

P.E.R.C. NO. 2000-45

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF TEANECK,

Respondent,

-and-

Docket No. CO-H-95-170

AFSCME COUNCIL 52, LOCAL 820,

Charging Party.

TOWNSHIP OF TEANECK,

Respondent,

v.

OAL Dkt. No. CSV-1508-95

LUCIANO REA,

Appellant.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Township of Teaneck. The Complaint was based on an unfair practice charge filed by AFSCME Council 52, Local 820. The charge alleges that the Township violated the New Jersey Employer-Employee Relations Act by laying off Luciano Rea in retaliation for his protected activity. The charge also alleges that the issuance of a parking ticket to Local 820's president was in retaliation for his protected activity. An appeal of the layoff was also filed with the Merit System Board. The Complaint and the Merit System Board appeal were consolidated for hearing before an administrative law judge. The Commission adopts the ALJ's recommendation to dismiss the Complaint. He concluded that the Township did not discriminate against Rea in retaliation for protected activity or otherwise violate the Act by eliminating the assessing aide title and terminating Rea's employment. He also concluded that the Township did not prove that the parking ticket incident demonstrated any anti-union animus. The matter is transferred to the Merit System Board for deliberations on the appeal.

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. 2000-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLETOWN TOWNSHIP,
Respondent,

-and-
IUE LOCAL 417,

Docket No. RO-2000-22

Petitioner.

MIDDLETOWN TOWNSHIP,
Respondent,

-and-
IUE LOCAL 417,

Docket No. RO-2000-23

Petitioner.

MONMOUTH COUNTY SHERIFF'S
OFFICE,
Respondent,

-and-
IUE LOCAL 417,

Docket No. RO-2000-24

Petitioner.

FREEHOLD TOWNSHIP,
Respondent,

-and-
IUE LOCAL 417,

Docket No. RO-2000-25

Petitioner.

MIDDLETOWN TOWNSHIP,
Respondent,

-and-
IUE LOCAL 417,

Docket No. RO-2000-27

Petitioner.

MONMOUTH COUNTY RECLAMATION
CENTER,

-and-
IUE LOCAL 417,

Respondent,

Petitioner.

Docket No. RO-2000-28

MONMOUTH COUNTY,

Respondent,

-and-

IUE LOCAL 417,

Petitioner.

Docket No. RO-2000-29

MONMOUTH COUNTY,

Respondent,

-and-

IUE LOCAL 417,

Petitioner.

Docket No. RO-2000-30

COLTS NECK TOWNSHIP,

Respondent,

-and-

IUE LOCAL 417,

Petitioner.

Docket No. RO-2000-32

SYNOPSIS

The Public Employment Relations Commission denies the request of OPEIU, Local 32 for review. The Director of Representation denied Local 32's request to intervene in representation petitions filed by IUE Local 417 seeking to represent various employees in Middletown Township, Monmouth County Sheriff's Office, Freehold Township, Monmouth County, Monmouth County Reclamation Center and Colts Neck Township. These parties were previously represented by PESU Local 702. OPEIU claims that since PESU and OPEIU merged, OPEIU should be treated as the majority representative. The Commission concludes that on this record, there is little or no reason for believing that the employees in these negotiations units view OPEIU Local 32 as their chosen majority representative or that OPEIU Local 32 is essentially the same representative as PESU Local 702 and therefore entitled to stand in its shoes.

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P.E.R.C. NO. 2000-48

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WAYNE,

Petitioner,

-and-

Docket No. SN-2000-19

AFSCME, COUNCIL 52, LOCAL 2192,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Wayne for a restraint of binding arbitration of a grievance filed by AFSCME, Council 52, Local 2192. The grievance alleges that an employee was contractually entitled to receive annual increments which, over a five year period, would bring the employee to the maximum step on the salary guide. The Commission concludes that this grievance claiming a contractual right to salary increases in a five-year progression is not preempted and may be arbitrated.

