

P.E.R.C. NO. 99-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FRANKLIN BOROUGH BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-29

FRANKLIN EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains arbitration of a grievance filed by the Franklin Education Association against the Franklin Board of Education. The grievance contests the withholding of a school nurse's increments for the 1997-1998 school year. The Commission concludes that the withholding relates predominately to an evaluation of the nurse's performance of nursing duties under the education laws 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. 99-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLE TOWNSHIP
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-49

MIDDLE TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the Middle Township Education Association against the Middle Township Board of Education. The grievance contests the reassignment of a teacher from a class of "gifted and talented" students to a reading class. The Commission concludes that a school board generally has a managerial prerogative to make assignments and that there is no basis for considering this reassignment to have been disciplinary.

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P.E.R.C. NO. 99-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF LOWER,

Petitioner,

-and-

Docket No. SN-98-76

LOWER TOWNSHIP OFFICE WORKERS
ASSOCIATION, AFSCME COUNCIL 71,
LOCAL 3779, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the Lower Township Office Workers Association, AFSCME Council 71, Local 3779, AFL-CIO against the Township of Lower. The grievance seeks enforcement of a contractual clause requiring the employer to pay higher cost-of-living raises to employees in Local 3779's negotiations unit if it agrees to negotiate higher raises for employees in any other negotiations unit. The Commission finds that the clause is an illegal parity clause that cannot be enforced through binding arbitration.

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P.E.R.C. NO. 99-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF COLTS NECK,

Petitioner,

-and-

Docket No. SN-98-78

PUBLIC EMPLOYEES SERVICE
UNION, LOCAL #702,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a portion of a grievance filed by Public Employees Service Union, Local #702 against the Township of Colts Neck. The grievance alleges that the Township violated the parties' collective negotiations agreement when it hired, rather than promoted, to fill a vacant position. The restraint is granted to the extent the grievance challenges the employer's substantive decision to hire to fill a senior mechanic position. The restraint is denied to the extent the grievance alleges violations of promotion procedures.

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P.E.R.C. NO. 99-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WASHINGTON,

Respondent,

-and-

Docket No. CO-H-95-211

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO, LOCAL 1040,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint based on an unfair practice charge filed by the Communications Workers of America, AFL-CIO, Local 1040 against the Township of Washington. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it laid off three of the nine employees in CWA's negotiations unit of public works supervisors in retaliation against one of the supervisors for his protected activity as a CWA organizer, shop steward and negotiations representative. The Commission accepts the Hearing Examiner's conclusion that the layoff was not discriminatorily motivated.

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P.E.R.C. NO. 99-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HANOVER TOWNSHIP BOARD
OF EDUCATION,

Respondent,

-and-

Docket No. SN-98-48

HANOVER TOWNSHIP EDUCATION
ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies a request of the Hanover Township Education Association for an order compelling the Hanover Township Board of Education to arbitrate the non-renewal of a school bus driver, without prejudice to the Association's seeking a determination in another forum that the bus driver enjoyed contractual tenure or job security, whereby arbitration would be required under N.J.S.A. 34:13A-29. The Commission holds that it is not inherently illegal for parties to agree to exclude non-renewals of non-tenured bus drivers from an arbitration clause. However, it also holds that such a clause is preempted by N.J.S.A. 34:13A-29 if contractual tenure or job security has been extended to bus drivers.

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P.E.R.C. NO. 99-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

DENNIS TOWNSHIP EDUCATION ASSOCIATION,
NEW JERSEY EDUCATION ASSOCIATION,

Respondent,

-and-

Docket No. CI-98-57

SHARON J. COX,

Charging Party.

DENNIS TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CI-98-58

SHARON J. COX,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission affirms a decision of the Director of Unfair Practices refusing to issue Complaints based on unfair practice charges filed by Sharon J. Cox against the Dennis Township Education Association and the New Jersey Education Association and the Dennis Township Board of Education. The Commission finds that although Cox alleges that she was not given proper representation in the preliminary steps of the grievance procedure, she has not suggested that the union acted for arbitrary, discriminatory or bad faith reasons, or that better representation would have produced a different result. Given its

conclusions about the allegations against the Association, the Commission finds no basis to issue a Complaint against the Board.

