

P.E.R.C. NO. 99-50

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.

BOROUGH OF HOPATCONG,

Charging Party,

-and-

Docket No. CE-H-97-13

POLICEMAN'S BENEVOLENT ASSOCIATION,
LOCAL 149,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Borough of Hopatcong's motion for reconsideration of P.E.R.C. No. 99-22. In that case the Commission dismissed allegations that Policeman's Benevolent Association, Local 149 violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. by refusing to sign a successor agreement. That decision also dismissed the PBA's allegations that the Borough violated the Act by unilaterally changing the divisor used for computing biweekly compensation. The Commission finds no extraordinary circumstances warranting reconsideration.

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. 99-51

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 New Jersey Transit Corporation's motion for reconsideration of P.E.R.C. No. 99-33. In that case the Commission denied the employer's request 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 declined 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. The Commission finds that NJ Transit has not presented any extraordinary circumstances warranting reconsideration.

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. 99-52

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MAURICE RIVER TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-18

MAURICE RIVER TOWNSHIP
TEACHERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of Maurice River Township Board of Education for a restraint of binding arbitration of a grievance filed by the Maurice River Township Teachers Association. The grievance contests the withholding of a teaching staff member's increments for the 1998-1999 school year. The Commission finds that this increment withholding, as a whole, was based predominately on an evaluation of teaching performance. The reasons for the withholding involve concerns about lesson design and delivery, classroom management, student telecasts, regular course-related communications with parents, and student access to the library. Although some aspects of the withholding may involve alleged failures to comply with administrative directions, the Commission finds that the predominate concern involves teaching performance and therefore the review of this withholding must be made by the Commissioner of Education.

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P.E.R.C. NO. 99-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BLOOMFIELD BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-11

BLOOMFIELD PUBLIC SCHOOLS
SERVICE ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Bloomfield Board of Education for a restraint of binding arbitration over a grievance filed by the Bloomfield Public Schools Service Association. The grievance contests a custodian's termination. Relying on its holdings in prior cases, the Commission declines to restrain arbitration of this mid-year discharge.

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P.E.R.C. NO. 99-54

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF HARRISON,

Petitioner,

-and-

Docket No. SN-99-14

FMBA LOCAL NO. 22,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Town of Harrison for a restraint of binding arbitration of a grievance filed by FMBA Local No. 22. The grievance asserts that the Town improperly calculated a retiring employee's terminal leave by failing to include holiday pay. The Commission finds that this dispute involves the calculation of terminal leave, not the calculation of the employee's pension. The dispute is mandatorily negotiable and is not preempted by statutes or regulations that deal solely with pension entitlements rather than terminal leave payments. The Division of Pensions has jurisdiction to decide whether holiday pay can be included in base pay for pension purposes.

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P.E.R.C. NO. 99-55

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUMSON-FAIR HAVEN REGIONAL HIGH
SCHOOL BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-98-81

RUMSON-FAIR HAVEN REGIONAL
SCHOOL EMPLOYEES ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of portions of Article 7.1 (Employee Evaluation; Employee Rights) in the expired collective negotiations agreement between the Rumson-Fair Haven Regional School Employees Association and the Rumson-Fair Haven Regional High School Board of Education. The Commission finds that the requirement that the Board conduct a pre-evaluation conference is mandatorily negotiable, except that Article 7.1 is not mandatorily negotiable to the extent the discussion of the "focus of the evaluation" during a pre-evaluation conference restricts the Board's right to establish or choose which criteria will be applied during the subsequent evaluation. Article 7.1 also sets a maximum number of evaluations for teachers. The Commission finds that aspect mandatorily negotiable, but repeats that its holding does not preclude informal observations and discussion.

The Commission grants the Board's request for a restraint of binding arbitration of a grievance filed by the Association. The grievance alleges that the Board violated Article 7.1 by failing to provide three faculty members with a pre-evaluation conference. The restraint of arbitration is granted to the extent the grievance contests the Board's alleged failure to notify the teachers of the time and date of observations. The request for a restraint is otherwise denied.

