P.E.R.C. NO. 2003-83

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

IRVINGTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-2002-47

IRVINGTON EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Irvington Board of Education violated the New Jersey Employer-Employee Relations Act by refusing to appoint Andaiye Foluke to the English/Language Arts Literacy Curriculum Review Committee, in retaliation for her protected activities as a negotiations team member, grievance co-chair, and Association vice-president. The Commission concludes that the preponderance of the evidence supports the inference that Foluke's non-reappointment was substantially motivated by hostility toward Foluke's role as an Association leader.

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P.E.R.C. NO. 2003-84

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WASHINGTON TOWNSHIP  
FIRE DISTRICT #1,

Public Employer,

-and-

Docket No. RO-2003-15

IAFF LOCAL 4204-B,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the request of Washington Township Fire District #1 for review of D.R. No. 2003-16. In that decision, the Director of Representation directed that an election be conducted among regularly employed superior fire officers including all captains. A representation petition had been filed by IAFF Local 4204-B to represent three full-time fire captains. The District refused to consent to an election, arguing that the captains are managerial executives ineligible to be members of any collective negotiations unit, and that this IAFF local cannot represent superior officers since the same organization also represents rank-and-file firefighters. The Chair denied the District's request for a stay of the election and on April 17 an election was conducted and a majority of the employees selected the IAFF to be their majority representative. The Commission finds that there are no compelling reasons to review the Director's determinations. Any conflict of interest issues that might arise post-certification can be addressed through the Commission's unfair practice jurisdiction.

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P.E.R.C. NO. 2003-85

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF IRVINGTON,

Respondent,

-and-

Docket Nos. CO-2003-240

CO-2003-241

PBA LOCAL 29 and  
IRVINGTON POLICE SUPERIOR  
OFFICERS ASSOCIATION,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission grants PBA Local 29 and the Irvington Police Superior Officers Association's motion reconsideration of I.R. No. 2003-12. In that decision, a Commission designee denied the charging parties' applications for interim relief based on unfair practice charges filed against the Township of Irvington. The charges allege that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it announced that effective April 3, 2003, all police work schedules would be changed and that all "vacation selection appoints" were cancelled. The Commission returns the matter to the designee to consider recent case law addressing whether an employer can restore work schedules at the end of a trial period.

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STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ELIZABETH BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-28

ELIZABETH EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Elizabeth Board of Education for a restraint of binding arbitration of a grievance filed by the Elizabeth Education Association. The grievance asserts that the Board disciplined a teacher without just cause by withholding her salary increment. The Board's reasons for the withholding stated that the teacher had failed to complete required Paideia training and that she acted in an unprofessional manner causing an adverse effect on learning and quality of instruction. The Commission concludes that given the generally positive annual performance evaluation issued after the incidents involved in the withholding and giving primary weight to the reasons specified in the Board's resolution, this withholding was not based predominately on the evaluation of teaching performance, but instead was based predominately on issues of alleged insubordination and poor attitude towards students and staff that did not directly impact on students.

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P.E.R.C. NO. 2003-87

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF UNION,

Appellant,

-and-

Docket No. IA-2001-46

UNION COUNTY CORRECTIONS OFFICERS,  
PBA LOCAL NO. 199,

Respondent.

SYNOPSIS

The Public Employment Relations Commission vacates an interest arbitration award and remands the matter to the Director of Arbitration for assignment to a different arbitrator to be either mutually agreed to by the parties or appointed by lot. The County of Union appealed from an interest arbitration award involving approximately 200 corrections officers. The award was issued after a May 15, 2002 award was vacated and remanded to the same arbitrator for reconsideration and further analysis and discussion. Union Cty., P.E.R.C. No. 2003-33, 28 NJPER 459 (¶33169 2002). The Commission concludes that the arbitrator's discussion of salary and health benefits proposals did not include the findings and analysis concerning internal settlements that was directed in Union Cty. The Commission further concludes that the best course is to allow a new arbitrator to consider all of the parties' proposals and issue a new opinion and award in accordance with the statutory criteria and the principles set out in Union Cty.

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P.E.R.C. NO. 2003-88

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY STATE JUDICIARY,

Public Employer,

-and-

Docket No. RO-2003-43

COMMUNICATIONS WORKERS OF  
AMERICA, AFL-CIO,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission affirms the Director of Representation's order directing an election among a unit of full-time court interpreters. The Communications Workers of America, AFL-CIO, filed a representation petition to include about 50 regularly employed free-lance interpreters (FLIs) in a unit of certain professional employees of the New Jersey State Judiciary which includes the Judiciary's full-time court interpreters. The Judiciary did not consent to an election because it believes that the FLIs are independent contractors rather than public employees covered by the New Jersey Employer-Employee Relations Act. The Director determined that no factual issues required a hearing and concluded that the petitioned-for FLIs are public employees covered by the Act. The Judiciary requested review. The Commission concludes, given common law agency principles and the Act's purposes, that FLIs are public employees entitled to seek representation under the Act.

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