

CHAPTER 13

SCOPE OF NEGOTIATIONS PROCEEDINGS

Authority

Unless otherwise expressly noted, all provisions of this chapter were adopted pursuant to authority of N.J.S.A. 34:13A-11 and were filed and became effective prior to September 1, 1969. Revisions which deleted the text of this chapter in its entirety were filed and became effective on September 4, 1973, as R.1973 d.248. See: 5 N.J.R. 358(c). Subsequent revisions which adopted new text for this chapter were filed and became effective on January 20, 1975, as R.1975 d.10. See: 7 N.J.R. 78(a). Further revisions were filed and became effective on August 2, 1977, as R.1977 d.272. See: 9 N.J.R. 298(a), 9 N.J.R. 448(a).

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SUBCHAPTER 1. NATURE OF PROCEEDINGS

19:13-1.1 Nature of proceedings

N.J.S.A. 34:13A-5.4(d) provides that the commission shall at all times have the power and duty, upon the request of any public employer or exclusive representative, to make a determination as to whether a matter in dispute is within the scope of collective negotiations. With respect to the negotiability of a matter sought to be processed pursuant to a collectively negotiated grievance/arbitration procedure, the commission will not determine whether that matter is within the arbitration clause of an agreement, whether the facts are as alleged by the grievant, whether a contract provides a defense for the employer's alleged action, whether there is a valid arbitration clause in an agreement, or any other similar question. The procedure set forth in this chapter is intended to effectuate that which the commission views as legislative intent to avoid protracted administrative litigation with respect to disputes which normally will involve solely questions of law and policy. It is accordingly anticipated that

scope of negotiations proceedings will normally lend themselves to expeditious disposition on the basis of the parties' submissions, which the procedure set forth in this chapter is intended to accommodate.

Case Notes

Grievance procedures. *Twp. of West Windsor v. Public Employment Relations Commission*, 78 N.J. 98, 393 A.2d 255 (1978).

Public employee layoff procedure and effect of seniority not negotiable. *State v. State Supervisory Employees Assn.*, 78 N.J. 54, 393 A.2d 233 (1978).

Citation. *In re: Bryam Twp. Bd. of Ed.*, 152 N.J.Super. 12, 377 A.2d 745 (App.Div.1977).

PERC lacks authority to hear and decide unfair labor practice cases and issue affirmative remedial orders (under former statutory authorization). *Burlington County Evergreen Park Mental Hospital v. Cooper*, 56 N.J. 579, 267 A.2d 533 (1970).

SUBCHAPTER 2. INITIATION OF PROCEEDINGS

19:13-2.1 Who may file

Any public employer or recognized or certified public employee exclusive representative, either individually or jointly, may initiate scope of negotiation proceedings by filing with the commission an original and four copies of a petition for scope of negotiations determination, together with proof of service of a copy of such petition upon the other party to the collective negotiations relationship. A copy of each such petition filed shall be retained in a public docket until the case is closed.

19:13-2.2 Contents of petition for scope of negotiations determination¹

(a) A petition for scope of negotiations determination shall be in writing and signed, and either shall be sworn to before a person authorized by the laws of this State to administer oaths or shall contain the following dated certification immediately preceding the signature of the person or persons signing it: "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment." Such petition shall contain the following:

1. The full name, address and telephone number of the public employer who is a party to the collective negotiations relationship;
2. The full name, address and telephone number of the recognized or certified public employee exclusive representative who is a party to the collective negotiations relationship;