

P.E.R.C. NO. 99-33

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT CORPORATION,  
Petitioner,

-and-

Docket No. SN-98-83

P.B.A. LOCAL 304,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of New Jersey Transit Corporation for a restraint of binding arbitration of a grievance filed by P.B.A. Local 304. The grievance contests a special order changing schedules and overtime assignments on New Year's Eve, 1998. Since the grievance is proceeding to arbitration over the PBA's compensation claims, the Commission declines to speculate about what contractual rulings the arbitrator may make and what remedies he may order concerning a police employer's right to make scheduling changes for New Year's Day. If an arbitrator rejects the employer's contractual defense and issues an award that the employer believes substantially limits governmental policymaking powers, the employer may then assert that the award is illegal in post-arbitration proceedings.

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. 99-34

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF EAST ORANGE,

Petitioner,

-and-

Docket No. SN-98-92

P.B.A. LOCAL 16,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of East Orange for a restraint of binding arbitration of a grievance filed by P.B.A. Local 16. The grievance seeks to have a police officer placed back on line-of-duty injury leave and to have his sick days and vacation days restored. The Commission finds that since this grievance does not seek tort-based damages and is limited to a claim for restored sick and vacation days, it is not preempted by Workers' Compensation laws and is mandatorily negotiable and legally arbitrable.

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P.E.R.C. NO. 99-35

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY  
(DEPARTMENT OF CORRECTIONS),

Petitioner,

-and-

Docket No. SN-98-105

STATE LAW ENFORCEMENT CONFERENCE  
OF THE NEW JERSEY STATE POLICEMEN'S  
BENEVOLENT ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the State of New Jersey (Department of Corrections) for a restraint of binding arbitration of a grievance filed by the State Law Enforcement Conference of the New Jersey State Policemen's Benevolent Association. The grievance asserts that the employer violated a contractual safety clause by not assigning at least two corrections officers to each housing unit wing at South Woods State Prison. The Commission finds that disputes under contractual safety clauses are legally arbitrable, but that an arbitrator cannot order an increase in staffing since the determination of staffing levels is a managerial prerogative. The Commission further finds that to the extent all or portions of this arbitration are advisory only, arbitration will not be restrained.

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P.E.R.C. NO. 99-36

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

DEMAREST BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-4

DEMAREST EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Demarest Board of Education for a restraint of binding arbitration of a grievance filed by the Demarest Education Association. The grievance asserts that the Board withheld a teacher's salary increment as a disciplinary action and seeks restoration of the increment. The Commission finds that under all the circumstances, this withholding was not based predominately on the evaluation of teaching performance and may be reviewed through binding arbitration. The Association acknowledges that the teacher's interaction with a student during a band rehearsal involves an evaluation of teaching performance. The Commission finds that an allegedly inappropriate interaction with a parent and an alleged misinforming of students about why their class had been moved does not involve an evaluation of teaching performance.

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P.E.R.C. NO. 99-37

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Respondent,

-and-

Docket No. CO-99-40

FOP LODGE NO. 12 and  
SUPERIOR OFFICERS ASSOCIATION,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Newark for reconsideration of a Commission designee's decision granting interim relief. FOP Lodge No. 12 and the Superior Officers Association requested interim relief pending final resolution of an unfair practice charge they filed against the City. The designee restrained the City from implementing any portion of a Memorandum that would modify an earlier General Order but refused to restrain the City from assigning the police director's chief of staff to serve as one of the City's hearing officers in disciplinary appeals. The Commission finds that no extraordinary circumstances have been presented to warrant reconsideration.

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P.E.R.C. NO. 99-38

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY  
(DIVISION OF STATE POLICE),

Petitioner,

-and-

Docket No. SN-99-8

STATE TROOPERS FRATERNAL  
ASSOCIATION OF NEW JERSEY,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the State of New Jersey (Division of State Police) for a restraint of binding arbitration of a grievance filed by the State Troopers Fraternal Association of New Jersey. The grievance seeks back pay and retroactive benefits for a State Trooper who was restored to good standing after disciplinary charges were dismissed. The Commission finds that this case is governed by the Legislature's amendments to N.J.S.A. 34:13A-5.3 concerning disciplinary disputes and review procedures and the Supreme Court's opinion in State Troopers Fraternal Ass'n v. State, 134 N.J. 393 (1993). Under those amendments and that opinion, the Commission holds that this dispute is outside the scope of negotiations.

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P.E.R.C. NO. 99-39

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PISCATAWAY TOWNSHIP  
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-94-290

PISCATAWAY TOWNSHIP  
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission, in a matter on remand from the Superior Court of New Jersey, Appellate Division, orders the Piscataway Township Board of Education to negotiate with the Piscataway Township Education Association in response to the Association's February 14, 1994 demand to negotiate over the impact of its decision to cancel the scheduled spring recess to make up lost school days due to a harsh winter. The Association had filed an unfair practice charge seeking an order restoring the spring recess or granting employees with non-refundable tickets permission to continue with their plans; making unit employees whole for any economic losses; and requiring the posting of a notice. A Hearing Examiner recommended dismissing the Complaint.

The Association appealed and the Court reversed and remanded. With respect to the first issue, the Court agreed with the Hearing Examiner that the Board was not obligated to negotiate over its decision to cancel the spring recess and reopen schools on those days. With respect to the second issue, the Court determined that negotiations over all impact issues arising from calendar changes necessitated by weather-related closings were not precluded. The Court remanded the case to the Commission to determine whether negotiations over the specific issues raised by the Association would significantly encroach upon the Board's prerogative to change the calendar.

The Commission finds that the Board did not have a contractual right to refuse to negotiate over any impact issues. The Commission further finds that the negotiations over the issues presented in the Association's demand to negotiate would not have significantly encroached upon the Board's right to change the calendar.

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P.E.R.C. NO. 99-40

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY  
(OFFICE OF EMPLOYEE RELATIONS),

Petitioner,

-and-

Docket No. SN-98-84

COUNCIL OF NEW JERSEY STATE  
COLLEGE LOCALS, NJSFT, AFT, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the State of New Jersey (Office of Employee Relations) for a restraint of binding arbitration of grievances filed by the Council of New Jersey State College Locals, NJSFT, AFT, AFL-CIO. The grievances concern alleged reductions in health benefits and refusals to provide information. The Commission restrains arbitration over the decisions of the State Health Benefits Commission to equalize co-pays and delete the \$50 vision hardware benefit. The Commission also restrains arbitration over any challenge to the SHBC's contracts with Blue Cross/Blue Shield. Any appeal from an action of the SHBC must be made to the SHBC or in court.

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