

P.E.R.C. NO. 98-46

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MIDDLESEX,

Appellant,

-and-

Docket No. IA-96-115

PBA LOCAL NO. 156,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award issued to resolve negotiations between the County of Middlesex and PBA Local No. 156. The County appealed the award contending that the arbitrator did not properly apply the statutory criteria. The County requests that the Commission vacate the award and remand the matter to another arbitrator for a new hearing. The County also appeals an interlocutory ruling of the arbitrator denying the County's request to submit additional issues.

The Commission concludes that the County has not demonstrated why N.J.A.C. 19:16-5.5(a) should be relaxed and denies its appeal of the arbitrator's interlocutory ruling denying the County's request to submit additional issues. The Commission further concludes that the arbitrator analyzed the evidence presented on the relevant statutory factors and reached conclusions that are supported by substantial credible evidence in the record. The Commission also concludes that the arbitrator gave due weight to each of these factors and decided the dispute based on a reasonable determination of the issues.

The Commission does not consider the County's position that, if the arbitrator properly applied the Reform Act, that

statute unconstitutionally delegates governmental powers. The Commission's jurisdiction is limited to reviewing the application of the criteria in N.J.S.A. 34:13A-16g and determining whether the arbitrator violated the standards in N.J.S.A. 2A:24-8 or N.J.S.A. 2A:24-9.

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. 98-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF NEWTON,

Respondent,

-and-

Docket No. IA-96-113

PBA LOCAL 138 SOA,

Appellant.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award issued to resolve contract negotiations between the Town of Newton and PBA Local 138 SOA. The SOA appealed the award contending that the arbitrator did not properly apply the statutory criteria and requesting that the award be vacated. The Commission concludes that the arbitrator analyzed the evidence presented on the relevant statutory factors and reached conclusions that are supported by substantial credible evidence in the record. The Commission also concludes that the arbitrator gave due weight to each of these factors and decided the dispute based on a reasonable determination of the issues.

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. 98-48

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MILLVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-66

MILLVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Millville Board of Education for a restraint of binding arbitration of a grievance filed by the Millville Education Association. The grievance contests the withholding of a teacher's salary increment for the 1996-97 school year. The Commission concludes that this withholding was predominately based on an evaluation of teaching performance and that any appeal shall be filed with the Commissioner of Education. The concerns raised in the teacher's professional improvement plan, classroom observation reports, annual evaluations, and meetings with the principal relate to ineffectiveness in teaching performance matters such as lesson plans, instructing students, and maintaining classroom discipline.

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. 98-49

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WASHINGTON BOROUGH BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-102

WASHINGTON BOROUGH EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Washington Borough Board of Education for a restraint of arbitration of a grievance filed by the Washington Borough Education Association. The grievance asserts that the Board withheld a teacher's salary increment without just cause and violated the parties' collective negotiations agreement when it failed to follow negotiated procedures before withholding the increment. The Commission concludes that allegations that a teacher uses a loud tone of voice and inappropriate language when dealing with young children in class predominately relate to teaching performance and thus must be reviewed by the Commissioner of Education. The Commission denies the request for a restraint of arbitration to the extent that the grievance alleges contractual violations relating to the procedures to be followed before an increment withholding.

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. 98-50

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

DENNIS TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-81

DENNIS TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Dennis Township Board of Education for a restraint of binding arbitration of a grievance filed by the Dennis Township Education Association. The grievance contests the withholding of a teacher's salary increment for the 1996-97 school year. The Commission concludes that this withholding involved allegations of poor classroom management of students and thus was predominately based on an evaluation of teaching performance. Any appeal shall be filed with the Commissioner of Education.

