

P.E.R.C. NO. 2006-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,
OFFICE OF THE PUBLIC DEFENDER,

Respondent,

-and-

Docket No. CO-2004-252

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO, LOCAL 1037,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for summary judgment filed by the State of New Jersey, Office of the Public Defender, and a cross-motion for summary judgment filed by the Communications Workers of America, Local 1037. CWA filed an unfair practice charge alleging that the State violated the New Jersey Employer-Employee Relations Act when the Public Defender terminated an attorney assistant in retaliation for engaging in protected activity - specifically, raising a health and safety issue in an October 1, 2003 e-mail to management. The State moved for summary judgment contending that the attorney assistant's actions were solely on her own behalf and did not constitute protected activity. Assuming the truth of the evidence presented by CWA and viewing the evidence in the light most favorable to it, the Commission concludes that CWA has presented sufficient evidence from which a reasonable factfinder could determine that the e-mail constituted protected activity and that the attorney assistant was terminated in retaliation for that activity. The matter will proceed to hearing.

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. 2006-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF JACKSON,

Respondent,

-and-

Docket No. CO-2003-065

JACKSON TOWNSHIP PBA LOCAL 168,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Township of Jackson violated the New Jersey Employer-Employee Relations Act when it relieved the President of Jackson Township PBA Local 68 of his Range Master and Extra Duty Coordinator duties and took away his take-home vehicle in retaliation for comments he made as PBA president at an August 12, 2002 Township Committee meeting. The Commission concludes that the president's activity was protected by the Act. The Commission orders the Township to reinstate the president's Range Master and Extra Duty Coordinator Designee duties, return his take-home vehicle, and make him whole for the one hour a month of compensatory time lost and any other losses suffered from the removal of his duties and removal of his take-home car. The Commission dismisses allegations in the unfair practice Complaint concerning the PBA vice-president.

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P.E.R.C. NO. 2006-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TURNPIKE AUTHORITY,

Petitioner,

-and-

Docket No. SN-2005-067

NEW JERSEY TURNPIKE SUPERVISORS
ASSOCIATION, IFPTE LOCAL 200,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the New Jersey Turnpike Authority for a restraint of binding arbitration of a grievance filed by the New Jersey Turnpike Supervisors Association, IFPTE Local 200. The grievance asserts that the Authority prematurely terminated the retiree health benefits of a supervisor who had retired during the term of the parties' 1995 to 1999 collective negotiations agreement. The Association claims that the agreement under which the grievant retired requires the employer to provide health benefits until he turns 71 and the employer claims that the agreement permitted it to terminate benefits after he turned 70. The Commission holds that this contractual dispute is legally arbitrable.

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P.E.R.C. NO. 2006-14

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ORANGE TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2005-069

ORANGE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies 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 school nurse's salary increment. The Commission concludes that this increment withholding was triggered by the nurse calling the police; behavior the principal believed to be outside her area of responsibility. The Commission therefore cannot conclude that the alleged misconduct predominately involves the performance of nursing duties reserved by education law statutes to certificated nurses. The Commission concludes that under the circumstances this withholding may be reviewed by an arbitrator.

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P.E.R.C. NO. 2006-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF SPRINGFIELD,

Petitioner,

-and-

Docket No. SN-2005-078

SPRINGFIELD SUPERIOR OFFICERS
ASSOCIATION, P.B.A. LOCAL 76A,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Springfield for a restraint of binding arbitration of a grievance filed by a sergeant represented by the Springfield Superior Officers Association, P.B.A. Local 76A. The grievance asserts that the Township violated a provision in the parties' collective negotiations agreement entitling sergeants to higher pay when they are assigned the work of lieutenants. The Commission concludes that there is a severable compensation claim that the sergeant is in fact performing the duties of a lieutenant and should be paid accordingly. The Commission holds that the Township may argue to the arbitrator that the sergeant is in fact performing duties normally assigned to sergeants and not distinctively assigned to lieutenants.

