

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EASTAMPTON TOWNSHIP BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2002-42

EASTAMPTON EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Eastampton Board of Education for a restraint of arbitration of a grievance filed by the Eastampton Education Association. The grievance contests the scheduling of parent-teacher conferences at the end of the regular work day the day before a school holiday. The grievance procedure ends in advisory arbitration. The Commission will normally dismiss a petition seeking a restraint of advisory arbitration unless it alleges that the subject of the grievance is preempted by statute or regulation. The Commission finds no assertion that the subject of the grievance is preempted by statute or regulation and the grievance may legally be submitted to advisory arbitration.

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. 2002-64

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Appearances:

For the Petitioner, Capehart Scatchard, attorneys  
(Joseph F. Betley, on the brief)

For the Respondent, New Jersey Education Association  
(Steven Swetsky, NJEA Field Representative, on the brief)

DECISION

On March 6, 2002, the Eastampton Township Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of arbitration of a grievance filed by the Eastampton Education Association. The grievance contests the scheduling of parent-teacher conferences at the end of the regular work day the day before a school holiday. The Association seeks compensation for the 2 1/2 hours teachers were required to stay after the students departed.

The parties have filed briefs and exhibits. These facts appear.

The Association represents teaching staff members and custodians. The Board and the Association are parties to a

collective negotiations agreement effective from July 1, 1998 through June 30, 2001. The grievance procedure ends in advisory arbitration.<sup>1/</sup>

We will ordinarily dismiss a petition seeking a restraint of advisory arbitration without determining the negotiability of the underlying subject matter. Englewood Cliffs Bd. of Ed., P.E.R.C. No. 82-21, 7 NJPER 507 n. 5 (¶12225 1981). See also Somerville Bd. of Ed., P.E.R.C. No. 96-66, 22 NJPER 135 (¶27066 1996); Bergen Community College, P.E.R.C. No. 92-27, 17 NJPER 429 (¶22207 1991); South Hackensack Bd. of Ed., P.E.R.C. No. 81-118, 7 NJPER 234 (¶12104 1981), aff'd NJPER Supp.2d 136 (¶118 App. Div. 1983). However, where a petition alleges that the subject of the grievance is preempted by statute or regulation, we may entertain a request to restrain advisory arbitration since it would be illegal for the parties, even by consent, to implement an advisory arbitration award violating a specific statutory mandate. Englewood. There is no assertion that the subject of the grievance is preempted by statute or regulation.

The grievance may legally be submitted to advisory arbitration. Whether the parties have agreed to do so is an issue of contractual arbitrability outside

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<sup>1/</sup> The Board notes that the parties have entered into a Memorandum of Agreement for the 2001-2004 school years. It states that none of the provisions in the new agreement are pertinent to the scope petition. We therefore assume that the grievance procedure still culminates in advisory arbitration.

our jurisdiction. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144 (1978).

ORDER

The request of the Eastampton Board of Education for a restraint of arbitration is denied.

BY ORDER OF THE COMMISSION

  
Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Buchanan, Katz, Muscato, Ricci and Sandman voted in favor of this decision. Commissioner McGlynn was not present. None opposed.

DATED: May 30, 2002  
Trenton, New Jersey  
ISSUED: May 31, 2002