

P.E.R.C. NO. 2024-1

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY  
OF NEW JERSEY,

Public Employer,

-and-

Docket No. CU-2020-005

AMERICAN ASSOCIATION OF UNIVERSITY  
PROFESSORS, BIOMEDICAL AND HEALTH  
SCIENCES OF NEW JERSEY,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission grants the AAUP's request for review of the Director of Representation's (Director) decision to dismiss its clarification of unit petition seeking to include certain Rutgers employees in a collective negotiations unit of biomedical health sciences faculty currently represented by the AAUP. The Commission finds that the Director's dismissal improperly relied on the amended clarification unit rules based on the Workplace Democracy Enhancement Act that were not yet in effect at the time the AAUP filed its petition. The Commission further finds that, under either the old or amended clarification of unit rules, the AAUP's petition satisfied the basic filing requirements and should not have been dismissed based on a pleading deficiency or for failing to satisfy the burden of production. Finding that clarification of unit proceedings are investigatory, non-adversarial proceedings in which neither party bears a traditional burden of proof, the Commission finds that the case should be remanded to the Director to evaluate Rutgers' asserted statutory exclusions for the remaining disputed petitioned-for employees based on the record evidence produced by both parties. The Commission also grants the AAUP's request to receive, and respond to, a copy of Rutgers' responses to a Director's investigatory letter which had not been previously served on the AAUP, finding such disclosure to be the preferred practice in clarification of unit 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. 2024-2

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY  
OF NEW JERSEY

PETITIONER,

-and-

Docket Nos. SN-2023-028;  
SN-2023-029  
CONSOLIDATED

AFSCME LOCAL 888, AMERICAN FEDERATION  
OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO,

RESPONDENT.

SYNOPSIS

The Public Employment Relations Commission denies the petition of Rutgers, the State University of New Jersey for a restraint of binding arbitration of grievances filed by AFSCME Local 888, a union of maintenance and service employees employed by Rutgers, alleging Rutgers terminated without just cause the employment of two unit members in violation of the parties' collective negotiations agreement. Following investigations of complaints by coworkers, Rutgers terminated both grievants as disciplinary sanctions for violating Rutgers' Title IX Policy, among others. The Commission finds: (1) disciplinary review procedures are mandatorily negotiable and legally arbitrable; and (2) a federal regulation requiring a "grievance process" for formal complaints of sexual harassment under Title IX does not preempt collectively negotiated grievance procedures that may be available to represented employees after discipline has been imposed based upon determinations of misconduct under the Title IX Policy.

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P.E.R.C. NO. 2024-3

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PLAINFIELD,

Respondent,

-and-

Docket No. CO-2021-049

PLAINFIELD FIRE OFFICERS  
ASSOCIATION,

Charging Party.

SYNOPSIS

The Commission denies the appeal of the Plainfield Fire Officers Association from the Director of Unfair Practices' refusal to issue a Complaint on the Association's unfair practice charge alleging the City of Plainfield repudiated the parties' collective negotiations agreement (CNA) and refused to negotiate in good faith over retiree health insurance benefits. Prior to the filing of its charge, the Association and the City's PBA units challenged the City's decision to begin billing all non-exempt retirees for Chapter 78 contributions as being violative of their respective CNAs, and both disputes were fully adjudicated through binding arbitration. The Commission finds that in light of this record, the facts that the City prevailed in the Association's contractual grievance arbitration and did not prevail in the PBA's arbitration over the same issue, do not compel a conclusion that certain alleged statements of the City during negotiations with the Association were made in bad faith, or that the City repudiated its agreement with the Association. The Commission affirms the Director's decision that the Association's charge was untimely, and the Association may not use an unfair practice proceeding to re-litigate a matter that was already fully adjudicated in grievance arbitration.

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P.E.R.C. NO. 2024-4

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY (STATE POLICE),

Petitioner,

-and-

Docket No. SN-2023-036

STATE TROOPERS FRATERNAL ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the State of New Jersey for a restraint of binding arbitration of a grievance filed by the State Troopers Fraternal Association, which contests the implementation and subsequent rescission of a policy granting female State Troopers eight weeks of paid leave after giving birth. The Commission finds that the Pregnancy Discrimination Act, NJ Law Against Discrimination, and P.L. 2020, c. 107 do not preempt negotiations over a leave benefit exclusively for temporary disability related to pregnancy.

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P.E.R.C. NO. 2024-5

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERVILLE BOARD OF  
EDUCATION,

Respondent,

-and-

Docket No. CO-2022-022

SOMERVILLE EDUCATION  
ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission rejects a Hearing Examiner's Report involving the Somerville Education Association's claim that the Board retaliated against a non-tenured teacher after he requested union representation before an Interim Evaluation meeting. The Commission finds that, although a Weingarten right attached to the meeting, the Board did not violate Act when it denied representation because the meeting never occurred. Furthermore, the Board did not violate the Act because, even assuming the administration evidenced hostility toward the request for union representation, the preponderance of the evidence showed that the administration did not recommend renewal of the teacher's employment contract due to concerns related to his professionalism and teaching performance. Notably, those concerns were documented well before the request for union representation.

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P.E.R.C. NO. 2024-6

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF PLAINSBORO,

Petitioner,

-and-

Docket No. SN-2023-040

CWA LOCAL 1032,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Township's request for restraint of binding arbitration of the CWA's grievance alleging that the Township reduced the regular work schedules of EMTs by eight hours per pay period and assigned them to per diem EMTs, resulting in the loss of overtime compensation. Finding that the Township has not demonstrated a particularized managerial need to change EMT work schedules and remove their overtime hours in order to meet its staffing needs for providing EMT services, the Commission holds that arbitration of the grievance would not significantly interfere with the Township's managerial prerogative to determine policy.

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