

P.E.R.C. NO. 2003-61

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BELMAR,

Petitioner,

-and-

Docket No. SN-2003-2

BELMAR POLICEMEN'S BENEVOLENT
ASSOCIATION, LOCAL NO. 56,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies Belmar Policemen's Benevolent Association, Local No. 56's motion for reconsideration of P.E.R.C. No. 2003-52. In that decision, the Commission held that the PBA could not arbitrate a challenge to the police chief's decisions to assign an on-duty officer around one construction site and not to require the presence of an off-duty officer around another. 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. 2003-62

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLESEX COUNTY COLLEGE,

Petitioner,

-and-

Docket No. SN-2003-26

MIDDLESEX COUNTY COLLEGE
FACULTY UNION, LOCAL 1940, AFT,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of Middlesex County College for a restraint of binding arbitration of a grievance filed by the Middlesex County College Faculty Union, Local 1940, AFT. The grievance contests the College's failure to recommend an associate professor for promotion to full professor. The Commission restrains binding arbitration to the extent, if any, the AFT seeks to challenge the employer's right to set promotional criteria or to apply those criteria to the application for promotion. The request for a restraint is otherwise denied.

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P.E.R.C. NO. 2003-63

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BELMAR,

Petitioner,

-and-

Docket No. SN-2003-29

COMMUNICATIONS WORKERS OF
AMERICA, LOCAL 1032, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Borough of Belmar for a restraint of binding arbitration of a grievance filed by the Communications Workers of America, Local 1032, AFL-CIO. The grievance asserts that the Borough violated a contractual clause requiring it to avoid harassing employees and to treat them with common decency, courtesy, and respect and a contractual clause concerning sick leave verification. The alleged violation occurred when the Borough required a police dispatcher to be examined by a Borough doctor the day she called in sick and to be escorted to that examination by a police officer. The Commission concludes that this case does not involve a routine application of a verification policy, but rather an unusual requirement imposed in an unusual manner. The Commission holds that this grievance presents a claim recognized to be within the scope of negotiations by prior cases and that, on balance, the employee's interests in arbitrating this claim of harassment and improper treatment outweighs the employer's interest in unilaterally insisting that employees be examined by the employer physician before their own.

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P.E.R.C. NO. 2003-64

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FLEMINGTON-RARITAN BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-23

FLEMINGTON-RARITAN EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Flemington-Raritan Board of Education for a restraint of binding arbitration of a grievance filed by the Flemington-Raritan Education Association. The grievance contests the withholding of a Payroll Secretary's salary increment. The Commission concludes that parties may agree to binding arbitration of increment withholdings of non-teaching staff members. The Board's argument that the contract excludes this type of dispute from binding arbitration is one of contractual arbitrability which the Commission had no jurisdiction to consider. The Board does not dispute that the parties could have lawfully agreed to arbitrate the dispute.

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P.E.R.C. NO. 2003-65

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GALLOWAY TOWNSHIP,

Petitioner,

-and-

Docket No. SN-2003-20

MAINLAND PBA LOCAL NO. 77,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Galloway for a restraint of binding arbitration of grievances filed by Mainland PBA Local No. 77. The grievances assert that the employer has restricted the number of employees who can be off duty or on leave on a given shift in violation of a negotiated agreement and the Township's minimum staffing policies. The Commission holds that scheduling of vacation leave or other time off is mandatorily negotiable, provided the employer can meet its staffing needs. The Commission does not determine whether the parties have agreed that up to four officers, rather than three, may be off on a given shift or whether the employer has denied requests for overtime on specific occasions. Those are issues reserved for the arbitrator.

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P.E.R.C. NO. 2003-66

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2002-58

EDUCATION ASSOCIATION OF PASSAIC,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of contract provisions in a collective negotiations agreement between the Passaic Board of Education and the Education Association of Passaic. The Commission finds not mandatorily negotiable a clause concerning public criticism by supervisors or administrators; a clause concerning public reprimands or discipline of employees; a clause which requires that all teachers be provided with the Teacher's Edition of any textbook; a clause which requires that no elementary staff members be assigned lunch duty; a clause which provides that where double teachers are scheduled, the primary teacher will not be required to remain; a portion of a clause on increment withholdings to the extent it applies to increment withholdings that are predominantly based on an evaluation of teaching performance; and a portion of a clause on increment withholdings which provides that a recommendation be made by an appropriate administrator. The Commission finds mandatorily negotiable a clause concerning student grading; a portion of a clause that requires that teachers not be required to work continuously for a set number of hours or periods; a portion of a clause concerning increment withholdings to the extent it applies to increment withholdings that are predominantly disciplinary; and a portion of the same clause which provides that the Board and the Association agree that evaluation procedures be followed prior to any recommendation to withhold an increment.

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P.E.R.C. NO. 2003-67

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WAYNE,

Petitioner,

-and-

Docket No. SN-2003-30

WAYNE P.B.A. LOCAL NO. 136,

Respondent.

Appearances:

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 Wayne P.B.A. Local No. 136. The grievance alleges that an officer is entitled to additional longevity and vacation pay, as well as senior officer status, based on prior years of service with another department. The Commission finds that initial placement on a salary guide and terms and conditions of employment resulting from such placement are mandatorily negotiable terms and conditions of employment.

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P.E.R.C. NO. 2003-68

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2003-18

POLICE SUPERIOR OFFICERS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the legal arbitrability of a grievance filed by the Police Superior Officers Association against the City of Newark. The grievance proceeded to arbitration and the issue submitted to the arbitrator was whether the City violated Article XXI of the parties' collective negotiations agreement by refusing to pay a civil judgment against an officer. The arbitrator found that the City violated the parties' agreement and ordered it to pay the judgment. The Commission finds that N.J.S.A. 40A:14-155 does not prohibit an employer from agreeing to provide benefits to employees beyond circumstances required by that statute. The Commission finds that the City does not challenge the abstract negotiability of a reimbursement provision, but argues that reimbursement would be contrary to public policy. That public policy argument may be raised in a court action seeking to vacate the arbitration award.

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P.E.R.C. NO. 2003-69

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WANAQUE BOROUGH BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-24

WANAQUE BOROUGH EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Wanaque Borough Board of Education for a restraint of binding arbitration of a grievance filed by the Wanaque Borough Education Association. The grievance asserts that special area teachers have not been remunerated for additional class assignments. The Commission concludes that the Board's decision to have special area teachers teach more sections at the same time is an educational policy decision. However, compensation for additional assignments is mandatorily negotiable. Whether there is any entitlement to additional compensation is for the arbitrator.

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P.E.R.C. NO. 2003-70

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Petitioner,

-and-

Docket No. SN-2003-25

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 68-68A, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Rutgers, the State University for a restraint of binding arbitration of a grievance filed by the International Union of Operating Engineers, Local 68-68A, AFL-CIO. The grievance asserts that the employer violated the parties' collective negotiations agreement when it reassigned the task of taking and logging readings of gauges on chiller units from an HVAC operating engineer represented by International Union of Operating Engineers, Local 68-68A, AFL-CIO to maintenance mechanics represented by AFSCME Local 888. The Commission concludes, on this record, that the employer's interests in changing the deployment and duties of the one HVAC engineer on the day shift in August 2001 outweighed the unit employees' interests in continuing to have the chiller gauge duties exclusively assigned to that one engineer. The Commission limits its holding to the need to reassign duties in August 2001 and does not extend it to a situation where the normal complement of engineers exists.

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