

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2003-063

NEWARK FIREFIGHTERS UNION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Newark for a restraint of binding arbitration of grievances filed by the Newark Firefighters Union. The grievances allege that an order concerning transfers and reassignments violates the parties' collective negotiations agreement and past practice. The Commission holds that the substantive decision to transfer or reassign employees is generally neither negotiable or arbitrable. The employer announced that it transferred certain firefighters to promote cross-training, improve efficiency, increase diversity, and decrease response time by making firefighters more familiar with various locations. The Commission holds that arbitration challenging transfers based on those reasons would substantially limit the City's policymaking powers.

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.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT and
ATU DIVISION 819,

Respondents,

-and-

Docket No. CI-2004-003

TERRY GRAY,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the decision of the Director of Unfair Practices refusing to issue a Complaint based on an unfair practice charge filed by Terry Gray against New Jersey Transit and ATU Division 819. The charge alleges that the employer, New Jersey Transit, terminated Gray in violation of the New Jersey Employer-Employee Relations Act and that the majority representative, ATU, failed to properly represent Gray in challenging his termination. The Director concluded that since an arbitrator had already considered the termination, Gray could not relitigate it before this Commission. The Director further noted that the charge did not allege that the termination was for reasons illegal under the Act. As for the ATU, the Director found that, even if true, Gray's factual allegations concerning the union's action in representing him, negotiating settlement terms, and taking his case to arbitration when Gray declined to settle, did not establish a violation of the Act. In his appeal, Gray contends that an arbitration decision was tainted by fraud, collusion, unfairness and serious procedural irregularities. The Commission concludes that an adverse arbitration ruling alone does not support an inference that the ruling was a product of fraud or collusion. Under all the circumstances, the Commission sustains the Director's decision not to issue a Complaint.

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P.E.R.C. NO. 2005-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGEN COUNTY VOCATIONAL SCHOOLS
DISTRICT BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-048

BERGEN COUNTY VO-TECH ASSOCIATION OF
CUSTODIAL AND MAINTENANCE PERSONNEL,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Bergen County Vocational Schools District Board of Education for a restraint of binding arbitration of a grievance filed by the Bergen County Vo-Tech Association of Custodial and Maintenance Personnel. The grievance alleges that the Board violated the parties' collective negotiations agreement when it reassigned a custodial employee from a first shift grounds position to a third shift custodial position for unjust disciplinary reasons. The Commission concludes, based on the facts and assertions in the record, that this is a disciplinary dispute that the parties could have legally agreed to arbitrate.

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P.E.R.C. NO. 2005-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HACKETTSTOWN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2003-038

HACKETTSTOWN EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Hackettstown Board of Education violated the New Jersey Employer-Employee Relations Act when it refused to negotiate with the Hackettstown Education Association over compensation for employees required to attend an overnight field trip. The Commission orders the Board to negotiate over mandatorily negotiable matters relating to overnight field trips.

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P.E.R.C. NO. 2005-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

JACKSON TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-054

TEAMSTERS LOCAL 97 OF NEW JERSEY,
AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Jackson Township Board of Education for a restraint of binding arbitration of a grievance filed by Teamsters Local 97 of New Jersey, AFL-CIO. The grievance alleges that regular cafeteria workers are being denied the opportunity to cover one hour of the shift of absent cafeteria workers and thus to accumulate extra hours toward eligibility for paid health benefits. The Commission is not convinced that the Board's governmental policy interests will be compromised by enforcing an alleged agreement to use regular four-hour employees to cover the first hour of absent five-hour employees.

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P.E.R.C. NO. 2005-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOWELL TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-053

HOWELL TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Howell Township Board of Education for a restraint of binding arbitration of a grievance filed by the Howell Township Education Association. The grievance alleges that the employer breached the parties' collective negotiations agreement by denying bus drivers the right of first refusal on extra midday bus runs. These runs were given instead to employees of outside contractors. The Commission concludes that it can discern no interference with any governmental policy in offering district employees an opportunity to refuse an assignment, in particular no interference with the employer's need to subcontract to address its busing needs. Under the circumstances, and in particular the fact that the grievance can proceed to binding arbitration over other issues, the Commission reserves decision over the Association's claim that the Board must require contractors to hire district drivers to fill the midday runs.

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P.E.R.C. NO. 2005-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WOODBRIIDGE TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-051

WOODBRIIDGE TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Woodbridge Township Board of Education for a restraint of binding arbitration of a grievance filed by the Woodbridge Township Education Association. The grievance seeks to arbitrate a claim that the Board violated the parties' negotiated agreement when it failed to fill three eight-hour bus driver vacancies. The Commission holds that the employer's governmental policy interest in setting the size of its workforce and determining how many employees it needs to perform required tasks outweighs the union's interest in preserving work and guaranteeing employment for employees it represents. The Commission finds that in this case the employer has determined that it no longer needs 32 eight-hour bus drivers and that the Association cannot enforce a minimum staffing provision that would require the Board to staff its workforce with more eight-hour drivers than it wants or needs.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE-OPERATED SCHOOL DISTRICT
OF THE CITY OF PATERSON,

Petitioner,

-and-

Docket No. SN-2004-052

PATERSON EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of several contract articles in an expired collective negotiations agreement between the State-Operated School District of the City of Paterson and the Paterson Education Association.

