

P.E.R.C. NO. 93-54

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC COUNTY COMMUNITY COLLEGE,

Respondent,

-and-

Docket No. CO-92-352

OPEIU, LOCAL 153,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the refusal of the Director of Unfair Practices to issue a Complaint based on an unfair practice charge filed by OPEIU, Local 153 against the Passaic County Community College. The charge alleged that the College unilaterally changed the pay rate of negotiations unit members. The Commission concludes that this dispute over negotiated salaries must be resolved through the negotiated grievance procedure.

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Appearances:

For the Respondent, Michael Yosifon, Vice President for
Business and Finance

For the Charging Party, Schneider, Goldberger, Cohen, Finn,
Solomon, Miceli, Leder & Montalbano, attorneys
(Bruce D. Leder, of counsel)

DECISION AND ORDER

On April 28, 1992, OPEIU, Local 153 filed an unfair
practice charge against Passaic County Community College. The
charge alleges that the College violated the New Jersey
Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.,
specifically subsections 5.4(a)(1) and (5),^{1/} when it unilaterally
changed the pay rate of negotiations unit members.

^{1/} These subsections prohibit public employers, their
representatives or agents from: "(1) Interfering with,
restraining or coercing employees in the exercise of the
rights guaranteed to them by this act. (5) Refusing to
negotiate in good faith with a majority representative of
employees in an appropriate unit concerning terms and
conditions of employment of employees in that unit, or
refusing to process grievances presented by the majority
representative."

On September 15, 1992, the Director of Unfair Practices refused to issue a Complaint. D.U.P. No. 93-8, 18 NJPER 464 (¶23209 1992). He found that in 1984, the College converted its payroll system from a semi-monthly to a bi-weekly system. At the time, the annual salary was divided by 260 work days to obtain a daily rate. The College continued to use the 260 day divisor even in fiscal years with 261 or 262 work days. The College discovered this fact in March 1992 and implemented a reduction in the bi-weekly rate prospectively, beginning April 9, 1992. The Director found that the College had a right to correct the divisor so that the annual salaries paid matched the annual salaries in the collective negotiations agreement.

On October 9, 1992, OPEIU appealed the Director's decision. It claims that the contract does not contain any specific wage rates, but simply sets forth salary ranges for various titles. It argues, therefore, that the employer's unilateral change is not contractually permissible and that the employer must negotiate before changing the past practice of using 260 as the divisor.

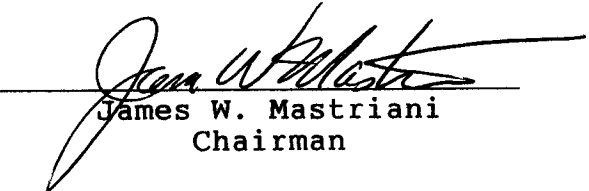
We sustain the refusal to issue a Complaint. The contract appendix setting "minimum/maximum salaries" does list titles under "salary ranges." But the "salary ranges" are not ranges at all. Instead the appendix lists specific rates for groups of titles while labelling them salary ranges. Whether employees are paid these rates, as set forth in the contract, or some other rate, it appears that the charge simply alleges that the College changed some

agreed-upon annual wage rate when it changed the divisor. We believe that this dispute over negotiated salaries must be resolved through the negotiated grievance procedure. State of New Jersey (Dept. of Human Services), P.E.R.C. No. 84-148, 10 NJPER 419 (¶15191 1984). We therefore sustain the refusal to issue a Complaint.

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Grandrimo, Regan, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: December 17, 1992
Trenton, New Jersey
ISSUED: December 18, 1992