P.E.R.C. NO. 2001-29

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MOUNTAINSIDE BOARD OF EDUCATION,

Respondent,

-and- Docket No. CO-H-2000-95

MOUNTAINSIDE EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Mountainside Board of Education. The Complaint was based on an unfair practice charge filed by the Mountainside Education Association alleging that the Board violated the New Jersey Employer-Employee Relations Act by unilaterally changing a longstanding practice of scheduling half day sessions on the days before winter and spring recess. The charge also alleges that the Board refused the Association's demand to negotiate over the changes. The Commission concludes that the Board had a prerogative to establish the school calendar, including a right to set the length of the school day before the holidays. The Commission also concludes that the Board did not refuse to negotiate over the changes finding that the Association was notified of the calendar change pursuant to a contractual notice provision and that the Association had ample opportunity to object to the announced calendar before it was adopted. Finally, the Commission rejects the Association's argument that the Board refused to negotiate over the impact of the calendar change finding that the Association's negotiations demands were focused on workday, not compensation.

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. 2001-29

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MOUNTAINSIDE BOARD OF EDUCATION,

Respondent,

-and- Docket No. CO-H-2000-95

MOUNTAINSIDE EDUCATION ASSOCIATION,

Charging Party.

Appearances:

For the Respondent, David B. Rubin, attorney

For the Charging Party, Bucceri & Pincus, attorneys (Sheldon H. Pincus, of counsel)

DECISION

On October 20, 1999, the Mountainside Education Association filed an unfair practice charge against the Mountainside Board of Education. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4a(1) and (5),[1/] by unilaterally changing a longstanding practice of scheduling half day sessions on the days before winter and spring recess. The

---

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

Association further alleges that the Board refused its demand to negotiate over these changes. The Association sought a cease and desist order, compensation for employees required to work the additional half days in the 1999-2000 school year, and counsel fees.

On February 8, 2000, a Complaint and Notice of Hearing issued. The Board filed an Answer incorporating an earlier statement of position and asserting that the charge was untimely. Relying on Article X, Section B of the parties' collective negotiations agreement, the employer asserted that it had distributed a proposed calendar to the Association in January 1999 and discussed the proposed calendar at a February 1999 faculty meeting. No grievance was filed or demand to negotiate made at that time. The Association first demanded to negotiate during the next school year. The Board also asserts that the calendar conforms to Article X, Section A's workday limit.

On April 11, 2000, Hearing Examiner Arnold H. Zudick conducted a hearing. The Association called the only witness, the Association president. Both parties filed post-hearing briefs and the Board filed a reply.

On August 25, 2000, the Hearing Examiner recommended dismissing the Complaint. H.E. No. 2001-7, __ NJPER ___ (¶_____ 2000). He found that despite contrary past practice, the Board acted within the confines of the parties' contract. Specifically, he found that Article XI, Section A(3) provides that the teachers'

normal workday will generally be from 8:15 a.m. to 3:20 p.m. Reading that clause along with Article X, Section A, the work year clause, the Hearing Examiner found that the Board was authorized to schedule teachers to work 185 normal work days from 8:15 a.m. to 3:20 p.m. He concluded that the Board's practice to close at 1:00 p.m. was inconsistent with the clear intent of the contract and therefore did not alter or waive the terms of the contract. Having found that the Board acted within the confines of the contract, the Hearing Examiner did not discuss the Board's prerogative or statute of limitations defenses.

On September 8, 2000, the Association filed exceptions. It argues that the only witness testified that the contract language on the normal workday was ambiguous and that the parties' longstanding practice of six half days was compatible with the contractual language. It objects to the Hearing Examiner's considering a contractual defense not raised by the Board. The Association incorporates its post-hearing brief which argued, in part, that the Board repudiated Article XI, Section A(3)and the parties' past practice in administering that article.

On September 14, 2000, the Board filed an answering brief. It accepts the Hearing Examiner's findings, but adds that it also raised a timeliness defense. It also relies on its post-hearing brief.

We have reviewed the record. We adopt and incorporate the Hearing Examiner's undisputed findings of fact (H.E. at 3-8).

The Board had a prerogative to establish the school calendar, including a right to set the length of the school day before these holidays. See Burlington Cty. College Faculty Ass'n v. Bd. of Trustees, 64 N.J. 10 (1973); Egg Harbor Tp. Bd. of Ed., P.E.R.C. No. 2000-50, 26 NJPER 65 (¶31023 1999). That prerogative, however, does not extend to increasing teacher workload without first negotiating. See, e.g., Liberty Tp. Bd. of Ed., P.E.R.C. No. 85-37, 10 NJPER 572 (¶15267 1984). In addition, a demand for extra pay for extra work would be within the scope of negotiations. See Woodstown-Pilesgrove Reg. School Dist. Bd. of Ed. v. Woodstown-Pilesgrove Ed. Ass'n, 81 N.J. 582 (1980).

We reject the Association's repudiation argument. Article XI, Section A(3) does not mention half days before winter and spring recess. Even if the clause was violated, it was at most a breach of contract that had to be challenged through the negotiated grievance procedure.2/

We also reject the Association's alternative argument that the Board had an obligation to negotiate before implementing the calendar change. The Board announced the calendar change to the Association in January 1999 and adopted it in February without Association protest.

2/ We decline to consider whether Article XI(A)(3) authorized the Board to schedule full days without having to respond to a demand to negotiate over additional compensation. That contractual defense was not raised in the Board's Answer nor was it fully or fairly litigated.

