

P.E.R.C. NO. 2010-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY ADMINISTRATIVE OFFICE
OF THE COURTS,

Respondent,

-and-

Docket No. CO-2006-148

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses an unfair practice charge filed by the Communications Workers of America, AFL-CIO against the State of New Jersey Administrative Office of the Courts. The charge alleges that the AOC violated the Employer-Employee Relations Act when it unilaterally implemented a program requiring freelance interpreters (FLIs) to sign professional service agreements (PSAs) which eliminated the possibility that the FLIs could become members of the collective negotiations unit currently representing FLIs that worked more than 288 hours. A Hearing Examiner recommended that the Commission find a violation of the Act. The Commission finds that FLIs that signed PSAs are independent contractors and therefore not public employees covered by the Act.

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. 2010-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WEST PATERSON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2007-255

WEST PATERSON EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts, with modification, a Hearing Examiner's recommended decision that the West Paterson Board of Education violated the Employer-Employee Relations Act when it refused to grant discretionary time off to custodians and secretaries in retaliation for the West Paterson Education Association's filing of grievances and the rejection of the superintendent's proposal to alter terms and conditions of employment.

The Board filed exceptions to the Hearing Examiner's report alleging various mistakes of fact and conclusions of law. The Association filed cross-exceptions regarding the Hearing Examiner's dismissal of the allegation that an employee was transferred in retaliation for testifying in the case and that the Hearing Examiner should have awarded monetary damages.

The Commission finds that the Board violated the Act when the superintendent: issued memorandum refusing to grant secretaries and custodians discretionary time off; refusing to grant secretaries early release time before holidays after the filing of a grievance over Thanksgiving release time; refusing to give extra tasks for custodians to perform in November 2006 in order to get discretionary time off during the Christmas break after the filing of a mail-run grievance; and insisting that custodians work the Christmas holiday, discretionary time they previously had off, after the Association rejected his proposal that they work in-service days that they were contractually entitled to as time off. The Commission rejects the Association's cross-exceptions.

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P.E.R.C. NO. 2010-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL FIRE & RESCUE,

Petitioner,

-and-

Docket No. SN-2009-024

NORTH HUDSON FIREFIGHTERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the North Hudson Regional Fire and Rescue for a restraint of binding arbitration of a grievance filed by the North Hudson Firefighters Association. The grievance challenges the unilateral implementation of a work rule prohibiting employees from using any recording devices while on duty. The Commission finds that, on balance, the Regional has identified specific concerns as opposed to the speculative concerns of the Association that establish that negotiations over the policy would substantially limit its policy making power.

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P.E.R.C. NO. 2010-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF EDISON,

Petitioner,

-and-

Docket No. SN-2009-041

POLICEMEN'S BENEVOLENT ASSOCIATION,
LOCAL #75, INC.,

Respondent.

In the Matter of

TOWNSHIP OF EDISON,

Petitioner,

-and-

Docket No. SN-2009-055

EDISON PBA LOCAL NO. 75 (SUPERIORS),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Edison for restraints of binding arbitration of grievances filed by the Policemen's Benevolent Association, Local No. 75, Inc. and the Edison PBA Local 75 (Superiors). The grievances challenge the establishment of an early evening shift. The Commission finds that there are facts in dispute regarding the motivation for the creation of the new shift that the arbitrator can decide. The Commission further finds that the portion of the grievance concerning a violation of negotiated procedures for the creation of a new work schedule is legally arbitrable. The Commission retains jurisdiction over the direct challenge to the creation of the early evening shift and permits the Township to reactivate its petition within 30 days should the arbitrator find a contractual violation and the Township believe the remedy would substantially limit its policymaking powers.

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P.E.R.C. NO. 2010-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MARLBORO TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2009-043

MARLBORO TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Marlboro Township Board of Education for a restraint of binding arbitration of a grievance filed by the Marlboro Township Education Association. The grievance contests the withholding of a teaching staff member's employment and adjustment increments. The Board based the withholding on a teacher's reference to a student as "Squirrel Boy". Because the withholding is based predominately on an evaluation of teaching performance, the Commission restrains binding arbitration.