The Commission finds mandatorily negotiable: a portion of an article which provides that grievance documents shall not be kept in the personnel files of any participants, but instead shall be kept in a separate file; the portion of an article entitled evaluation of students which provides that the administration consult with a teacher before changing a grade and that the grade change be initialed by the administrator; an article that prohibits public criticism, except in emergency situations; an article requiring that certain information be provided to the union (if the District deems a future request unreasonable, it can decline to provide the information and the Association can seek to prove the reasonableness of its demand); a clause providing that the school calendar be set by the District after consultation with the Association; an article that limits the processing of class size and assignments grievances to level two; an article requiring that job descriptions be included in the contract; an article concerning salary guide placement; an article concerning job security for instructional assistants; a clause that prohibits disciplinary transfers except to the extent it requires the Commission to resolve claims that a transfer within a work site is disciplinary; a clause concerning observations except to the extent it would allow for shorter observations of non-tenured teachers than required by N.J.A.C.

6:3-4.1; a portion of a clause that allows teachers to request an evaluation by a relevant observer, such as a department chairperson; a portion of a clause providing that procedural defects of non-tenured non-renewals may be submitted to the grievance procedure; an article concerning NJEA convention leave; articles dealing with paid injury leaves except to the extent they would allow for paid leave beyond year without charge to annual or accumulated sick leave; an article concerning procedures for reporting injuries, and a non-discrimination clause.

The Commission finds not mandatorily negotiable: a portion of a clause concerning evaluation of students that would give a teachers the exclusive right to determine grades; check-in procedures which requires that employees sign in and out; a portion of an article in instructional planning to the extent it allows a teacher to decide how best to prepare lesson plans; an article that bases class size on certain considerations; an article concerning non-instructional duties; an article dealing with teacher certification requirements; a clause concerning observations to the extent it would allow for a shorter observation of non-tenured teachers than required by N.J.A.C. 6:3-4.1; a clause which provides that due weight be given to background, experience and attainment of all applicants for positions; a portion of a clause which sets forth the qualifications for evaluators; a clause providing that the District may ask for a physician's certificate; and a portion of a representation fee article concerning the percentage used to calculate the agency fee.

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P.E.R.C. NO. 2005-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF BEDMINSTER,

Petitioner,

-and-

Docket No. SN-2004-046

P.B.A. LOCAL 366,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Bedminster for a restraint of binding arbitration of a grievance filed by P.B.A. Local 366. The grievance contests a reduction in an employee's salary as part of a disciplinary action. The Commission holds that disputes involving major discipline of police officers are precluded from binding arbitration.

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P.E.R.C. NO. 2005-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF SADDLE BROOK,

Petitioner,

-and-

Docket No. SN-2004-062

P.B.A. LOCAL NO. 102,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Saddle Brook for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 102. The grievance seeks overtime compensation for police officers temporarily assigned to a special shift. The Commission concludes that arbitration of this grievance seeking overtime compensation for employees who had to work outside their contractual work hours would not substantially limit the Township's governmental policymaking powers.

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. 2005-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF KEARNY,

Respondent,

-and-

Docket No. CO-2003-173

KEARNY Council No. 11,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Town of Kearny violated the New Jersey Employer-Employee Relations Act when it inserted language into the contract with Kearny Council 11 that had not been agreed to in negotiations. The Commission orders the Town to remove the inserted language, process grievances without the inclusion of the language, and post a notice of its violation.

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P.E.R.C. NO. 2005-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MILLVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2004-059

MILLVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the Millville Board of Education's request for a restraint of binding arbitration of a grievance filed by the Millville Education Association. The grievance alleges that the Board violated the parties' collective negotiations agreement when it increased the workload and instructional periods of teachers assigned to the Academy Success and Pride Program (ASAP) without providing additional compensation. The request is granted to the extent, if any, the grievance challenges the Board's right to assign teachers to ASAP duties or to determine which teachers will be assigned such duties. The restraint is denied to the extent the grievance seeks additional compensation for the assignment of these duties.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HILLSBOROUGH TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2004-294

HILLSBOROUGH EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies Hillsborough Education Association's request for special permission to appeal the decision of the Director of Unfair Practices deferring its unfair practice charge against the Hillsborough Township Board of Education to binding arbitration. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act when it unilaterally altered the manner in which in-district credit for longevity purposes has been calculated. The Association alleges that the Board has repudiated a practice of more than 20 years. The Commission notes that binding arbitration is the preferred mechanism for resolving an unfair practice charge essentially alleging a violation of N.J.S.A. 5.4(a)(5) interrelated with a breach of contract. Should an arbitrator reach a result which is repugnant to the Act, the Association may seek to reopen the unfair practice charge.

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