

P.E.R.C. NO. 97-129

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BAYONNE BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-96-24

BAYONNE TEACHERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Bayonne Board of Education. The Complaint, based on an unfair practice charge and amended charge filed by the Bayonne Teachers Association, alleges that the Board violated the New Jersey Employer-Employee Relations Act when it assigned the Association president to teach basic skills mathematics classes, allegedly in retaliation for his exercise of protected rights and when it unilaterally established salaries for three extracurricular positions. Absent any exception to a Hearing Examiner's conclusion that the assignment to basic skills classes did not violate the Act, the Commission dismisses that portion of the Complaint. The Commission also dismisses the allegation that the Board did not negotiate salaries for three extracurricular positions where the positions have existed for many years and the Association had not previously asserted that it represented the extracurricular positions.

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. 97-130

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC COUNTY VOCATIONAL AND
TECHNICAL SCHOOL BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CI-97-32

RUFUS McCOMBS,

Charging Party,

NEW JERSEY EDUCATION ASSOCIATION,

Respondent,

-and-

Docket No. CI-97-33

RUFUS McCOMBS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains a refusal to issue Complaints on unfair practice charges and amended charges filed by Rufus McCombs against the Passaic County Vocational and Technical Board of Education and the New Jersey Education Association. The charges allege that the Board and the NJEA violated the New Jersey Employer-Employee Relations Act by airing disciplinary problems at an April 1995 public Board meeting, thereby waiving the rights of custodians to confidentiality. The Commission finds the charges to have been untimely filed and that, even granting the charging party every reasonable inference, it

cannot find that he was prevented from filing a charge for more than a year.

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P.E.R.C. NO. 97-131

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MATAWAN-ABERDEEN REGIONAL SCHOOL
DISTRICT BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-37

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 74, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Matawan-Aberdeen Regional School District Board of Education for a restraint of binding arbitration of a grievance filed by the Service Employees International Union, Local 74. The grievance asserts that the Board violated an alleged agreement to observe seniority in making reassignments resulting from a reduction in force. The Commission finds that this case involves a transfer decision and was therefore an exercise of the Board's managerial prerogative.

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P.E.R.C. NO. 97-132

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ATLANTIC CITY,

Petitioner,

-and-

Docket No. SN-97-29

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS, LOCAL 198,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Atlantic City for a restraint of binding arbitration of a grievance filed by the International Association of Fire Fighters, Local 198. The grievance alleges that the City violated the parties' collective negotiations agreement when it appointed deputy fire chief John Bereheiko to the position of acting fire chief without rotating the assignment among qualified senior personnel. The Commission finds that the City has determined that the deputy fire chief is the most qualified individual to fill the position of acting fire chief and an arbitrator cannot second-guess that judgment.

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P.E.R.C. NO. 97-133

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WEST WINDSOR-PLAINSBORO REGIONAL
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-43

WEST WINDSOR-PLAINSBORO
SERVICE ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of language in an expired collective negotiations agreement between the West Windsor-Plainsboro Regional Board of Education and the West Windsor-Plainsboro Service Association. The first portion of the disputed language requires that involuntary transfers or reassignments of custodians be made based on length of service. The Commission finds that this portion addresses transfer criteria and is not mandatorily negotiable. The second portion of the disputed language provides that if the least senior custodian objects, the transfer or reassignment shall be made only after a meeting with the least senior custodian and the Principal and Supervisor of Buildings and Grounds. The Commission finds that this portion is mandatorily negotiable except to the extent, if any, it requires that the least senior custodian be transferred or reassigned.

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P.E.R.C. NO. 97-134

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MOONACHIE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-96-100

MOONACHIE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Moonachie Board of Education for a restraint of binding arbitration of a grievance filed by the Moonachie Education Association. The grievance asserts, in part, that the Board violated the parties' collective negotiations agreement by failing to recredit an employee with sick leave for absences covered by a 1982 workers' compensation claim and by denying the employee extended sick leave benefits. Cases interpreting N.J.S.A. 18A:30-6 have required that extended sick leave determinations be based on a school board's consideration of individual circumstances, not on an application of a negotiated rule. The Commission finds, given this case law, that this claim for extended sick leave is not enforceable through binding arbitration.

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P.E.R.C. NO. 97-135

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GLOUCESTER TOWNSHIP MUNICIPAL
UTILITIES AUTHORITY,

Petitioner,

-and-

Docket No. SN-97-82

TEAMSTERS UNION LOCAL 500,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Gloucester Township Municipal Utilities Authority for a restraint of binding arbitration of a grievance filed by Teamsters Union Local 500. The grievance asserts that the Authority violated the parties' collective negotiations agreement when it discharged a recycling operator. The Commission finds that civil service laws preempt binding arbitration of this discharge.

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P.E.R.C. NO. 97-136

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DEPARTMENT OF HUMAN SERVICES),

Respondent,

-and-

Docket No. CO-H-96-8

COMMUNICATIONS WORKERS OF AMERICA,

Charging Party.

STATE OF NEW JERSEY
(DEPARTMENT OF HUMAN SERVICES),

Petitioner,

-and-

Docket No. SN-97-11

COMMUNICATIONS WORKERS OF AMERICA,

Respondent.

