

P.E.R.C. NO. 99-21

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MERCER COUNTY,

Petitioner,

-and-

Docket No. SN-99-2

AFSCME COUNCIL 73, LOCAL 2287,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the County of Mercer for a restraint of binding arbitration of grievances filed by AFSCME Council 73, Local 2287. The grievances seek restoration of holiday pay lost because of the grievants' alleged failure to provide doctors' notes for absences the day before or after a holiday. The Commission finds that N.J.S.A. 34:13A-5.3 authorizes negotiations over minor disciplinary disputes in civil service jurisdictions and that this dispute over the docking of holiday pay may therefore be submitted to binding arbitration.

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. 99-22

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HOPATCONG,

Respondent,

-and-

Docket No. CO-H-97-268

POLICEMAN'S BENEVOLENT ASSOCIATION,  
LOCAL 149,

Charging Party.

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BOROUGH OF HOPATCONG,

Charging Party,

-and-

Docket No. CE-H-97-13

POLICEMAN'S BENEVOLENT ASSOCIATION,  
LOCAL 149,

Respondent.

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SYNOPSIS

The Public Employment Relations Commission dismisses a consolidated complaint which was based on unfair practices filed by the Borough of Hopatcong and Policeman's Benevolent Association, Local 149. The PBA's charge alleges that the Borough violated the New Jersey Employer-Employee Relations Act when, during successor contract negotiations, it unilaterally changed the divisor used for computing biweekly compensation. The Borough's charge alleges that the PBA violated the Act by refusing to sign a successor agreement. The Commission finds that the PBA's charge involves a contractual

dispute that must be resolved through the negotiated grievance procedure. With respect to the Borough's charge, the Commission finds that the parties had not agreed on specific contract language and thus the PBA did not violate the Act by refusing to sign a final agreement.

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P.E.R.C. NO. 99-23

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RED BANK REGIONAL HIGH  
SCHOOL DISTRICT BOARD OF  
EDUCATION,

Petitioner,

-and-

Docket No. SN-99-1

RED BANK REGIONAL EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Red Bank Regional High School District Board of Education for a restraint of binding arbitration of a grievance filed by the Red Bank Regional Education Association. The grievance contests the withholding of a science teacher's increments for the 1998-1999 school year. The Commission finds that while two of the reasons for this withholding may relate predominately to an evaluation of teaching performance and two others may be mixed reasons, most of the Board's reasons do not predominately involve an evaluation of teaching performance. Therefore, this withholding may be contested through binding arbitration.

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P.E.R.C. NO. 99-24

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-98-94

FRATERNAL ORDER OF POLICE,  
NEWARK LODGE NO. 12,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Newark for a restraint of binding arbitration of grievances filed by the Fraternal Order of Police, Newark Lodge No. 12. The grievances allege that the City violated the parties' collective negotiations agreement when it suspended and then terminated a police officer represented by the FOP. A Superior Court Judge has already entered an order rejecting arguments that the charges be dismissed given the deadlines for filing and hearing disciplinary charges. Therefore, the Commission restrains arbitration over that procedural issue. The Commission also restrains arbitration over the FOP's claim that a hearing on the disciplinary charges should have been postponed. That claim can be submitted to the Merit System Board together with the appeal of the termination.

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P.E.R.C. NO. 99-25

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE-OPERATED SCHOOL  
DISTRICT OF NEWARK,

Petitioner,

-and-

Docket No. SN-98-20

NEWARK TEACHERS UNION,  
LOCAL 481, AFT,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of certain articles in an expired agreement between the State-Operated School District of Newark and Newark Teachers Union, Local 481, AFT. The Commission finds not mandatorily negotiable: a portion of a provision that would require that before notification of non-renewal, a non-tenured teacher receive notice of any unsatisfactory evaluation and be offered assistance to improve performance; a portion of a provision requiring that letters of recommendation be placed in personnel files; a portion of a provision concerning supplies and instructional materials; portions of a provision concerning summer school and summer recreation programs; a portion of a provision concerning the filing of grievances by unsuccessful applicants for summer school positions; a portion of a provision which would establish a program where employees will be able to donate sick days to other employees in cases of serious illness; a portion of a provision requiring that district teachers be hired for evening high school before outside teachers.

The Commission finds mandatorily negotiable: a provision on non-tenured teacher notice of non-renewal to the extent it ensures that teachers will receive notice of unsatisfactory evaluations; a portion of a provision concerning letters of recommendation to the

extent it requires that copies of letters of recommendation be placed in a personnel files; a provision concerning teacher's grade book; a portion of a provision concerning summer school and summer recreation programs, except to the extent it restricts the Board's right to seek additional applicants for new and different vacancies and a portion of a provision concerning the filing of grievances by unsuccessful applicants for summer school provisions, to the extent it permits the processing of grievances short of binding arbitration.