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P.E.R.C. NO. 99-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF MONTVALE,

Petitioner,

-and-

Docket No. SN-98-82

MONTVALE PBA LOCAL 303,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by Montvale PBA Local 303 against the Borough of Montvale. The grievance concerns the Borough's informing a psychologist examining promotional candidates of statistics compiled from police officers' personal history files. The Commission holds that the employer has a non-negotiable prerogative to make a limited disclosure of statistical information to this psychologist for this limited purpose.

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P.E.R.C. NO. 99-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CINNAMINSON TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-89

CINNAMINSON TEACHERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission declines to restrain binding arbitration of a grievance filed by the Cinnaminson Teachers Association against the Cinnaminson Board of Education. The grievance seeks compensation for changes in student contact, preparation and duty-free time resulting from the assignment of teachers to supervise a pep rally during the school day. The Commission holds that the Board's allegation that the compensation claim is de minimis is outside the limits of the Commission's scope of negotiations jurisdiction and is properly addressed to the arbitrator.

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P.E.R.C. NO. 99-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,

Appellant,

-and-

Docket No. IA-97-41

FRATERNAL ORDER OF POLICE
LODGE 62A, SUPERIOR OFFICERS,

Respondent.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,

Appellant,

Docket No. IA-97-72

-and-

FRATERNAL ORDER OF POLICE
LODGE 62, PRIMARY UNIT,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms interest arbitration awards involving Rutgers, the State University and rank-and-file police officers represented by the Fraternal Order of Police Lodge 62, Primary Unit, and superior police officers represented by the Fraternal Order of Police Lodge 62A, Superior Officers. The Commission concludes that the arbitrator adequately analyzed the evidence presented on the relevant

statutory factors and reached conclusions supported by substantial credible evidence in the record. The Commission further finds that he gave "due weight" to each of those factors; decided the dispute based on a reasonable determination of the issues; properly exercised his authority under N.J.S.A. 34:13A-16d(2) and 16g; and fully considered the requirements of the law.

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P.E.R.C. NO. 99-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGEN COMMUNITY COLLEGE,

Petitioner,

-and-

Docket No. SN-98-36

BERGEN COMMUNITY COLLEGE
PROFESSIONAL STAFF ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a scope of negotiations petitioned filed by Bergen Community College. The College sought a determination that an article proposed by the Bergen Community College Professional Staff Association for inclusion in a successor contract is not mandatorily negotiable. The proposal concerns multi-year contracts for professional staff. The Commission finds that the parties have entered into a memorandum of agreement and have not preserved the multi-year contract issue for a scope of negotiations determination.

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P.E.R.C. No. 99-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WEST ORANGE,

Respondent,

-and-

Docket No. CI-H-96-63

KIMBERLEY ANN BAMDAS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands to the Hearing Examiner for a supplemental report, an unfair practice charge filed by Kimberley Ann Bamdas against the Township of West Orange. The Commission asks the Hearing Examiner to state explicitly the probative value of evidence concerning each event allegedly part of a pattern of harassment leading up to a constructive discharge. Events occurring outside the statute of limitations period can be considered as evidence of possible discriminatory motivation and harassment leading to the separation from employment within the six month period.

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P.E.R.C. NO. 99-14

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF WEST NEW YORK,

Petitioner,

-and-

Docket No. SN-98-64

UNIFORMED FIRE OFFICERS
ASSOCIATION, LOCAL NO. 1861,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the Uniformed Fire Officers Association, Local No. 1861 against the Town of West New York. The grievance alleges that the Town violated the parties' collective negotiations agreement and well-established past practice when it failed to recall fire captains for overtime at a ratio of one captain for every 3.5 firefighters. The Commission finds that the employer has a managerial prerogative to set staffing levels, including the number of firefighters needed to perform firefighting duties and the number of captains needed to perform supervisory duties.

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P.E.R.C. NO. 99-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF CARTERET,

Petitioner,

-and-

Docket No. SN-98-99

AFSCME COUNCIL 73, LOCAL 2291,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by AFSCME, Council 73, Local 2291 against the Borough of Carteret. The demand for arbitration states that the union seeks to arbitrate the unlawful discharge of William J. Kolibas, Jr. The Borough is a civil service jurisdiction. Any agreement the parties may have made to arbitrate major disciplinary disputes is not enforceable.

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