

I.R. NO. 86-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LINCOLN PARK BOARD OF EDUCATION,

Petitioner,

-and-

DOCKET NO. SN-86-28

LINCOLN PARK EDUCATION ASSOCIATION,

Respondent.

Appearances:

For the Petitioner
Feldman, Feldman, Hoffman & Fiorello
(Peggy M. O'Dowd of counsel)

For the Respondent
Zazzali, Zazzali & Kroll
(Paul L. Kleinbaum of counsel)

INTERLOCUTORY DECISION AND ORDER

The Lincoln Park Board of Education ("Board") filed a Scope of Negotiations petition with the Public Employment Relations Commission ("Commission") on November 12, 1985 stating that a demand for arbitration was filed by the Lincoln Park Education Association ("Association"). The Board's petition alleges that the Association seeks to expunge a disciplinary letter from a teacher's personnel file and eliminate all references to the reprimand from the


Teacher's Professional Improvement Plan. The Board alleges that the issue here concerns evaluation criteria and the statutorily mandated evaluation and Professional Improvement Plan of a tenured teacher. It claims these matters are not subject to negotiations nor are they arbitrable.

The petition further asks that the scheduled arbitration in this matter be restrained pending a decision from the full Commission. The Association opposed the application for temporary restraints and argues that the letter of reprimand constitutes discipline and discipline is an appropriate subject for arbitration.

The Courts and the Commission have held that disciplinary disputes are proper subjects of binding arbitration where no alternative statutory procedure is available. CWA v. PERC, 193 N.J. Super. 658 (App. Div. 1984), certif. den. _____ N.J. _____ (1985); Bergen County Law Enforcement v. Bergen County Freeholders Bd., 191 N.J. Super. 319 (App. Div. 1983); In re East Brunswick Bd. of Education, 10 NJPER 426 (¶ 15192 1984), aff'd App. Div. Dkt. No. 5569-83T6 (March 14, 1985), certif. den. _____ N.J. _____ (May 24, 1985).

However, the employer argues that the disciplinary letter is a part of the evaluation process. This issue has not yet been addressed by the Commission. Since no further harm will come to the employee who is the subject of the disciplinary letter if the letter temporarily remains in his/her personnel file pending the

Commission's ruling upon this action, it is HEREBY ORDERED the arbitration scheduled in this matter for February 19, 1986 be restrained pending a full Commission decision in the instant Scope of Negotiations petition.



Edmund C. Gerber
Commission Designee

DATED: February 5, 1986
Trenton, New Jersey