

P.E.R.C. NO. 2007-11

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ELIZABETH,

Petitioner,

-and-

Docket No. SN-2006-078

ELIZABETH FIRE SUPERIOR OFFICERS  
ASSOCIATION, IAFF LOCAL 2040,  
AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Elizabeth for a restraint of binding arbitration of a grievance filed by the Elizabeth Fire Superior Officers Association, IAFF Local 2040, AFL-CIO. Local 2040 claims that the grievant should have been assigned as a Senior Captain and thus paid a stipend for the assignment. The Commission concludes that where receipt of additional compensation is directly tied to an assignment to a particular position, the dominant issue is the employer's non-negotiable prerogative to assign employees to meet the governmental policy goal of matching the best qualified employees to a particular job. The Commission holds that this prerogative trumps a claim that the assignment must be made based on seniority.

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. 2007-12

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2006-080

SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 617,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the City of Newark for a restraint of binding arbitration of a grievance filed by the Service Employees International Union, Local 617. The grievance asserts that the employer violated a contractual requirement that a disciplinary determination be rendered within 30 days. The Commission restrains arbitration to the extent SEIU seeks to arbitrate the merits of the employee's ten-day suspension. However, the Commission holds that, based on the particular facts of this dispute, arbitration of SEIU's claim that the City violated contractual procedures relating to when disciplinary determinations have to be made would not significantly interfere with the City's ability to investigate and impose discipline. The Commission also concludes that arbitration would not intrude on the exclusive jurisdiction of the Merit System Board to review the merits of the ten-day suspension.

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P.E.R.C. NO. 2007-13

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX/  
ESSEX COUNTY PROSECUTOR,

Petitioner,

-and-

Docket No. SN-2006-085

P.B.A. LOCAL 325,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of two proposals made by P.B.A. Local 325 during successor contract negotiations with the County of Essex/Essex County Prosecutor. The County/Prosecutor asserts that a proposal concerning initial salary guide placement for new investigators and a proposal to create a Senior Investigator/Detective position are not mandatorily negotiable. The Commission concludes that initial salary guide placement is mandatorily negotiable. The Commission also concludes that a public employer has a managerial prerogative to establish a new job title and to determine what duties will be performed by the employees holding that title and that the PBA's second proposal intrudes on that prerogative.

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P.E.R.C. NO. 2007-14

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WASHINGTON TOWNSHIP BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2006-088

WASHINGTON TOWNSHIP EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Washington Township Board of Education for a restraint of binding arbitration of a grievance filed by the Washington Township Education Association. The grievance asserts that the Board violated its contractual commitment to ensure safe working conditions when it assigned "greeter duty" to teachers and secretaries. The Commission recognizes the Board's position that this dispute predominantly involves a challenge to the its decision to assign teachers to duties it asserts are related to the safety and well being of students and that a school board has a prerogative to regularly assign duties to teachers so long as the duties are incidental to their primary responsibilities. However, the Board's contention more properly concerns the question of what remedy might be appropriate if the arbitrator found a violation of the contract's safety provision. The Commission does not speculate about the propriety of particular remedies before arbitration over a mandatorily negotiable subject; instead parties may challenge arbitral remedies through post-arbitration proceedings. The Commission will permit the Board to re-file its petition should the arbitrator issue an award that the Board believes will significantly interfere with its managerial prerogatives.

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P.E.R.C. NO. 2007-15

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT CORPORATION,

Petitioner,

-and-

Docket No. SN-2006-090

P.B.A. LOCAL 304,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the New Jersey Transit Corporation for a restraint of binding arbitration of a grievance filed by P.B.A. Local 304. The grievance alleges that NJT violated the parties' collective negotiations agreement by temporarily denying two police officers their previous positions upon their return from injury and illness leaves. The Commission holds that public employers have a non-negotiable managerial prerogative to require employees to be tested for fitness before they are allowed to return to work. The Commission therefore restrains arbitration over the claim that the police officers should have been returned to their previous positions before they completed their firearms re-qualifications.

