

P.E.R.C. NO. 98-91

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW PROVIDENCE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-38

NEW PROVIDENCE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the New Providence Board of Education for a restraint of binding arbitration of a grievance filed by the New Providence Education Association. The grievance contests the withholding of a teaching staff member's increment for the 1997-1998 school year. The Commission finds that this withholding was predominately based on allegations of ineffective instruction and classroom management of students. It thus was predominately based on the evaluation of teaching performance and must be reviewed by 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. 98-92

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY HIGHWAY AUTHORITY,

Petitioner,

-and-

Docket No. SN-98-19

TEAMSTERS INDUSTRIAL AND  
ALLIED WORKERS UNION, AFL-CIO,  
LOCAL 97,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the New Jersey Highway Authority for a restraint of binding arbitration of two grievances filed by employees represented by Teamsters Industrial and Allied Workers Union, AFL-CIO, Local 97. The grievances assert that the Authority violated the parties' collective negotiations agreement when it denied a promotion to two negotiations unit employees and promoted an out-of-unit employee instead. The Commission finds that the Authority has a managerial prerogative to interview candidates outside a negotiations unit and also to determine which job applicants are qualified for a position.

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P.E.R.C. NO. 98-93

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

KENILWORTH BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-96-76

KENILWORTH EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

In a consolidated matter with the Commissioner of Education, the Public Employment Relations Commission dismisses a Complaint against the Kenilworth Board of Education. The Complaint, which was based on an unfair practice charge filed by the Kenilworth Education Association, alleges that the Board violated the New Jersey Employer-Employee Relations Act when it refused to negotiate in good faith over the terms and conditions of employment for a new position, clerk/receptionist/attendance officer. A Petition of Appeal was filed by Linda Amitrano with the Commissioner of Education alleging that the Board violated her seniority and tenure rights by refusing to appoint her to the new position. The Commission concludes that the Association did not prove that the Board violated the Act by negotiating in bad faith or by not appointing Amitrano to the new position until August 1 rather than July 1, 1995. Consistent with a Joint Order between the Commissioner of Education and PERC, the remaining issues in the case are transferred to the Commissioner of Education.

P.E.R.C. NO. 98-94

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

IRVINGTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-94-77

IRVINGTON ADMINISTRATORS ASSOCIATION,

Charging Party.

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IRVINGTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. TI-H-94-1

ANTHONY PILONE,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint and Contested Transfer Petition against the Irvington Board of Education. The Complaint was based on an unfair practice charge filed by the Irvington Administrators Association. The Complaint alleges that the Board violated the New Jersey Employer-Employee Relations Act when it transferred and reprimanded a principal, Arthur Pilone, because he engaged in activities protected by the Act. The Petition alleges that the Board transferred Pilone for disciplinary reasons in violation of N.J.S.A. 34:13A-25. The Commission concludes that the petitioner did not prove its allegations by a preponderance of the evidence

and that the Association did not prove that protected activity was a substantial or motivating factor in the personnel action.

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P.E.R.C. NO. 98-95

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF EGG HARBOR CITY,

Petitioner,

-and-

Docket No. SN-97-114

MAINLAND PBA LOCAL NO. 77,

Respondent.

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 Mainland PBA Local No. 77. The grievance asserts that the City violated the parties' collective negotiations agreement by using special police officers outside Local 77's negotiations unit to meet staffing levels rather than calling in regular police officers in Local 77's negotiations unit and paying them overtime compensation. The Commission finds that a public employer must negotiate over shifting work traditionally done by a group of employees within a negotiations unit to another group of its employees outside its unit. The Commission also finds that regular police officers in a negotiations unit may seek contractual protection against having their opportunities to earn overtime compensation reduced through the use of special police officers to fill in for absent officers.

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P.E.R.C. NO. 98-96

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF JERSEY CITY,

Petitioner,

-and-

Docket No. SN-97-127

JERSEY CITY POLICE OFFICERS  
BENEVOLENT ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the City of Jersey City's request for a restraint of binding arbitration of a grievance filed by the Jersey City Police Officers Benevolent Association. The grievance contests a policy precluding police officers assigned to the Neighborhood Task Force Unit from swapping their evening shifts with regular police officers on the midnight shift. The Commission finds that, as a rule, shift exchanges conditioned on an employer's prior approval are mandatorily negotiable. However, an employer can deny shift exchanges if an officers' special skills are required on a particular shift.

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

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY REGIONAL  
HIGH SCHOOL DISTRICT NO. 1  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-128

AMERICAN FEDERATION  
OF TEACHERS, LOCAL 3417,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Union County Regional High School District No. 1 Board of Education for a restraint of binding arbitration of a grievance filed by the American Federation of Teachers, Local 3417. The grievance contests the Board's decision not to reappoint a baseball coach. The Commission finds that extracurricular appointments and retentions are mandatorily negotiable and that procedural claims related to non-renewals are also mandatorily negotiable. The Commission also holds that arbitration of this dispute is not preempted and that disputes over compliance with protections afforded by the Open Public Meetings act may be arbitrated.

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P.E.R.C. NO. 98-97

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIVER VALE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-39

RIVER VALE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the River Vale Board of Education for a restraint of binding arbitration of a grievance filed by the River Vale Education Association. The grievance asserts that the Board violated the parties' collective negotiations agreement when it assigned teachers to lunchroom supervision. The Commission restrains arbitration to the extent the grievance asserts that the Board cannot assign lunchroom supervision to teachers. The restraint is denied to the extent the grievance seeks to enforce a contractual right to a duty-free lunch period.

