

P.E.R.C. NO. 76-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH PLAINFIELD EDUCATION
ASSOCIATION,

Petitioner,

Docket No. SN-76-21

-and-

NORTH PLAINFIELD BOARD OF
EDUCATION,

Respondent.

SYNOPSIS

The Commission determines that the decision of a Board of Education to eliminate a writing conference taught by English teachers and to provide instead that English teachers teach a fifth classroom teaching period each day in its place is a basic educational policy decision not subject to the mandatory duty to negotiate. However, to the extent that such a decision impacts upon terms and conditions of employment, the Board is required, upon request, to negotiate such impact.

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DECISION AND ORDER

On November 12, 1975 the North Plainfield Education Association (the "Association") filed a Petition for Scope of Negotiations Determination seeking a determination as to whether certain matters in dispute are within the scope of collective negotiations pursuant to N.J.S.A. 34:13A-5.4(d)^{1/} and N.J.A.C. 19:13-1.1 et seq. Briefs were submitted by both parties and have been considered by us.

The statement of the dispute, as framed by the Petitioner, follows:

Board of Education unilaterally changed terms and conditions of employment of English teachers employed in the High School in the district.

Past practice in the district in affect until June 1975 required each English teacher

1/ N.J.S.A. 34:13A-5.4(d) provides: "The commission shall at all times have the power and duty, upon the request of any public employer or majority representative, to make a determination as to whether a matter in dispute is within the scope of collective negotiations. The commission shall serve the parties with its findings of fact and conclusions of law. Any determination made by the commission pursuant to this subsection may be appealed to the Appellate Division of the Superior Court."

to teach four classroom periods per day, with one writing conference period per day.

The writing conference would entail interaction with only one student per writing conference.

The Board of Education dropped the writing conference and required each English teacher to teach an additional fifth classroom teaching period each day without negotiating the matter with the majority representative.

Board has continuously refused to negotiate the decision or its impact with the majority representative.

The parties agree that the change did not result in a lengthening of the work day of the employees concerned. They continued to teach five periods per day.

While the dispute arose during the period covered by a negotiated agreement between the parties covering the term from July 1, 1974 through June 30, 1976, the Association is not alleging that the Board, by its action, has violated that agreement. Rather, the dispute relates to the implementation of a decision without negotiations which the Association contends affects terms and conditions of employment.

It is the position of the Association that the subject matter of the dispute - a change for English teachers from conducting a writing conference with one student per conference to teaching a regular classroom teaching period - affects terms and conditions of employment and, as such, is a required subject for collective negotiations. The Association cites the provision in N.J.S.A. 34:13A-5.3 which provides that, "Proposed new rules or modification of existing rules governing working conditions

shall be negotiated with the majority representative before they are established."

Additionally, the Association, citing the Commission's Fair Lawn decision,^{2/} urges a finding that the impact of the Board's decision to change the content of one period per day of the English teachers does affect terms and conditions of employment and is, therefore, a required subject for collective negotiations.

The Respondent claims that the subject matter of this dispute is not a term or condition of employment but is a matter of educational policy and, therefore, that there is no obligation to negotiate regarding that subject.

The issue presented in this dispute is similar to one of the issues decided by us in the matter of Rutgers, The State University and Rutgers Council of American Association of University Professors Chapters, P.E.R.C. No. 76-13, 2 NJPER _____ (1976). See pages 24-25 of P.E.R.C. No. 76-13. Although the Rutgers matter arose in a different context, namely during the course of collective negotiations for a successor agreement, the analysis utilized is appropriate in this matter as well.

In the Rutgers case, the AAUP demanded prior negotiations before the University could promulgate policies on course combination and class size that affect terms and conditions of

2/ Fair Lawn Board of Education and Fair Lawn Administrative and Supervisory Association, Local 34, SASOC, AFL-CIO, P.E.R.C. No. 76-7, 1 NJPER 47 (1975).

employment of unit members.

We determined that that proposal was not a required subject of negotiations, finding that the decision was a basic educational decision. However, we did agree with the AAUP that such decisions do frequently impact upon unit members in a variety of ways including work load. Thus, we found the impact upon terms and conditions of employment to be a required subject of negotiations but the decision itself to be only a permissive subject of negotiations.

Similarly, in the instant dispute we find the decision to eliminate the writing conference and to provide instead that English teachers teach a fifth classroom teaching period each day in its place is a basic educational policy decision not subject to the mandatory duty to negotiate. However, in the absence of specific statutory proscription, nothing would preclude the parties from negotiating this decision, i.e., it is a permissive subject of negotiations.

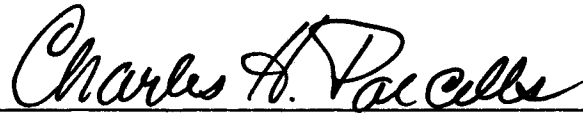
However, this decision may well impact upon terms and conditions of employment. Work load, for example, may be affected by such a decision. To this extent, the impact of such a decision upon terms and conditions of employment is a required subject of negotiations.

ORDER

Pursuant to N.J.S.A. 34:13A-5.4(d) the Public Employment Relations Commission hereby orders that the North Plainfield Board of Education, upon demand of the North Plainfield Education

Association, shall negotiate the impact upon terms and conditions of employment of the decision to substitute an additional classroom teaching period for a writing conference.

BY ORDER OF THE COMMISSION

A handwritten signature in cursive script, reading "Charles H. Parcels". The signature is written in black ink and is positioned above a horizontal line.

Charles H. Parcels
Acting Chairman

DATED: Trenton, New Jersey
February 26, 1976