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. 98-51

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WILLINGBORO BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-7

WILLINGBORO EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Willingboro Board of Education for a restraint of binding arbitration of a grievance filed by the Willingboro Education Association. The grievance asserts that the Board withheld the 1996-1997 salary increments of three teachers without just cause. The Commission concludes that these increment withholdings may be reviewed through binding arbitration since the Board's reasons for withholding the increments involve allegations of alleged misconduct and insubordination while the teachers were acting as administrators and proctors. The reasons do not address any deficiencies in instruction or classroom management.

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. 98-52

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY (DEPARTMENT
OF TRANSPORTATION),

Petitioner,

-and-

Docket No. SN-97-84

COMMUNICATIONS WORKERS OF
AMERICA, LOCAL 1032, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the State of New Jersey (Department of Transportation) for a restraint of binding arbitration of a grievance filed by the Communications Workers of America, Local 1032, AFL-CIO. The grievance asserts that the State violated the parties' collective negotiations agreement and a Department of Personnel regulation by not paying a regional equipment supervisor overtime compensation for travel time to and from field locations beyond his normal commuting time to and from regional headquarters. The Commission finds that overtime compensation is a mandatorily negotiable subject unless a statute or regulation preempts negotiations. The Commission concludes that neither 29 U.S.C. §254(a) nor N.J.A.C. 4A:3-5.7(c)(1) preempts negotiations.

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. 98-54

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

AFSCME COUNCIL 52, LOCAL 2273,
& PASSAIC COUNTY (PREAKNESS HOSPITAL),

Respondents,

-and-

Docket Nos. CI-97-88
CI-97-89

DEBORAH M. SNOWDEN,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands unfair practice charges filed by Deborah M. Snowden against AFSCME, Council 52, Local 2273 and Passaic County (Preakness Hospital) to the Director of Unfair Practice for further processing. The Director refused to issue a Complaint finding that under the circumstances the allegations do not constitute an unfair practice within the meaning of the Act. The Commission is not prepared at this stage of the proceeding, given the Charging Party's factual allegations, to conclude that those allegations, if true, may not constitute unfair practices.

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. 98-55

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-90

RIDGEFIELD EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Ridgefield Board of Education for a restraint of binding arbitration of a grievance filed by the Ridgefield Education Association. The grievance contests a decision not to offer a secretary a new employment contract for the next school year. The Commission finds that, absent some claim of job security, this decision not to reemploy the secretary cannot be characterized as disciplinary and restrains arbitration. The Commission does not restrain arbitration over any procedural claims that the secretary did not receive a statement of reasons, an evaluation, or a meeting with the Board.

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. 98-56

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAPE MAY COUNTY PROSECUTOR,

Petitioner,

-and-

Docket No. SN-97-83

PBA LOCAL 59,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Cape May County Prosecutor for a restraint of binding arbitration of a grievance filed by PBA Local 59. The grievance alleges that the employer violated the parties' collective negotiations agreement when it terminated an Investigator. Under State v. State Troopers Fraternal Ass'n, 134 N.J. 383 (1993), terminations of police officers may not be submitted to binding arbitration. The Commission also notes that no disciplinary charges were brought against the investigator accusing him of misconduct and triggering a possible right to a hearing on those charges.

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. 98-57

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF LOWER,
Petitioner,

-and-

Docket No. SN-97-134

AFSCME, COUNCIL 71, LOCAL 3779,

Respondent.

TOWNSHIP OF LOWER,
Respondent,

-and-

Docket No. SN-97-135

TEAMSTERS LOCAL UNION 676,

Petitioner.

TOWNSHIP OF LOWER,
Respondent,

-and-

Docket No. SN-97-136

LOWER TOWNSHIP SUPERVISORS UNION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses scope of negotiations petitions filed by the Township of Lower. The Township seeks a ruling that provisions in collective negotiations agreements with AFSCME, Council 71, Local 3779; Teamsters Local Union 676; and the Lower Township Supervisors Union are illegal parity clauses and therefore unenforceable. The Commission finds no basis

for a scope of negotiations determination since there is no successor contract proposal in dispute between the Township and the respondent unions, no demand to arbitrate a grievance concerning this issue by any of these unions, nor any special circumstances warranting the exercise of the Commission's scope of negotiations jurisdiction. Should any of these unions seek to enforce the disputed provision through binding arbitration, the employer may seek a restraint of arbitration at that time.

