

I.R. NO. 98-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CLARK BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-98-145

CLARK FEDERATION OF TEACHERS,
LOCAL 3417, AFT, AFL-CIO,

Charging Party.

SYNOPSIS

A Commission Designee declines to grant interim relief in a matter brought by the Clark Federation of Teachers, Local 3417. The Federation contends that teachers employed by the Clark Board of Education are not being paid proper increments pursuant to the recently expired collective negotiations agreement. It appears that the dispute did not concern the payment of increments, per se, but rather concerns the initial placement of teachers, who recently transferred into the district, on the salary guide. The Board contends it is willing to negotiate initial guide placement.

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Appearances:

For the Respondent,
Kenney & Gross, attorneys
(Michael J. Gross, of counsel
Mark S. Tabenkin, on the brief)

For the Charging Party,
Rand, Algeier, Tosti & Woodruff, attorneys
(Russell J. Schumacher, of counsel)

INTERLOCUTORY DECISION

On October 30, 1997 and January 2, 1998, the Clark Federation of Teachers, Local 3417, AFT, AFL-CIO filed an unfair practice charge and amendment with the Public Employment Relations Commission alleging that the Clark Board of Education engaged in unfair practices within the meaning of N.J.S.A. 34:13A-5.4a(1) and (5).^{1/} It is alleged the Board recently took over operations of

^{1/} These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the

Clark High School which was formerly part of the Union County Regional High School District. Former employees of the Regional School District were hired by the Board and initially placed on the Clark salary guide.

The Board and the Federation are currently engaged in negotiations for a new agreement. Pending those negotiations, the teachers in question were due increments. It is alleged that these teachers are not being paid proper increments pursuant to the recently expired Clark collective negotiations agreement.

The Federation also filed an application for interim relief. The Order was executed and made returnable for January 23, 1998, at which time both parties introduced evidence and submitted documents.

At the hearing, the Board argued that this dispute centers on the placement of teachers on the existing salary guide. A decision of the Commissioner of Education (Jennifer Stagaard and AFT, Local 3417 v. Peter B. Contini, et al., C #546-98, aff'd State Board of Ed. SB #88-96) requires the Board, pursuant to N.J.S.A. 18A:13-64 to place teachers "on the salary guide of the constituent district at the step and level appropriate for their years of

1/ Footnote Continued From Previous Page

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."

service in the Regional District." The Board paid increments to the incoming teachers based upon initial salary placement on the Clark guide. The Board argues that the Clark salary guide and the old Regional salary guide do not mesh, for salary guides do not directly relate to years of service. Further, former Regional employees were hired at step(s) above the first step. The Board contends that if it mechanically placed all former Regional employees on the same numerical step on the Clark guide, certain individuals would have salary increases in excess of \$10,000. Accordingly, where discrepancies exist, the Board placed incoming teachers on the guide at a salary no less than their previous income. It maintains this is consistent with the Commissioner of Education's decision. It also acknowledges that guide placement is negotiable and is willing to negotiate its initial salary placements.

The Association does not dispute that this controversy originated with the new placements.

To obtain interim relief, the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or denying relief must be considered. Crowe v. De Gioia, 90 N.J. 126, 132-134 (1982); Whitmyer Bros., Inc. v. Doyle, 58 N.J. 25, 35 (1971); State of New Jersey (Stockton State College), P.E.R.C. No.

76-6, 1 NJPER 41 (1975); Little Egg Harbor Tp., P.E.R.C. No. 94, 1 NJPER 37 (1975).

I am not satisfied that the Federation met its heavy burden. The issue raised seems to center on the interpretation of Title 18A and a decision of the Commissioner of Education. Accordingly, this agency may not be the appropriate forum to hear this dispute. The Federation has failed to show that it has a substantial likelihood of prevailing before the full Commission. The application for interim relief is denied.



Edmund G. Gerber
Commission Designee

DATED: February 17, 1998
Trenton, New Jersey