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P.E.R.C. NO. 2007-16

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ELIZABETH,

Petitioner,

-and-

Docket No. SN-2006-092

P.B.A. LOCAL NO. 4,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the City of Elizabeth for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 4. The grievance asserts that the City violated the parties' collective negotiations agreement when it transferred two police officers from the detective division to the patrol division and reduced their pay accordingly. The Commission grants the request to the extent the grievance contests the substantive decisions to transfer officers from the detective to patrol division and seeks their reinstatement as detectives and the return of their detective shields. The Commission denies the request over the claims that the police director told the officers that he was disciplining them but did not tell them why or give them an opportunity to defend themselves; and that the City failed to notify the PBA when a unit member was served with disciplinary charges. These are mandatorily negotiable procedural issues that may be considered by an arbitrator independent of the substantive decision to transfer the officers. The Commission also denies the request over the claim that the officers were contractually entitled to continue to receive their pre-transfer pay.

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P.E.R.C. NO. 2007-17

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

DUMONT BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2007-001

DUMONT EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Dumont Board of Education for a restraint of binding arbitration of a grievance filed by the Dumont Education Association. The grievance contests the withholding of a teacher's salary increment. The Board stated that this increment withholding was based on the teacher's need to improve classroom management skills and student disciplinary procedures. The Commission concludes that the withholding relates predominately to the evaluation of teaching performance and any review must be before the Commissioner of Education.

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P.E.R.C. NO. 2007-18

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MIDDLETOWN,

Respondent,

-and-

Docket No. CO-2005-226

PBA LOCAL 124,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Township of Middletown violated the New Jersey Employer-Employee Relations Act by failing to negotiate with PBA Local 124 over the elimination of a reasonable period of shape-up or travel time for patrol officers called in for emergent or immediate overtime. The PBA had filed an unfair practice charge alleging that the Township violated the Act by eliminating the shape-up or travel time and by failing to implement the police chief's determination sustaining a PBA grievance challenging a change in that practice. The Commission orders the Township to negotiate with the Association over the elimination of this practice, restore the practice of compensating patrol officers for a reasonable period of shape-up or travel time, not to exceed one hour, when called for emergent or immediate overtime, make whole any officer who was denied a reasonable period of shape-up or overtime for emergent or immediate overtime, and post a notice of its violations. The Commission dismisses the allegation that the Township violated the Act by not complying with the police chief's grievance determination.

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P.E.R.C. NO. 2007-19

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2005-073

CAMDEN EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Camden Board of Education violated the New Jersey Employer-Employee Relations Act by threatening to transfer a Camden Education Association representative for speaking out about terms and conditions of employment at a public Board meeting; threatening Association representatives if they continued their alignment in Association activities; threatening and reprimanding an Association representative for asking unit employees about terms and conditions of employment; ordering the removal of Association bulletin board postings; discouraging an Association representative performing Association-sponsored poll monitoring during lunch period; and recommending the transfer of two Association representatives based in part on documents they authored to protest terms and conditions of employment. The Commission orders the Board to cease and desist from reprimanding an Association representative for checking on a unit employee regarding a term and condition of employment; reprimanding an Association representative in her year-end performance evaluation for engaging in union activities; and transferring two Association representative from Davis Elementary School to other schools. The Board is ordered to remove reprimands from performance reports and personnel files, relocate the bulletin board postings, transfers the teachers back to the Davis Elementary School, and post a notice of its violations. The Commission adopts a Hearing Examiner's recommendation dismissing the allegations involving a third Association representative.

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P.E.R.C. NO. 2007-20

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CARTERET BOROUGH BOARD OF EDUCATION,

Respondent,

-and-

Docket No. TO-2006-002

CARTERET EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses a petition for contested transfer determination filed by the Carteret Education Association. The Association alleges that the Carteret Borough Board of Education transferred a maintenance employee from the day shift to an afternoon/evening shift as discipline for allegedly harassing a teacher. N.J.S.A. 34:13A-25 prohibits transfers of school board employees between work sites for disciplinary reasons. The Commission holds that this case involves a change of shifts, not a transfer between work sites.

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P.E.R.C. NO. 2007-21

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WEST ORANGE,

Respondent,

-and-

Docket No. CO-2005-230

PBA LOCAL NO. 25,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Township of West Orange's motion for summary judgment on an unfair practice charge filed by PBA Local No. 25. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4a(1), (2), (3), (5) and (7), when it unilaterally assigned police officers the responsibility to fuel their patrol cars. The Commission concludes that the Township has not met its burden of proving that it is entitled to relief as a matter of law and denies summary judgment. The case must proceed to a plenary hearing where the burden will be on the PBA to prove that the disputed duties are not incidental to or contemplated within a police officer's job description and normal duties.

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