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P.E.R.C. NO. 2000-49

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

DOWNE TOWNSHIP BOARD OF
EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-39

DOWNE TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Downe Township Board of Education for a restraint of binding arbitration of a grievance filed by the Downe Township Education Association. The grievance alleges that the Board violated the parties' collective negotiations agreement when its superintendent wrote observation reports criticizing lessons taught by two teaching staff members. The only issue before the Commission is whether substantive comments about a teacher's presentation of a reading program should be viewed as an evaluation of her teaching performance or a disciplinary reprimand. The Commission holds that the comments predominantly involve teaching performance and cannot be reviewed or changed by an arbitrator. The Commission restrains arbitration over that portion of the grievance. The request is otherwise denied.

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P.E.R.C. NO. 2000-51

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE-OPERATED SCHOOL DISTRICT
OF THE CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2000-5

CITY ASSOCIATION OF SUPERVISORS
AND ADMINISTRATORS, AFSA/AFL-CIO,
LOCAL 20,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of several provisions in an expired collective negotiations agreement between the State-Operated School District of the City of Newark and the City Association of Supervisors and Administrators, AFSA/AFL-CIO, Local 20. The Commission finds mandatorily negotiable a provision that provides up to five paid leave days in any one year in the event of family illness; a portion of a provision that sets forth the procedure by which an employee receiving the lowest rating will be given recommendations for improvement and the opportunity to be re-evaluated; a portion of a maintenance of benefits clause; and a provision that provides for the parties to agree to implement a voluntary sick day program.

The Commission finds not mandatorily negotiable a provision that provides ten additional sick days after all other leave days are exhausted; a provision on union leave that provides no loss of seniority upon return to regular employment; a provision requiring that no personnel will be involuntarily transferred except for just and equitable cause; a portion of a provision that pertains to a title outside the unit; and the last part of a fringe benefits provision because it is an illegal parity clause.

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P.E.R.C. NO. 2000-54

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PASSAIC,

Petitioner,

-and-

Docket No. SN-2000-10

P.B.A. LOCAL NO. 14,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Passaic for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 14. The grievance contests the City's denial of a hearing before an Employee Hearing Board in several disciplinary cases in which officers were facing possible suspensions. An arbitrator issued an award ruling that the failure to provide the hearing violated a contractual clause requiring the City to maintain benefits and employment conditions. A Superior Court Judge refused to confirm or vacate the award and remanded the matter to the arbitrator. The Judge further ordered that the City could seek a determination on the legal arbitrability of the grievance. The Commission finds that employers can agree to fair procedures for initiating and hearing disciplinary charges, subject to the employer's ultimate power, after complying with the negotiated procedures, to make a disciplinary determination.

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P.E.R.C. NO. 2000-46

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF ROSELAND,

Petitioner,

-and-

Docket No. SN-2000-34

P.B.A. LOCAL 293,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies P.B.A. Local 293's motion to dismiss a scope of negotiations petition filed by the Borough of Roseland. The PBA asserts that the Borough's petition should be dismissed under N.J.A.C. 19:16-5.5(c) and the public policy to expeditiously resolve interest arbitration disputes. The Commission concludes that the rule should be relaxed in the interests of justice because the Commission has not articulated an overall approach to applying 19:16-5.5(c). The Commission also concludes that relaxing the rule in this instance will not undermine the statutory goal of providing for expeditious interest arbitration proceedings. The scope petition was filed approximately one month after the appointment of an arbitrator and two months before the first preliminary meeting with the arbitrator. In denying the motion, the Commission stresses that parties should be attentive to the time period in N.J.A.C. 19:16-5.5(c).

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P.E.R.C. NO. 2000-50

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EGG HARBOR TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-7

EGG HARBOR TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of provisions in an expired contract between the Egg Harbor Township Board of Education and the Egg Harbor Township Education Association. The Commission finds mandatorily negotiable a provision requiring that the administration will develop a procedure setting forth appropriate regulations governing conditions under which supervisors and administrators criticize teachers. A portion of a provision providing for compensatory time for kindergarten teachers required to work a longer work day on days preceding holidays is mandatorily negotiable. A provision that provides that the Board will attempt to equitably distribute the workload within the district is mandatorily negotiable to the extent it applies to non-teaching workloads, but not to the extent it applies to teaching assignments. The Commission finds not mandatorily negotiable a provision that would require a four and one-half hour day on days preceding these holidays.

