

P.E.R.C. NO. 2005-41

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF PASSAIC,

Petitioner,

-and-

Docket No. SN-2005-004

C.W.A. LOCAL 1032, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the County of Passaic for a restraint of binding arbitration of a grievance filed by C.W.A. Local 1032, AFL-CIO. Local 1032 alleges that the County violated the parties' contract when it placed an employee who had been injured on the job on various leaves instead of allowing him to return to work. The request for a restraint of binding arbitration is granted to the extent, if any, the grievance seeks to have the employee returned to his day shift position at any point or to a night shift position before May 2, 2003. The request for a restraint of arbitration is otherwise denied.

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. 2005-42

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

KEARNY BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-2004-069

KEARNY TEACHERS' AIDES ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses a representation petition filed by the Kearny Teachers' Aides Association seeking to represent nine full-time aides employed by the Kearny Board of Education. The Director of Representation had directed an election to determine whether the aides wanted to be represented by the Association. D.R. No. 2005-5. The Chairman granted the Board's request for review of that decision and stayed the election. The Board contended that the appropriate negotiations unit must include its approximately 173 part-time aides. The Commission, citing its long-established practice of favoring broad-based units, its opposition to undue fragmentation, and its refusal to certify negotiations units that exclude regular part-time employees, holds, under all the circumstances of this case, that the desire of the full-time aides to organize does not overcome the presumption that a separate unit of full-time employees is not the appropriate unit.

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P.E.R.C. NO. 2005-43

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2005-014

FOP LODGE 12,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Newark for a restraint of binding arbitration of a grievance filed by FOP Lodge 12. The grievance asserts that the City violated the parties' collective negotiations agreement when Internal Affairs investigators conducted a random drug test at the home of a police officer who had booked off sick an hour before his shift began. The Commission concludes that procedures associated with police officer drug testing are mandatorily negotiable in general. The Commission holds that an arbitrator can decide whether the City's policy prohibits or permits testing officers while they are at home and on sick leave. The Commission does not believe that the City's policymaking authority will be substantially violated if an arbitrator concludes that it made and violated an agreement to provide employees with notice of the conditions under which they would be subject to random drug testing.

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P.E.R.C. NO. 2005-44

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MIDDLESEX,

Petitioner,

-and-

Docket No. SN-2005-022

MIDDLESEX COUNTY CORRECTION  
OFFICERS, P.B.A. LOCAL 152,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the County of Middlesex for a restraint of binding arbitration of a grievance filed by Middlesex County Correction Officers, P.B.A. Local 152. The PBA alleges that the County violated the parties' collective negotiations agreement when it required a correction officer who could not work overtime due to a medical condition to go on medical leave. On the facts of this case, the Commission holds that the County had a right to determine that an employee could not remain on active duty unless physically capable of working more than eight hours when needed to do so. The Commission restrains arbitration over the claim that the County should have allowed the employee to work her regular eight-hour shift with no overtime responsibility.

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P.E.R.C. NO. 2005-45

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2005-021

NEWARK FIREFIGHTERS UNION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Newark for a restraint of binding arbitration of one grievance filed by the Newark Firefighters Union and grants a restraint of binding arbitration of another grievance filed by the Union. The Union alleges that the City violated parties' agreement and past practice when it refused to assign two firefighters to their preferred positions and work locations. The Union asserts that the City has an enforceable past practice of permitting firefighters to choose shift assignments based on seniority when all qualifications are equal and of returning firefighters to those assignments after extended sick leave. The Commission concludes that such a practice can be enforced through binding arbitration without substantially limiting governmental policymaking powers. The Commission therefore denies a restraint of binding arbitration with respect to the Lynn grievance. The Commission grants a restraint of binding arbitration concerning the Marble grievance because it seeks to have an employee transferred into a position to which he is no longer qualified.

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