

P.E.R.C. NO. 2024-42

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PBA LOCAL 383,

Petitioner,

-and-

Docket No. SN-2024-015

STATE OF NEW JERSEY
(DIVISION OF CRIMINAL JUSTICE),

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the PBA's scope of negotiations petition seeking a determination that its proposal regarding work schedules and overtime is mandatorily negotiable and not preempted by statute. The Commission finds that 29 U.S.C. §207(k) does not preempt the PBA's proposal to change the 28-day work schedule because the statute does not contain language requiring employers to use the 28-day work schedule. The Commission further finds that N.J.A.C. 4A:6-2.2A does not preempt the PBA's proposal to change the 28-day work schedule because that statute is discretionary, and not mandatory. The Commission concludes that the State has not established that the PBA's work schedule and overtime proposal would significantly interfere with its governmental policy need to provide police services.

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. 2024-43

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF NUTLEY,

Respondent,

-and-

Docket No. CO-2022-207

INTERNATIONAL ASSOCIATION OF
EMTs AND PARAMEDICS (IAEP), LOCAL R2-806,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Township's motion for reconsideration of P.E.R.C. No. 2024-32, 50 NJPER 309 (¶75 2024), where the Commission denied the Township's motion for summary judgment on an unfair practice charge filed by the Local. The unfair practice charged alleged that the Township violated the Act by refusing to sign and execute a collective negotiations agreement (CNA) after the Local adopted and signed a tentative agreement reached by the parties' negotiating teams. The Commission denied the Township's motion for summary judgment because it found there were disputed material facts and that a summary dismissal would be premature before a factual record can be further developed by a hearing examiner. In its motion for reconsideration, the Township claims the Local's requested remedy for the UPC is extreme and has not been endorsed by the Commission. The Commission finds that the Township has not met the standard for reconsideration because the issue of whether a particular remedy is appropriate is premature, as the Hearing Examiner has not conducted and issued a decision setting forth legal and factual conclusions.

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P.E.R.C. NO. 2024-44

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

City of Trenton,

RESPONDENT,

-and-

Docket No. CO-2023-050

PBA Local 11 (Superiors),

PETITIONER.

SYNOPSIS

The Public Employment Relations Commission grants the PBA's motion to file its appeal out of time and grants its appeal. The PBA appealed the Deputy Director's denial of the PBA's motion to reopen Docket No. CO-2023-050, which was administratively dismissed after the PBA failed to respond to two of the Hearing Examiner's status requests. The Deputy Director denied the PBA's motion to reopen finding the PBA did not show extraordinary circumstances or that a dismissal would create an injustice pursuant to N.J.A.C. 19:14-1.5(e). The Commission finds that justice and judicial efficiency will be best served by reinstating CO-2023-050, given the potential confusion and miscommunication created by the treatment of various UPCs, including CO-2023-050, in global settlement discussions which contributed to the PBA's non-responsiveness to the Hearing Examiner's status request.

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P.E.R.C. NO. 2024-45

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MERCER COUNTY SPECIAL SERVICES SCHOOL DISTRICT BOARD OF
EDUCATION,

Petitioner,

-and-

Docket No. SN-2024-026
SN-2024-027

MERCER COUNTY SPECIAL SERVICES EDUCATION AND THERAPEUTIC
ASSOCIATION,

-and-

MERCER COUNTY SPECIAL SERVICES SUPPORT STAFF ASSOCIATION,
Respondents.

SYNOPSIS

The Public Employment Relations Commission dismisses without prejudice the Board's request for a scope of negotiations determination concerning binding past practices purportedly incorporated into its collective negotiations agreements (CNA) with the Associations. The Commission finds that because the parties are not in collective negotiations for successor contracts and because the past practices are not the subject of a demand for binding arbitration, it will not exercise its scope of negotiations jurisdiction unless "special circumstances" exist. The Commission further finds that although there is a dispute involving the past practices that is the subject of two pending unfair practice charges filed by the Associations, the Board has not identified any intervening legislation or judicial or administrative decisions since the parties negotiated their current CNAs that qualify as "special circumstances" to warrant scope of negotiations review. The Commission notes that the Board may raise its scope of negotiations preemption argument as part of its defense to the unfair practice charge.

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P.E.R.C. NO. 2024-46

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WOODBRIIDGE TOWNSHIP
EDUCATION ASSOCIATION,

Petitioner,

-and-

Docket No. TO-2024-001

WOODBRIIDGE TOWNSHIP
BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Commission grants a contested-transfer petition filed by the Woodbridge Township Education Association against the Woodbridge Township Board of Education, and orders the Board to return the affected teacher to his former work site. The petition alleged the transfer of the teacher (from his position as an Academic Coach providing small-group instruction to first-grade General Education students to a different school where he was teamed with a certified Special Education in-class support teacher) violated the statutory prohibition against the transfers of school employees between work sites for disciplinary reasons. The Commission finds a preponderance of the evidence supports that the transfer was predominately disciplinary, given that: (1) the relevant performance evaluations did not reflect the Board's professed concern that students' continuity of instruction was harmed by the teacher's allegedly excessive absenteeism; (2) the Board did not otherwise assert the teacher would be more effective in his new role than he was as an Academic Coach; and (3) the transfer was accompanied by an increment withholding that the Board certified was discipline for excessive absenteeism.

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P.E.R.C. NO. 2024-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

VINELAND BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2023-171

VINELAND EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the refusal of the Director of Unfair Practices to issue a complaint on an unfair practice charge filed by the Association. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq. (Act) when it subcontracted with private companies and contractors to fill vacant teaching positions and provide additional health services to its students. Applying the Supreme Court's Local 195 holding, the Commission finds that the Board's decision to subcontract was non-negotiable and that the Association did not allege that the Board subcontracted in bad faith. The Commission also finds that N.J.S.A. 34:13A-46 (P.L. 2020, c. 79) only prohibits subcontracting that affects the employment of currently employed unit employees; therefore, as the Board's subcontracting did not displace any current employees but only filled vacancies and new positions, it did not violate N.J.S.A. 34:13A-46.

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