

P.E.R.C. NO. 2003-90

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TURNPIKE AUTHORITY,

Petitioner,

-and-

Docket No. SN-2003-43

IFPTE LOCAL 200, NEW JERSEY  
TURNPIKE SUPERVISORS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the New Jersey Turnpike Authority for a restraint of binding arbitration of grievances filed by IFPTE Local 200, New Jersey Turnpike Supervisors Association. The grievances contest the decisions of the Authority not to fill some supervisor vacancies, to assign permanent line supervisors to cover vacancies at other interchanges, and to change work schedules and transfer supervisors to other interchanges to cover vacancies. The Commission grants a restraint to the extent the grievances seek to require the Authority to fill vacant positions or seek to prevent the employer from reassigning permanent line supervisors to cover vacancies during their regular work hours at other toll plazas. The request for a restraint is otherwise denied.

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. 2003-91

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ORANGE,

Petitioner,

-and-

Docket No. SN-2003-37

P.B.A. LOCAL 89,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of proposals made by P.B.A. Local 89 for inclusion in a successor collective negotiations agreement with the City of Orange. The Commission finds that a proposal to delete the word "ordinance" from a miscellaneous provision is mandatorily negotiable; an employer cannot, by passage of a local ordinance, preempt a mandatorily negotiable term and condition of employment. The Commission finds that a proposal concerning promotional criteria is mandatorily negotiable to the extent it requires the employer to not change promotional criteria during a particular promotional process; the employer can change criteria subject to any negotiated notice requirements and, the employer has a prerogative not to fill a vacancy. The Commission finds that a proposal concerning the restoration of expended leave time in the event an injury is deemed covered by the Workers' Compensation Act to be mandatorily negotiable. The Commission concludes that worker's compensation laws do not address or foreclose a majority representative's efforts to negotiate contractual clauses providing leaves of absence and to enforce such clauses by seeking remedies limited to restoring sick leave days. The Commission concludes that a proposal concerning newly hired officers receiving credit and benefits for prior service is mandatorily negotiable.

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P.E.R.C. NO. 2003-92

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ELIZABETH BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-44

ELIZABETH EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants in part and denies in part, 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 alleges that the Board violated the parties' collective negotiations agreement by replacing absent bus drivers on early childhood routes with substitute drivers rather than with drivers on regular routes, thus depriving those bus drivers of an opportunity to earn overtime pay. The Commission concludes, under the facts of this case, that the employee's ability to earn additional compensation does not outweigh the employer's determination that changing daily assignments of regular drivers would not be in the best interests of the children. However, there is a point where an absence is expected to be so long, that the regular driver's interest in longer work hours and additional compensation outweighs any possible adverse impact on student safety and welfare.

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P.E.R.C. NO. 2003-93

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PENNS GROVE-CARNEYS POINT  
REGIONAL BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-47

PENNS GROVE-CARNEYS POINT REGIONAL  
SCHOOL EMPLOYEES ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Penns Grove-Carneys Point Regional Board of Education for a restraint of binding arbitration of a grievance filed by the Penns Grove-Carneys Point Regional School Employees Association. The grievance seeks additional compensation for teachers allegedly assigned an additional instructional period following a reduction in force. The Commission concludes that the grievance does not challenge the employer's power to assign teachers to internal suspension duty, but seeks additional compensation for the assignment. Applying the negotiability balancing test, the Commission finds that the Association may legally arbitrate a grievance seeking additional compensation for these duties.

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P.E.R.C. NO. 2003-94

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ELIZABETH BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-42

UNITED ASSOCIATION OF JOURNEYMEN  
& APPRENTICES OF THE PLUMBING/PIPE  
FITTING INDUSTRY, PLUMBERS LOCAL 24,

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 United Association of Journeymen & Apprentices of the Plumbing/Pipe Fitting Industry, Plumbers Local 24. The grievance asserts that the Board violated the parties' collective negotiations agreement when it refused to treat a plumber who had worked for more than six months as a permanent employee and thus to grant him the benefits contractually due permanent employees. Article VII of the parties' agreement requires the employer to give employees covered by Article VII the same status and benefits accorded all other full-time employees. The Commission concludes that this case is not a promotion case, but involves payment of certain mandatorily negotiable benefits.

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P.E.R.C. NO. 2003-95

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAMILTON TOWNSHIP BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-48

HAMILTON TOWNSHIP EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Hamilton Township Board of Education for a restraint of binding arbitration of a grievance filed by the Hamilton Township Education Association. The grievance alleges that the employer breached the parties' collective negotiations agreement by requiring cafeteria employees to perform duties outside their job description without additional compensation. The Commission concludes, balancing the parties' interests within the framework of the facts presented, that the employees' interest in being compensated for duties allegedly being performed outside their job descriptions outweighs the employer's interest in having the work performed without additional compensation.

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P.E.R.C. NO. 2003-96

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF PASSAIC,

Petitioner,  
-and-

Docket Nos. SN-2003-40  
SN-2003-41

PASSAIC COUNTY SHERIFF'S  
OFFICERS PBA LOCAL 197,  
and PASSAIC COUNTY SHERIFF'S  
SUPERIOR OFFICERS PBA LOCAL 197

Respondents.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of proposals which the Passaic County Sheriff's Officers PBA Local 197 and Passaic County Superior Officers PBA Local 197 have submitted to interest arbitration for inclusion in successor collective negotiations agreements with the County of Passaic. The Commission determines that a proposal that officers be considered on duty one hour prior to the start of each shift and one hour after the completion of each shift for insurance purposes is mandatorily negotiable to the extent the proposal seeks false arrest and indemnity insurance for off-duty employees, but not to the extent a change in "on duty" status contravenes State or federal law. The Commission determines that the proposal that holiday pay be paid along with regular payroll is mandatorily negotiable, so long as the proposal does not seek to have the arbitrator rule on pension creditability. Sections 1-6 of a proposal on departmental investigations are mandatorily negotiable as they expressly pertain to procedural aspects of departmental investigations; section 9 is not mandatorily negotiable since a union cannot require that an employer show a higher standard than "reasonable individualized suspicion" before subjecting an employee to urinalysis or blood screening; section 10 is mandatorily negotiable as it is part of a policy that applies to departmental, not criminal investigations, and it provides procedural protections during those investigations consistent with a State statute; Section 11 which requires that disciplinary charges against employees be brought within 45 days as that period is calculated by N.J.S.A. 40A:14-147; The Commission finds that Section 1 of a proposal concerning transfers and staffing vacancies which permits an employee to

notify an employer of his or her interest in filling a vacancy or lateral transfer is mandatorily negotiable. Sections 2 and 3 are not mandatorily negotiable because they do not accommodate the employer's prerogative to assign employees within a shift based on criteria other than seniority or service record.

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P.E.R.C. NO. 2003-97

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY SUPERINTENDENT  
OF ELECTIONS,

Petitioner,

-and-

Docket No. SN-2003-55

AFSCME, COUNCIL 71, LOCAL 1911,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Camden County Superintendent of Elections for a restraint of binding arbitration of a grievance filed by AFSCME, Council 71, Local 1911. The grievance contests the County's refusal to pay an employee a full step salary increase which was allegedly promised when she was promoted to a higher classification. The Commission concludes that this case involves the fundamental interest in employees in seeking to negotiate over the compensation they are to be paid for the work they are to do.

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