

P.E.R.C. NO. 2005-63

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLESEX COUNTY EDUCATIONAL
SERVICES COMMISSION,

Respondent,

-and-

Docket No. CO-2004-370

MIDDLESEX COUNTY EDUCATIONAL
SERVICES COMMISSION EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a Motion for Summary Judgment filed by the Middlesex County Educational Services Commission. The motion seeks dismissal of an unfair practice charge filed by the Middlesex County Educational Services Commission Education Association. The charge alleges that the employer terminated an instructional aide, who is the Association president, in retaliation for her activities on behalf of the Association. The Commission concludes that there is a factual dispute over the reason for the termination and that factual dispute precludes summary judgment. Dismissal of a separate complaint filed before the Division on Civil Rights does not require dismissal of the unfair practice charge.

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. 2005-64

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OLD BRIDGE TOWNSHIP BOARD
OF EDUCATION,

Respondent,

-and-

Docket No. TO-2005-002

OLD BRIDGE TOWNSHIP EDUCATION
ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses a petition for contested transfer determination filed by the Old Bridge Township Education Association. The petition alleges that the Old Bridge Township Board of Education transferred a teacher between work sites for disciplinary reasons in violation of N.J.S.A. 34:13A-25. The Board failed to file an Answer and the Association moved for summary judgment. The Chairman determined that a late Answer filed by the Board would not be considered, but denied summary judgment on the merits because neither party had had the opportunity to argue why the transfer was or was not disciplinary. The Association argues that the teacher was transferred for his refusal to do bus duty, among other things. The Commission concludes that, given the statements of three administrators about the teacher's difficulty in getting along with others, the dominant reason for the transfer was not disciplinary, but that the Board sought to place the teacher in a position where he could continue to perform well without having conflicts with fellow employees.

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P.E.R.C. NO. 2005-65

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ORANGE TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2005-027

ORANGE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Orange Township Board of Education for a restraint of binding arbitration sought by the Orange Education Association. The Association contests the withholding of a teaching staff member's salary increment. The Commission concludes that this withholding was based on both performance and non-performance reasons. However, given three observation/evaluation reports and one letter from the principal noting alleged deficiencies in classroom management and a reprimand that alleged both performance deficiencies and insubordination, the withholding was based predominately on teaching performance.

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P.E.R.C. NO. 2005-66

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC VALLEY WATER COMMISSION,

Petitioner,

-and-

Docket No. SN-2005-039

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

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Passaic Valley Water Commission for a restraint of binding arbitration of a grievance filed by C.W.A. Local 1032, AFL-CIO. CWA seeks compensation for an employee who has allegedly been performing duties in a higher classification for over four years. The Commission concludes that CWA may seek to enforce an alleged contractual obligation to compensate an employee for higher-title work that he maintains he performed. The existence of Department of Personnel promotional or classification issues does not make the compensation claim non-arbitrable as long as the grievance does not challenge the employer's prerogative to make a promotional decision.

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P.E.R.C. NO. 2005-67

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BELMAR,

Public Employer,

-and-

Docket No. SN-2005-056

BELMAR POLICEMEN'S BENEVOLENT
ASSOCIATION, LOCAL NO. 50,

Employee Representative.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of a proposal made by the Borough of Belmar for inclusion in a successor collective negotiations agreement with Belmar Policemen's Benevolent Association, Local No. 50. The proposal concerns employment contributions for dependent coverage under the State Health Benefits Plan. During interest arbitration proceedings, a dispute arose as to whether the interest arbitrator could issue a finding concerning the Borough's proposal. The interest arbitrator referred the dispute to the Commission as a scope of negotiations issue. The Commission concludes that the proposal as written may not be submitted to interest arbitration because the language does not contain a contingency provision that addresses the uniformity concerns of N.J.S.A. 34:13A-18.

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P.E.R.C. NO. 2005-68

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF EMERSON,

Petitioner,

-and-

Docket No. SN-2005-044

EMERSON P.B.A. LOCAL 206,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of a proposal made by Emerson P.B.A. Local 206 for inclusion in a successor collective negotiations agreement with the Borough of Emerson. The proposal seeks paid health benefits for current employees when they retire. The Commission holds that interest arbitrators may consider union or management proposals that seek to change, for the negotiations unit involved in the proceeding, a non-SHBP employer's payment obligation with respect to retiree health insurance premiums. The Commission holds that unions or employers may also continue to propose changes that are contingent on the same changes being effected for other units, but such "contingency" clauses are no longer a precondition for negotiability or consideration by interest arbitrators. The Commission stresses that this holding is grounded in its interpretation of the phrase "uniform conditions" in N.J.S.A. 40A:10-23. Where a health benefit (or other) scheme requires identical treatment for all employees, the contingency option is required.

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P.E.R.C. NO. 2005-69

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BERNARDSVILLE,

Petitioner,

-and-

Docket No. SN-2005-060

BERNARDSVILLE P.B.A. LOCAL NO. 365,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a scope of negotiations petition filed by the Borough of Bernardsville seeking a negotiability determination concerning a directive issued by the police chief to sergeants and lieutenants represented by Bernardsville P.B.A. Local No. 365. The Commission has previously declined to exercise its scope of negotiations jurisdiction in this matter absent a demand for arbitration or a dispute during collective negotiations. Borough of Bernardsville, P.E.R.C. No. 2004-67, 30 NJPER 135 (¶52 2004), recon. den. P.E.R.C. No. 2004-82, 30 NJPER 230 (¶85 2004). The Commission now holds that while the parties are in negotiations, there is no contract proposal in dispute for it to consider in this proceeding and no basis for issuing a scope of negotiations determination. The Commission reiterates that the Borough's position that it acted pursuant to a managerial prerogative can be addressed through a pending unfair practice proceeding.

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