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P.E.R.C. NO. 99-26

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,  
(ROWAN UNIVERSITY),

Respondent,

-and-

Docket No. CO-H-98-29

COMMUNICATIONS WORKERS OF AMERICA  
AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the State of New Jersey (Rowan University). The Complaint was based on an unfair practice charge filed by the Communications Workers of America, AFL-CIO. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act when it unilaterally determined that, beginning with the 1997-1998 academic year, employees in four units represented by CWA would be required to work on four official paid holidays. The employer moved for summary judgment dismissing the Complaint and restraining arbitration on a related grievance. The Commission finds that the State had a managerial prerogative and thus did not violate the Act when it required employees to work involuntarily (at holiday pay rates) on previously scheduled holidays if necessary to meet its staffing levels for support services. The Commission also restrains binding arbitration of CWA's grievance to the extent it challenges the directive requiring employees to work on holidays when necessary to meet the State's staffing levels.

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P.E.R.C. NO. 99-27

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Respondent,

-and-

Docket No. CO-99-29

NEWARK FIREFIGHTERS UNION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Newark Firefighters Union for reconsideration of a Commission designee's denial of interim relief. The Union filed an unfair practice charge and request for interim relief alleging that the City of Newark violated the New Jersey Employer-Employee Relations Act by requiring firefighters to sit for an entry level firefighter examination being developed by the New Jersey Department of Personnel. The designee found that the charge raises a breach of contract claim and does not appear to state a cause of action under N.J.S.A. 34:13A-5.4a(5) and the charge is subject to administrative dismissal.

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P.E.R.C. NO. 99-28

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF LODI,

Appellant,

-and-

Docket No. IA-97-1

PBA LOCAL 26,

Respondent.

SYNOPSIS

The Public Employment Relations Commission vacates an interest arbitration award issued to resolve negotiations between the Borough of Lodi and PBA Local 26. The Commission remands the matter to the arbitrator for reconsideration in accordance with its opinion. The Borough had appealed the interest arbitration award.

The Commission finds that although the arbitrator thoroughly reviewed the evidence on all the criteria and appears to have considered all that evidence in arriving at his award, the opinion does not explain what factors he found most important or indicate why he gave those factors more weight than others. The Commission remands so that the arbitrator can issue an award articulating what factors and evidence he considered most important and explain how he weighed and considered all the evidence.

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P.E.R.C. NO. 99-29

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WAYNE TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-97

WAYNE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Wayne Township Board of Education for a restraint of binding arbitration of a grievance filed by the Wayne Education Association. The grievance contests a directive by elementary school principals that teachers list assignments, list supplemental materials, and refer to core curriculum standards in their plan books. The Commission finds that the development and substance of teacher lesson plans are not negotiable.

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P.E.R.C. NO. 99-30

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOUTH AMBOY BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-96

SOUTH AMBOY EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the South Amboy Board of Education for a restraint of binding arbitration of a grievance filed by the South Amboy Education Association over the non-retention of a coach. The 1990 amendment to N.J.S.A. 34:13A-23 permits an employer to agree to arbitrate disputes over the non-retention of an employee in an extracurricular position. The Commission finds that the amendment controls the legal negotiability of this dispute.

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P.E.R.C. NO. 99-31

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH BERGEN TOWNSHIP,

Petitioner,

-and-

Docket No. SN-98-106

LOCAL 11, INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of North Bergen for a restraint of binding arbitration of a grievance filed by Local 11, International Brotherhood of Teamsters. The grievance claims that the Township violated the parties' collective negotiations agreement when it reassigned a motor broom driver to hand sweeper duties. The Township does not seek to block arbitration based upon any seniority claims, but seeks to restrain arbitration over Local 11's claim that the actions were in retaliation for rights protected under the New Jersey Employer-Employee Relations Act. The Township asserts this claim must be addressed through unfair practice proceedings. The Commission finds that an assertion that discrimination tainted a transfer must be made in a statutory forum, rather than through binding arbitration.

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P.E.R.C. NO. 99-32

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MERCER COUNTY,

Petitioner,

-and-

Docket No. SN-98-75

AFSCME COUNCIL 73, LOCAL 2287,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the County of Mercer for a restraint of binding arbitration of a grievance filed by AFSCME Council 73, Local 2287. The grievance challenges certain aspects of the promotion of a senior clerk typist to the position of principal clerk typist. The Commission finds that promotional criteria to provisional positions are not mandatorily negotiable and that Local 2287 may not challenge the County's decision to promote based on its assessment of employee qualifications.

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