

P.E.R.C. NO. 99-93

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HIGHLAND PARK,

Petitioner,

-and-

Docket No. SN-99-53

P.B.A. LOCAL NO. 64,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of a portion of a provision in an expired collective negotiations agreement between the Borough of Highland Park and P.B.A. Local No. 64. The provision concerns expunging disciplinary materials from police officers' personnel files. The Commission finds that the provision is not mandatorily negotiable because it states that an officer is "entitled" to expungement upon request. The provision may not be submitted to interest arbitration for inclusion in a successor agreement.

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. 99-94

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RANDOLPH TOWNSHIP BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-52

RANDOLPH EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Randolph Township Board of Education for a restraint of binding arbitration of a grievance filed by the Randolph Education Association. The grievance contests the withholding of a teacher's salary increment for the 1998-99 school year. The Board's reasons for the withholding were the teacher's alleged failure to adequately manage student behavior in the classroom and provide an instructional setting conducive to student learning in the classroom. The Commission concludes that these reasons relate predominately to the evaluation of teaching performance and review of this withholding must be before the Commissioner of Education.

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P.E.R.C. NO. 99-95

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MILLTOWN BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-50

MILLTOWN EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Milltown Board of Education for a restraint of binding arbitration of a grievance filed by the Milltown Education Association. The grievance contests the discontinuance of an employee's health care benefits. The Board asserts that the grievance was untimely and seeks to have the Commission direct the arbitrator to consider only issues of procedural arbitrability. The Commission concludes that no basis appears for imposing any limits on the issues the arbitrator may consider.

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P.E.R.C. NO. 99-96

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

KENILWORTH BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-36

KENILWORTH EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Kenilworth Board of Education for a restraint of binding arbitration of a grievance filed by the Kenilworth Education Association. The grievance alleges that a custodian was disciplined without just cause when he was not reappointed to the position of assistant head custodian for the 1998-99 school year. The Commission concludes that while disputes over the deprivation of statutory tenure rights would presumably have to be litigated before the Commissioner of Education, the Board asserts that this employee does not have statutory tenure rights and it has not initiated any proceeding pursuant to N.J.S.A. 18A:6-10. The Association's submissions refer to contractual issues of tenure and compensation which are mandatorily negotiable and legally arbitrable.

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P.E.R.C. NO. 99-97

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Appellant,

-and-

Docket No. IA-97-82

NEWARK FIRE DEPUTY CHIEFS'  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award issued to resolve negotiations between the City of Newark and Newark Fire Deputy Chiefs' Association. The City appeals the award and asks the Commission to remand the case back to arbitration. In formulating an award, an arbitrator must state what statutory factors he or she considered most important, explain why they were given significant weight, and explain how other evidence or factors were weighed and considered in arriving at a final award. The Commission concludes that the arbitrator here fully complied with these requirements and, because he did, the City must offer a particularized challenge to his analysis and conclusions. Aside from its objections to the senior pay aspect of the award, the City has not done so and the arbitrator's conclusions are supported by substantial credible evidence in the record. As for the senior pay issue, the Commission rejects the City's position that the award is necessarily deficient because the arbitrator did not calculate the cost to the City of maintaining a system that would result in employees obtaining senior pay salaries outside the four years covered by the award.

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

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ESSEX COUNTY COLLEGE,

Petitioner,

-and-

Docket No. SN-99-48

ESSEX COUNTY COLLEGE  
FACULTY ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines whether an arbitrator exceeded the negotiability limitations set by the Commission in a previous decision addressing the legal arbitrability of a grievance filed by the Essex County College Faculty Association. The grievance asserted that Essex County College violated a contractual provision allowing faculty members to receive half-year contracts under certain conditions and the demand for arbitration asserted that the College violated the grievance procedure by not timely responding to this grievance. The Commission initially restricted the arbitrator's review because of a 1992 staffing proposal restricting the number of adjuncts. That proposal is no longer relevant and since the College did not adopt or implement a policy restricting the number of adjuncts, the award cannot interfere with such a policy. The Commission notes that it does not have power to review the contractual merits of the grievance, but does have the power to make sure that any award does not significantly interfere with any prerogatives and the delivery of effective instruction is such a prerogative. It concludes that, on this record, no showing has been made that the instructional delivery of the educational program will be impaired by complying with the arbitration award.

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

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF RAHWAY,

Petitioner,

-and-

Docket No. SN-99-47

FMBA LOCAL NO. 33,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Rahway for a restraint of binding arbitration of a grievance filed by FMBA Local No. 33. The grievance contests the fire chief's directive ordering firefighters to flush hydrants. The Commission is persuaded that the periodic flushing of fire hydrants is essential to public safety, but the City has not shown how having public works employees rather than firefighters flush hydrants would substantially limit its governmental policymaking power. The Commission is also not persuaded, on this record and at this juncture, that the firefighters' job description and normal duties encompass hydrant flushing. The City may assert in arbitration that it has a contractual right to require firefighters to flush hydrants. The City may also seek a declaration from the New Jersey Department of Personnel that hydrant flushing is part of the firefighters' job description.

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