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P.E.R.C. NO. 2000-52

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,
(DEPARTMENT OF TREASURY),

Respondent,

-and-

PERC Docket No. CO-H-95-71
OAL Docket No. CSV 10708-94

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands this matter to the Administrative Law Judge for further proceedings and the issuance of a supplemental report. The ALJ's decision was issued on a consolidated appeal before the Merit System Board filed by George C. Glover and an unfair practice charge filed with the Commission by the Communications Workers of America, AFL-CIO. The charge alleges that Glover's suspension and termination violated the New Jersey Employer-Employee Relations Act. CWA asserts that Glover was suspended and terminated in retaliation for his efforts as a shop steward. In the unfair practice charge portion, the ALJ found that CWA had not shown that Glover's activity was protected and dismissed the charge. The Commission remands the matter to the ALJ to review the record with respect to certain events and provide a more detailed analysis. The Commission contends that the trier of fact is in the best position to answer these questions because they interrelate with witness credibility issues.

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. 2000-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF HUDSON,

Petitioner,

-and-

Docket Nos. SN-99-101
SN-99-102

AFSCME, COUNCIL 52,
LOCALS 1697 and 2306,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a request for a restraint of binding arbitration filed by Hudson County. The County seeks to restrain AFSCME, Council 52, Locals 1697 and 2306 from proceeding to arbitration concerning changes in prescription drug coverage and major medical reimbursements effective July 1, 1999. The Commission finds that the County could have legally agreed to provide prescription drug benefits different from that offered by the State plan and that an arbitrator may determine whether such an agreement was in fact made and violated.

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STATE OF NEW JERSEY
MERIT SYSTEM BOARD
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of	:	
	:	
MICHAEL A. DEPOMPEO,	:	
	:	
Appellant,	:	
	:	
-and-	:	OAL Dkt. No. CSV 9305-97N
	:	
TOWNSHIP OF TEANECK,	:	
	:	
Respondent,	:	
_____	:	
	:	
TOWNSHIP OF TEANECK,	:	
	:	
Respondent,	:	
	:	
-and-	:	PERC Dkt. No. CI-H-97-93
	:	
MICHAEL A. DEPOMPEO,	:	
	:	
Charging Party.	:	
_____	:	

SYNOPSIS

The Merit System Board and the Commission reaffirm an Order denying consolidation of an unfair practice charge and a Merit System Board appeal filed by Michael A. DePompeo. The MSB and the Commission grant the Township of Teaneck's motion for reconsideration, but conclude that the cases involve two distinct personnel actions and involve different questions of fact and law. Consolidation would not save time or expense and was appropriately denied.

This synopsis is not part of the joint order. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission or the Merit System Board.

STATE OF NEW JERSEY
MERIT SYSTEM BOARD
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of	:	
	:	
JOSEPH DENARO,	:	
	:	
Appellant,	:	JOINT ORDER
	:	ON CONSOLIDATION AND
v.	:	PREDOMINANT INTEREST
	:	
TOWNSHIP OF TEANECK,	:	
	:	
Respondent.	:	OAL Dkt. No. CSV 09966-98N
_____	:	
	:	
TOWNSHIP OF TEANECK,	:	
	:	
Respondent,	:	
	:	
-and-	:	PERC Dkt. No. CI-H-98-45
	:	
JOSEPH DENARO,	:	
	:	
Charging Party.	:	
_____	:	

SYNOPSIS

The Merit System Board and the Chair of the Public Employment Relations Commission have issued a joint order consolidating an MSB appeal and a PERC unfair practice charge for hearing before a Special Administrative Law Judge. The MSB appeal and the charge were filed by Joseph DeNaro contesting his reassignment by the Township of Teaneck from one title to another. After the ALJ issues a recommended decision, the Commission will review the record to determine whether protected activity motivated the reassignment decision. The Merit System Board will then review the record to determine whether DeNaro's reassignment was for legitimate business reasons and was otherwise warranted under Merit System Law.

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prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission or the Merit System Board.