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P.E.R.C. NO. 99-56

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF SUMMIT,

Petitioner,

-and-

Docket No. SN-99-24

SUMMIT PBA LOCAL NO. 55,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the City of Summit's request for a restraint of binding arbitration of a grievance filed by Summit PBA Local No. 55. The grievance contests the City's decision to retain a private security firm to secure a City facility damaged by fire rather than have that service performed by negotiations unit members. The Commission holds that the substantive decision to have private organizations rather than public employees provide governmental services is a managerial prerogative. The PBA may not contest through binding arbitration the City's decision to retain a private security firm.

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P.E.R.C. NO. 99-57

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF COLTS NECK,

Petitioner,

-and-

Docket No. SN-99-13

PUBLIC EMPLOYEES SERVICE
UNION, LOCAL #702,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Township of Colts Neck for a restraint of binding arbitration of a grievance filed by the Public Employees Service Union, Local #702. The grievance contests the Township's appointment of two employees to light equipment operator positions in its public works department. The Commission grants a restraint to the extent the grievance challenges the employer's substantive decision to not make the grievant a light equipment operator. Whether the PBA's procedural claims can properly be placed before an arbitrator turns on issues of contractual arbitrability outside our jurisdiction. Whether those procedural claims were properly pled under the parties' grievance procedure is for an arbitrator to rule.

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P.E.R.C. NO. 99-58

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WOODBRIDGE,

Petitioner,

-and-

Docket No. SN-98-107

P.B.A. 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 P.B.A. Local 38. The grievance alleges that disciplinary actions taken by the Township against four police officers were procedurally improper and violated the parties' collective negotiations agreement. The Commission finds that the grievance asserts that contractual procedures were violated during the investigation of the incidents prompting the discipline and seeks a directive that the employer adhere to those negotiated procedures. The grievance does not challenge the suspensions received by the officers who chose not to exercise their right to contest their major discipline before the Merit System Board. The grievance may be resolved in binding arbitration.

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P.E.R.C. NO. 99-49

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TURNPIKE AUTHORITY,

Respondent,

-and-

Docket No. CO-H-97-413

IFPTE LOCAL 200,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the New Jersey Turnpike Authority violated the New Jersey Employer-Employee Relations Act when it refused to negotiate with IFPTE Local 200 over the timing of cross-examinations and pre-arbitration confidentiality requirements in sexual harassment cases. The Commission finds that the New Jersey Law Against Discrimination and the public policy against sexual harassment in the workplace do not preclude negotiations over pre-arbitration confidentiality provisions that affect an employee's right to union representation during investigatory interviews. The Commission orders the Authority to negotiate in good faith with IFPTE.

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P.E.R.C. NO. 99-60

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Public Employer,

-and-

COMMUNICATIONS WORKERS OF AMERICA,
AFL-CIO,

Docket No. RO-H-94-91
(Chief Investigators and
Assistant Chief Investigators-
Office of the Public Defender)

Petitioner.

SYNOPSIS

The Public Employment Relations Commission finds that certain titles which CWA, AFL-CIO petitioned to represent are not managerial executives. The State of New Jersey contends that these employees are managerial executives excluded from representation under the New Jersey Employer-Employee Relations Act. The Commission, fully considering the responsibilities of chief investigators and assistant chief investigators and applying the standards established in New Jersey Turnpike Auth. and AFSCME Council 73, 150 N.J. 331 (1997), concludes that these employees do not formulate management policies and practices or direct their effectuation.

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. 99-59

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Public Employer,

-and-

COMMUNICATIONS WORKERS OF AMERICA,
AFL-CIO,

Docket No. RO-H-94-91
(Section Chiefs - Department
of Environmental Protection)

Petitioner.

SYNOPSIS

The Public Employment Relations Commission finds that certain titles which CWA, AFL-CIO petitioned to represent are not managerial executives. The State of New Jersey contends that these employees are managerial executives excluded from representation under the New Jersey Employer-Employee Relations Act. The Commission, fully considering the responsibilities of section chiefs in the Department of Environmental Protection, and applying the standards established in New Jersey Turnpike Auth. and AFSCME Council 73, 150 N.J. 331 (1997), concludes that these employees do not formulate management policies and practices or direct their effectuation.

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.