

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION
AND
CIVIL SERVICE COMMISSION

In the Matter of

NADINE MOSEY, et al.,
Appellant,

-and-

OAL Dkt. No. CSV 00938-2015N
CSC Dkt. Nos. 2015-1008, et al.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent.

DUKES-SPRUILL, QUANIKA; PEREZ,
CARMEN and PONNA MANO,
Appellant,

-and-

OAL Dkt. No. CSV 00983-2015N
CSC Dkt. Nos. 2015-1101, et al.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent.

JOSE BERRIOS, et al.,
Appellant,

-and-

OAL Dkt. No. CSV 00984-2015N
CSC Dkt. Nos. 2015-626, et al.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent.

KARA MACK, et al.,
Appellant,

-and-

OAL Dkt. No. CSV 02868-2015N
CSC Dkt. Nos. 2015-2184, et al.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent.

NELLDEN HARPER, et al.,
Appellant,

-and-

OAL Dkt. No. CSV 02896-2015N
CSC Dkt. Nos. 2015-1942, et al.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent.

P.E.R.C. NO. 2017-11

DENISE CROOKHORN, et al.,
Appellant,

-and-

OAL Dkt. No. CSV 02890-2015N
CSC Dkt. Nos. 2015-1944, et al.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent.

NEWARK STATE OPERATED
SCHOOL DISTRICT,
Respondent,

-and-

PERC Docket No. CO-2015-050

NEWARK TEACHERS UNION, LOCAL 481,
AFT, AFL-CIO,
Charging Party.

NEWARK STATE OPERATED
SCHOOL DISTRICT ,
Respondent,

-and-

PERC Docket No. CO-2015-023

OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, LOCAL 32,
Charging Party.

SYNOPSIS

The Chair of the Public Employment Relations Commission (PERC) and Chairperson of the Civil Service Commission (CSC) issue a joint order remanding for further analysis an Order on Motion for Consolidation and Predominant Interest issued by an Administrative Law Judge.

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.

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NEWARK TEACHERS UNION, LOCAL 481,
AFT, AFL-CIO,
Charging Party.

Appearances:

For the Respondent, Scarinci Hollenbeck, (Ramon Rivera,
of counsel)

For the Appellants/Charging Party, Zazzali, Fagella,
Nowak, Kleinbaum & Freidman (Colin Lynch, of counsel)

P.E.R.C. NO. 2017-11

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SCHOOL DISTRICT ,
Respondent,

-and-

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OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, LOCAL 32,
Charging Party.

Appearances:

For the Respondent, Scarinci Hollenbeck, (Ramon Rivera,
of counsel)

For the Charging Party, Mets, Schiro & McGovern, LLP
(Kevin McGovern, of counsel)

DECISION

All of the above named appellants filed good faith layoff appeals with the Civil Service Commission ("CSC") from a determination by the Newark State Operated School District ("District") to terminate their employment. In addition, the Office and Professional Employees International Union, Local 32 and ("OPEIU") the Newark Teachers Union, Local 481, AFT, AFL-CIO ("NTU") filed unfair practice charges with the Public Employment Relations Commission ("PERC") alleging that the District violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et. seq., specifically N.J.S.A. 34:13A-5.4a (1), (2), (3), and

(5)^{1/} by transferring unit work to non-unit titles, and then laying off unit employees.

The CSC appeals were transferred to the Office of Administrative Law (OAL) before Jeffery Gerson, Administrative Law Judge ("ALJ"). Complaints were issued by PERC's Director of Unfair Practices on the unfair practice charges filed by the OPEIU and the NTU.

The District filed a motion to consolidate all of the CSC appeals with the PERC matters filed by the OPEIU and the NTU. On July 19, 2016, ALJ Gerson issued an Order on Motion for Consolidation and Predominant Interest, recommending that the CSC appeals be consolidated, but that the PERC matters not be consolidated with the CSC appeals. The ALJ also found that the CSC shall have the predominant interest.^{2/}

1/ These provisions 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. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. . . . [and] (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.

2/ It is unclear why a predominant interest determination was made inasmuch as the Order appears not to consolidate the PERC matters with the consolidated CSC appeals. If the
(continued...)

After reviewing the ALJ's Order, we remand it for further analysis on the following:

1) N.J.A.C. 1:1-17.3 (Standards for consolidation) sets forth six factors to be considered when making consolidation determinations. Analysis on these factors should be included in the Revised Order, specifically setting forth the reasoning supporting the consolidation determinations; and

2) If consolidation of the CSC appeals and the PERC matters is deemed appropriate, N.J.A.C. 1:1-17.5 (Multiple agency jurisdiction claims, standards for determining predominant interest) sets forth five factors to be considered when making a predominant interest determination. Analysis on these factors should be included in the Revised Order.

JOINT ORDER

The ALJ's Order on Consolidation and Predominant Interest is remanded for further analysis in accordance with the above directives.

CIVIL SERVICE COMMISSION

PUBLIC EMPLOYMENT RELATIONS COMMISSION

RMCzech

P. Kelly Hatfield

Robert M. Czech
Chairperson/C.E.O.

P. Kelly Hatfield
Chair

Date: 8/23/16

Date: 8/23/16

2/ (...continued)

ALJ's recommendation is that the PERC matters should be consolidated with the consolidated CSC appeals, that should be made clear through the analysis and recommendations provided in the Revised Order.