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. 98-58

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF SAYREVILLE,

Petitioner,

-and-

Docket No. SN-97-98

SAYREVILLE PBA LOCAL 98,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough of Sayreville for a restraint of binding arbitration of a grievance filed by Sayreville PBA Local 98. The grievance alleges that the Borough violated the parties' collective negotiations agreement when a Borough-designated hearing officer rather than an arbitrator conducted a hearing on disciplinary charges. The question of who, under N.J.S.A. 40A:14-147, determines whether discipline will be imposed is different from the question of who, under N.J.S.A. 34:13A-5.3, reviews whether a disciplinary action, once imposed, was warranted. The Commission reiterates that an employer normally has a prerogative to decide who should conduct hearings required by N.J.S.A. 40A:14-147.

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. 98-59

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PERTH AMBOY BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-96

PERTH AMBOY FEDERATION OF
TEACHERS/AFT LOCAL 857, AFT, NJSFT,
AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Perth Amboy Board of Education for a restraint of binding arbitration of a grievance filed by the Perth Amboy Federation of Teachers/AFT Local 857, AFT, NJSFT, AFL-CIO. The grievance contests a memorandum stating that only vice-principals or principals can summon police to schools. The Commission finds that Board has a right to set a student discipline policy normally providing that only the vice-principal or principal can summon the police to a school, but the Federation may seek to negotiate over a narrow exception where a teacher's safety is threatened and immediate action is required. The restraint is granted except to the extent the grievance seeks negotiations over the issue of teacher safety.

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. 98-60

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FRANKFORD TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-96-351

FRANKFORD TOWNSHIP EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Frankford Board of Education violated the New Jersey Employer-Employee Relations Act when it unilaterally redefined "full-time employment" for purposes of determining employee eligibility for coverage under the State Health Benefits Plan. The Commission orders the Board to restore the status quo ante and make employees whole for any losses incurred.

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. 98-61

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SUSSEX COUNTY COMMUNITY COLLEGE,

Petitioner,

-and-

Docket No. SN-97-92

SUSSEX COUNTY COLLEGE FACULTY
FEDERATION, AFT, LOCAL 4780

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of Sussex County Community College for a restraint of binding arbitration of a grievance filed by the Sussex County College Faculty Federation, AFT, Local 4780. The grievance concerns promotions to the rank of associate professor. The Commission determines that the College has a prerogative to determine and apply promotional criteria and specifically has a prerogative to determine what types of experience constitute "relevant professional experience." Such determinations cannot be reviewed in binding arbitration. However, a restraint of arbitration is denied to the extent, if any, the grievance alleges that the College did not properly notify the faculty that the categories of teaching and work experience would not be considered as "relevant professional experience."

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. 98-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF OLD BRIDGE,

Petitioner,

-and-

Docket No. SN-97-115

SUPERIOR OFFICERS ASSOCIATION,
FRATERNAL ORDER OF POLICE, LODGE #22,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of a contract provision that the Superior Officers Association, Fraternal Order of Police, Lodge #22 seeks to include in a successor contract with the Township of Old Bridge. The Township seeks a ruling that the provision, which provides that all employees will be covered by long term disability insurance, is preempted by statute and not mandatorily negotiable. The Commission determines that N.J.S.A. 40A:14-154, which authorizes an employer to provide supplemental compensation to police officers disabled while in the performance of their duties, does not preempt negotiations over a proposal to have an employer purchase a group disability insurance policy for its employees. However, should the provision be retained in a successor agreement and should the FOP seek to require the Township to make direct payments to police officers, the provision must be applied within the limitations of N.J.S.A. 40A:14-154.

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.