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P.E.R.C. NO. 2006-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOARD OF EDUCATION OF THE
CHATHAMS SCHOOL DISTRICT,

Petitioner,

-and-

Docket No. SN-2005-092

ASSOCIATION OF CHATHAM
TEACHERS AND SECRETARIES,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Board of Education of the Chathams School District for a restraint of binding arbitration of a grievance filed by the Association of Chatham Teachers and Secretaries. The grievance alleges that the Board violated the parties' collective negotiations agreement by not granting the full amount of paid child-bearing leaves requested by two teachers. The Commission concludes that the school laws governing paid sick leave eliminate the Board's discretion to grant the full amount of paid sick leave days requested. The Commission grants a restraint over the claims for paid unverified sick leave beyond the 30-day presumptive period of disability after childbirth.

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P.E.R.C. NO. 2006-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF WEST NEW YORK,

Petitioner,

-and-

Docket No. SN-2005-075

P.B.A. LOCAL 361,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Town of West New York for a restraint of binding arbitration sought by P.B.A. Local 361. The PBA alleges that the Town violated the parties' collective negotiations agreement by assigning Urban Enterprise Zone (UEZ) police officers to perform work not covered by UEZ grants and by unilaterally changing work hours to avoid paying overtime to unit members. The Commission grants a restraint to the extent the grievance challenges the assignment of Urban Enterprise Zone officers to an August 6, 2004 paving project during their regular work hours. The Commission denies a restraint to the extent the grievance challenges the allocation of the paving detail work to those officers on an overtime basis.

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P.E.R.C. NO. 2006-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF ROSELLE PARK,

Petitioner,

-and-

Docket No. SN-2005-076

INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA,
LOCAL 260,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough of Roselle Park for a restraint of binding arbitration of a grievance filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, Local 260. The grievance asserts that a police records clerk was unjustly transferred from the Records Room to the Borough library. The Commission concludes that this grievance challenges the Borough's non-negotiable managerial prerogative to reassign personnel to a different position in order to deliver its services without disruption and in the manner it deems most efficient and is therefore not legally arbitrable.

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P.E.R.C. NO. 2006-19

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF VINELAND,

Petitioner,

-and-

Docket No. SN-2005-079

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 210,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Vineland for a restraint of binding arbitration of a grievance filed by the International Brotherhood of Electrical Workers, Local 210. The grievance alleges that the City violated the parties' collective negotiations agreement concerning promotional job postings and appointments when it appointed a candidate from outside the Electric Utility to a provisional position as Secretarial Assistant. The Commission holds that, in general, a public employer has a right to fill vacancies from among all available candidates, although procedurally it may agree to consider current employees before considering non-employees. However, the Commission concludes that the IBEW's argument that the candidate should not have been considered because she did not come from within the Electric Utility would significantly interfere with the employer's prerogative to consider candidates from both within and without the Department and to select the person it believe best qualified for the position.

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P.E.R.C. NO. 2006-20

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF FRANKLIN,

Petitioner,

-and-

Docket No. SN-2005-088

FOP LODGE 57,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough of Franklin for a restraint of binding arbitration of a grievance filed by FOP Lodge 57. The grievance asserts that a memorandum issued on August 31, 2004 is an improper administration of the work schedule contained in the parties' agreement. The Commission concludes that the Borough has shown a governmental policy basis for establishing a hybrid rather than a rotating work schedule.

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P.E.R.C. NO. 2006-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY COLLEGE,

Petitioner,

-and-

Docket No. SN-2005-090

IUE/CWA LOCAL 81440,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of Camden County College for a restraint of binding arbitration of a grievance filed by IUE/CWA Local 81440. The grievance contests the decision to expand the area patrolled by campus security officers to off-campus locations as part of a Downtown Crime Watch Initiative. The Commission concludes that a public employer has a managerial prerogative to determine the types of services it will provide and to assign employees duties if they are incidental to or comprehended within an employee's job description and normal duties. However, the Commission finds that despite these prerogatives, employees may seek to negotiate for contractual protections against being required to assume duties outside their job titles and beyond their normal duties. The Commission holds that a grievance arbitrator can determine whether the parties' agreement contemplates current employees performing these duties under current employment conditions or whether the Union should have an opportunity to seek revision of the compensation/duties equation to account for the expanded duties.

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