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P.E.R.C. NO. 2010-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WYCKOFF,

Petitioner,

-and-

Docket No. SN-2009-062

PBA LOCAL 261,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Township of Wyckoff's petition for a scope of negotiations determination that PBA Local 261 may not submit a proposal for a 12-hour work schedule to interest arbitration. The Commission finds the PBA has not submitted a proposal for a 12-hour work schedule in interest arbitration and that the disputed work schedule issue listed on the PBA's interest arbitration petition involves a mandatorily negotiable subject. Should the PBA submit a final offer that includes a 12-hour work schedule, the Township may reactivate its petition and supplement its submissions with the details of the proposal.

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P.E.R.C. NO. 2010-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OCEAN COUNTY UTILITIES AUTHORITY,

Petitioner,

-and-

Docket No. SN-2009-069

PAPER, ALLIED-INDUSTRIAL, CHEMICAL
AND ENERGY WORKERS INTERNATIONAL UNION,
AFL-CIO LOCAL 1-149, A/K/A UNITED
STEELWORKERS, LOCAL 4-149,

Respondent.

SYNOPSIS

The Public Employment Relations Commission finds a grievance to not be legally arbitrable. An arbitrator sustained a grievance filed by Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO Local 1-149, a/k/a United Steelworkers, Local 4-149. A Superior Court Judge issued an Order remanding the dispute to the Commission for a scope of negotiations determination. The grievance challenges a promotion denial. The Commission holds that challenges to the exercise of the prerogative to promote are not legally arbitrable. A claim that a promotion decision was unconstitutionally motivated does not transform a non-negotiable promotion decision into a negotiable and arbitrable one.

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P.E.R.C. NO. 2010-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HARDYSTON TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2009-070

HARDYSTON TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Hardyston Township Board of Education for a restraint of binding arbitration of a grievance filed by the Hardyston Township Education Association. The grievance contests a change in the negotiated mileage reimbursement rate in the parties' agreement. The Commission finds that the grievance is not legally arbitrable because it is preempted by State statute and regulation regarding mileage reimbursement for school districts.

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P.E.R.C. NO. 2010-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ROCKAWAY BOROUGH BOARD OF EDUCATION,

Respondent,

-and-

Docket No. SN-2010-002

ROCKAWAY BOROUGH EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

Pursuant to a Court Order, the Public Employment Relations Commission finds an arbitration award to be legally arbitrable. In that award, the arbitrator sustained a grievance filed by the Rockaway Borough Education Association against the Rockaway Borough Board of Education. The arbitrator found that the Board violated Article XIV A.1 of the parties' collective negotiations agreement by failing to provide medical benefits to the Association's members at the level in effect on January 1, 2007. As a remedy, the arbitrator directed the Board to reimburse employees who submit evidence that their medical expenses exceeded the amount they would have been if the level of benefits had not been changed from the level in effect on January 1, 2007. The arbitrator retained jurisdiction regarding the implementation of the remedy. The Commission finds the grievance was legally arbitrable. The arbitrator had the legal authority to decide the contractual level of benefits and whether that benefit level was breached. The arbitration award is not preempted by statute or regulation. The question of whether a school board can reimburse employees for differences between the contractual level of benefits and the level of benefits set by the School Employees Health Benefits Commission (SEHBC) is a question for the SEHBC.

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P.E.R.C. NO. 2010-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF HOPEWELL,

Respondent,

-and-

Docket No. CO-2008-323

PBA LOCAL 342,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants the PBA Local 342's motion for summary judgment and denies the Township's cross-motion in an unfair practice case filed by the PBA. The PBA alleges the Township violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it changed procedures for requesting annual or compensatory leave time. The Commission finds that the Township unilaterally changed terms and conditions of employment during interest arbitration proceedings by adding new conditions on last-minute leave requests. The Commission notes that the parties' agreement still requires approval for leave requests and the Township has a managerial prerogative to deny requests that would prevent it from meeting its minimum staffing levels.

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P.E.R.C. NO. 2010-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FRATERNAL ORDER OF POLICE,
NEWARK LODGE NO. 12,

Charging Party,

-and-

Docket No. CO-2008-339

CITY OF NEWARK,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the Fraternal Order of Police, Newark Lodge No. 12's cross-motion for summary judgment and denies the City of Newark's motion for summary judgment in an unfair practice case filed by the FOP alleging that the City violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it failed to provide either complete or timely responses to ten information requests made with regard to the processing of grievances. The Commission denies the parties' cross-motions on eight of the requests. The Commission grants the FOP's cross-motion on two of the information requests finding that three and four month delays in supplying information is not reasonably prompt.

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