SYNOPSIS

The Public Employment Relations Commission reaffirms its rulings after granting the State of New Jersey's request for reconsideration of P.E.R.C. No. 97-106. In that case the Commission declined to restrain arbitration over a grievance alleging a practice of automatically advancing a teacher 2 to the higher title and pay grade of a teacher 1 after three years of satisfactory service. The Commission also deferred to arbitration a related allegation in an unfair practice charge. The State

requested reconsideration, asserting that the Commission's rulings are inconsistent with a recent Appellate Division decision. After consideration of whether that decision warranted changing its previous rulings, the Commission reaffirms its earlier rulings.

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P.E.R.C. NO. 97-137

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CERTIFIED SHORTHAND REPORTERS
ASSOCIATION OF NEW JERSEY and
NEW JERSEY STATE JUDICIARY and
OPEIU, LOCAL 32,

Respondents,

-and-

Docket Nos. CI-96-24
CI-96-25
CI-96-26

JOANNE N. YUHASZ,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands for further processing certain sections of three unfair practice charges filed by Joanne N. Yuhasz against the Certified Shorthand Reporters Association of New Jersey, the New Jersey State Judiciary and OPEIU, Local 32. With respect to the charge against OPEIU, the Commission finds that at this stage of the proceedings it cannot find that the contract provides that the Association can terminate an employee-initiated grievance without consulting the employee. With respect to the charge against the Certified Shorthand Reporters Association, the Commission finds that the charging party's objection to the Director's finding that the Association has not been the her majority representative since June 1994 cannot be resolved without further proceedings. The Commission further finds that because the charges against OPEIU and the Certified Shorthand Reporters Association could lead to finding a violation of the Act by accepting the employer's step 2 grievance decision, the Commission cannot assume that the employer did not violate the Act by refusing to proceed with the charging party's appeal to step 3. The Commission

remands sections A through I of the charge against the Judiciary.

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P.E.R.C. NO. 97-138

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PERTH AMBOY,

Respondent,

-and-

Docket No. CO-H-95-13

PBA LOCAL 13,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the City of Perth Amboy. The Complaint, based on an unfair practice charge filed by PBA Local 13, alleges that the City violated the New Jersey Employer-Employee Relations Act by changing the company it uses to manage its workers' compensation plan. In particular, the PBA alleges that the City changed the established list of physicians, imposed pre-certification requirements, and increased travel to receive treatment. The Commission finds that the disputed aspects of the plan either were not changed or are preempted by workers' compensation statutes.

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P.E.R.C. NO. 97-139

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CHERRY HILL BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-95-91

CHERRY HILL EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Cherry Hill Township Board of Education for a restraint of binding arbitration of a grievance filed by the Cherry Hill Education Association. The grievance alleges that the Board violated the parties' collective negotiations agreement when, a year after withholding a school psychologist's employment and adjustment increments for alleged sexual harassment, it declined to place the psychologist on the step of the salary guide he would have occupied for the 1994-1995 school year if no withholding had occurred. The Commission finds that this withholding postdated the 1990 amendments to the New Jersey Employer-Employee Relations Act and appears to have been legally arbitrable under those amendments. However, nothing in the text or legislative history of the 1990 amendments suggests that the Legislature meant to go beyond addressing the forum for reviewing initial increment withholdings, to repeal the part of N.J.S.A. 18A:29-14 prohibiting the mandatory restoration of adjustment increments, or to overrule the prior case law holding mandatory restoration clauses non-negotiable. Nor do the facts of this case suggest that the refusal to restore the psychologist's "correct" place on the salary guide should be viewed as a new disciplinary action rather than the effect of the earlier, unchallenged employment decision.

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P.E.R.C. NO. 97-140

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HIGH BRIDGE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-95-101

HIGH BRIDGE TEACHERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission partially grants the request of the High Bridge Board of Education for a restraint of binding arbitration of a grievance filed by the High Bridge Teachers Association. The grievance asserts that the Board violated the parties' collective negotiations agreement when it unjustly discharged a non-tenured teacher before the school year ended. The Commission grants a restraint of binding arbitration to the extent the grievance seeks reinstatement of the teacher or monetary damages beyond the 1992-1993 school year. The Commission denies the request for a restraint to the extent the grievance seeks payment between May 21, 1993 and the end of the 1992-1993 school year based on the Association's claim that the Board retaliated against the teacher for filing a formal complaint.

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P.E.R.C. NO. 97-141

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEW BRUNSWICK,

Petitioner,

-and-

Docket No. SN-96-130

IAFF, SUPERIOR OFFICERS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of New Brunswick for a restraint of binding arbitration of a grievance filed by the IAFF, Superior Officers Association. The grievance asserts that the City violated the parties' collective negotiations agreement when it did not replace an absent negotiations unit employee with another unit employee at an overtime rate and instead used a non-unit employee at a premium rate. The Commission finds, applying the Supreme Court's negotiability tests, that these temporary assignments of public safety officers to replace absent superior officers are at least permissively negotiable.

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P.E.R.C. NO. 97-142

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MORRIS SCHOOL DISTRICT
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. SN-97-80

THE EDUCATION ASSOCIATION
OF MORRIS,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission restrains the Morris School District Board of Education from applying a factfinder's proposed caps on "Compensatory Pay At Retirement" to employees represented by the The Education of Morris who already have accumulated amounts in their retirement banks in excess of those caps. The Commission finds that the parties did not enter into the caps knowingly and that implementation of the caps would constitute an unlawful inducement to retire under Fair Lawn Ed. Ass'n v. Fair Lawn Bd. of Ed., 79 N.J. 574 (1979).

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