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P.E.R.C. NO. 98-99

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF MILLVILLE,

Respondent,

-and-

Docket No. CO-H-94-403

MILLVILLE POLICE SUPERVISORS  
ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the City of Millville. The Complaint, based on an unfair practice charge filed by the Millville Police Supervisors Association, alleges that the City violated the New Jersey Employer-Employee Relations Act when it restructured the police department and altered the promotional policies to deny a sergeant a promotion in retaliation for his protected activity. The Complaint further alleges that the City retaliated against the sergeant by refusing to reimburse him for authorized work expenses. The Commission finds that protected activity was not a substantial or motivating factor in the City's decision to reorganize the police department and to promote another employee to the one lieutenant position. The Commission adopts the Hearing Examiner's finding that the City did not unlawfully deny any reimbursement requests or act unlawfully with respect to assignments, training courses, or any other term and condition of employment.

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P.E.R.C. NO. 98-100

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LONG BRANCH BOARD OF EDUCATION

Petitioner,

-and-

Docket No. SN-98-37

LONG BRANCH SCHOOL EMPLOYEES  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Long Branch Board of Education for a restraint of binding arbitration of a matter which the Long Branch School Employees Association seeks to submit to binding arbitration. The Association seeks to arbitrate the Board's non-renewal of a custodian's employment contract. Contractual tenure and other forms of job security for custodians are mandatorily negotiable and the Commission specifically declines to restrain arbitration in cases involving allegations of poor job performance.

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P.E.R.C. NO. 98-101

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WOODBRIIDGE TOWNSHIP,

Petitioner,

-and-

Docket No. SN-97-117

PBA LOCAL 38,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Woodbridge for a restraint of binding arbitration of a grievance filed by PBA Local 38. The grievance contests the denial of paid sick leave to a police officer. The Commission holds that this dispute over whether the officer's injury is a new or separate injury entitling him to another year of paid leave under the parties' contract can be decided by an arbitrator consistent with the statutory mandates of N.J.S.A. 40A:14-137.

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P.E.R.C. No. 98-102

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-98-26

NEWARK FIRE OFFICERS  
UNION, LOCAL 1860, IAFF

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Newark for a restraint of binding arbitration of a grievance filed by the Newark Fire Officers Union, Local 1860, IAFF. The grievance asserts that the City violated the parties' collective negotiations agreement when it did not fill budgeted vacancies for fire captain positions with unit members and instead assigned firefighters, who are not in the NFOU unit, to the posts on an "acting" basis. The Commission finds that employees have a mandatorily negotiable interest in having vacancies in their title filled by employees holding the same title within the same negotiations unit rather than by lower-level employees in another negotiations unit. Therefore, because the City has decided to fill the vacant positions on an "acting" basis, the Commission declines to restrain arbitration of a claim that the vacancies must be filled on the same basis by fire captains.

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P.E.R.C. NO. 98-103

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF RUTHERFORD,

Petitioner,

-and-

Docket No. SN-97-120

RUTHERFORD P.B.A. LOCAL 300,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Borough of Rutherford's request for a restraint of binding arbitration of a class action grievance filed by Rutherford P.B.A. Local 300. The grievance asserts that the Borough did not properly compensate three officers for time spent travelling to and testifying at an Office of Administrative Law hearing involving another Borough officer's disciplinary appeal. The Commission finds, in the context of a disciplinary dispute covered by N.J.S.A. 34:13A-5.3, that being subpoenaed to testify at a hearing involving major discipline, as well as minor discipline, is a continuation of the grievance procedures and that therefore a grievance seeking overtime and travel expenses for being subpoenaed to testify is mandatorily negotiable and legally arbitrable.

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P.E.R.C. NO. 98-104

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLESEX COUNTY PROSECUTOR,

Respondent,

-and-

Docket No. IA-97-129

MIDDLESEX COUNTY ASSISTANT  
PROSECUTORS' ASSOCIATION,

Petitioner,

-and-

COUNTY OF MIDDLESEX,

Intervenor.

Appearances:

SYNOPSIS

The Public Employment Relations Commission denies the motion of the County of Middlesex to dismiss a Petition to Initiate Compulsory Interest Arbitration filed by the Middlesex County Assistant Prosecutors' Association. The County contends that assistant prosecutors do not perform police services and, therefore, are not entitled to interest arbitration under the Police and Fire Public Interest Arbitration Reform Act. The Commission finds that because Middlesex County Prosecutor, and not the County, is the employer of assistant prosecutors, the County may not object to the Association's petition.

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P.E.R.C. NO. 98-105

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MAHWAH BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-98-100

MAHWAH EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Mahwah Board of Education's request for reconsideration of a Commission designee's interim relief order. The designee had ordered the Board to pay automatic increments to teachers after the expiration of a two-year collective negotiations agreement with the Mahwah Education Association. The Commission finds that the Board has not presented any extraordinary circumstances warranting reconsideration.

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P.E.R.C. NO. 98-104

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BOGOTA,

Appellant,

-and-

Docket No. IA-97-8

PBA LOCAL NO. 86,

Respondent.

SYNOPSIS

The Public Employment Relations Commission vacates an interest arbitration award issued to resolve negotiations between the Borough of Bogota and PBA Local No. 86. The Commission remands the matter to the arbitrator in accordance with its opinion. The Borough had appealed the interest arbitration award.

The Commission finds that the arbitrator's consideration of evidence concerning private sector wage increases did not comport with N.J.S.A. 34:13A-16(g). The Commission remands and directs the arbitrator to consider the Borough's evidence on private sector wage increases. The Commission also remands because of the arbitrator's discussion of the Borough's alternate 4% wage increase proposal. Because the arbitrator did not consider a civilian dispatcher proposal, it was inappropriate for him to stress the small cost differential between his award and a 4% wage increase proposal or suggest that the Borough had agreed to a 4% increase that was contingent upon acceptance of the dispatcher proposal. The Commission orders that he may not do so.

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