It was not until July 1999, when the Association's president returned from labor relations training, that the president informed the Board that he believed the change in work hours on the days before winter and spring vacations was negotiable. He notified the Board of the Association's desire to negotiate, but limited the request to hours of work. He did not make a general request to negotiate over the impact of the calendar change or a specific request to negotiate over any severable impact issue such as compensation. The request was focused on the calendar/work hours issue and demanded a return to the status quo pending negotiations. The Board responded that it had presented the proposed calendar to the Association the previous spring and that the Association had not filed a demand to negotiate at that time.

Under all these circumstances, we cannot conclude that the Board refused to negotiate in good faith in violation of N.J.S.A. 34:13A-5.4a(5) and, derivatively 5.4a(1), when it set the calendar, set the workday for teachers to coincide with the calendar, and refused a demand to negotiate over the change in closing times for those two days.

Article X(B) gives the Association input into the school calendar. It is not a general waiver of the Association's right to negotiate over workload changes that might result from a calendar change. Nevertheless, under these facts, we believe that the Association's actions under Article X(B) constituted a waiver

of its right to claim that the Board was obligated to negotiate before adopting a calendar that included full days before winter and spring recess. The Association had ample opportunity to object to the announced calendar before it was adopted and it would not serve the purposes of the Act to penalize the Board for going forward after the Association failed to raise a timely objection.

Finally, we reject the Association's argument that the Board unlawfully refused to negotiate over the impact of the calendar change. See Piscataway Tp. Ed. Ass'n v. Piscataway Tp. Bd. of Ed., 307 N.J. Super. 363 (App. Div. 1998), certif. den. 156 N.J. 385 (1998), on remand 24 NJPER 520 (¶29242 1998). Negotiations in August over compensation, rather than over the length of the teacher workday, would not necessarily have significantly interfered with any educational policy determinations. The record indicates, however, that the Association's negotiations demands were focused on workday, not compensation. We hold that the Board was not obligated to respond affirmatively to those demands.

ORDER

The Complaint is dismissed.

BY ORDER OF THE COMMISSION

Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Madonna, McGlynn, Muscato, Ricci and Sandman voted in favor of this decision. None opposed.

DATED: October 30, 2000
Trenton, New Jersey
ISSUED: October 31, 2000

H.E. NO. 2001-7

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

Mountainside Board of Education,

Respondent,

-and- Docket No. CO-H-2000-95

Mountainside Education Association,

Charging Party.

SYNOPSIS

A Hearing Examiner of the Public Employment Relations Commission recommends the Commission find that the Mountainside Board of Education did not violate the New Jersey Employer-Employee Relations Act by changing the teaching day on the days before the Christmas and spring vacations from half day to full day. The Hearing Examiner found that despite contrary past practice, the Board acted within the confines of and pursuant to the parties collective agreement.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law. If no exceptions are filed, the recommended decision shall become a final decision unless the Chair or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further.

H.E. NO. 2001-7

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

Mountainside Board of Education,

Respondent,

-and- Docket No. CO-H-2000-95

Mountainside Education Association,

Charging Party.

Appearances:

For the Respondent, David B. Rubin, Esq.

For the Charging Party, Bucceri & Pincus, Esqs.
(Sheldon H. Pincus, of counsel)

HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION

On October 20, 1999, the Mountainside Education Association (Association) filed an unfair practice charge with the New Jersey Public Employment Relations Commission which was amended on December 23, 1999, alleging that the Mountainside Board of Education (Board) violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(1) and (5).1/

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

The Association alleged that by implementing the school calendar for the 1999-2000 school year the Board unilaterally changed a practice of providing a half day workday/school day (1:00 p.m. dismissal) for teachers on the days preceeding the Christmas and Easter vacations by extending them into full days. The Association alleged the change increased work hours, workload and pupil contact time for teachers and it demanded negotiations over the changes but alleged the Board refused to negotiate. The Association sought a cease and desist order; compensation for working the additional half days; interest and counsel fees and costs.

A Complaint and Notice of Hearing (C-1) was issued on February 8, 2000. The Board's Answer (C-2) relied upon its November 9, 1999 statement of position wherein it denied any obligation to negotiate relying primarily upon a contract defense, but also asserting a managerial prerogative. It claimed that its action conformed to the work day limitations in the parties agreement, and that it has the prerogative to set the school calendar. In its post hearing brief, it also asserted a statute of limitations defense.

A hearing was held on April 11, 2000.[2/] Both parties filed post-hearing briefs and the Board filed a reply brief, the last of which was received on June 16, 2000.

2/ The transcript will be referred to as "T".

Based upon the entire record, I make the following.

FINDINGS OF FACT

1. The parties current collective agreement (J-1), effective from July 1, 1998 through June 30, 2001, defines in pertinent part the teacher work year and provides for the school calendar as follows:

> Article 10
>
> Teacher Work Year and School Calendar
>
> A. The teacher work year shall consist of one hundred eighty-five (185) pupil/teacher days, plus two (2) additional work days for current staff members, exclusive of NJEA Convention when school shall be closed. There shall be two (2) additional work days, beyond the aforementioned, for staff members new to the district.
>
> B. A school calendar shall be presented by the Chief School Administrator to the Association prior to the adoption of such calendar by the Board. Upon request, the Association may make suggestions to the Chief School Administrator concerning the calendar and request an opportunity to consult with the Chief School Administrator. The Chief School Administrator shall thereafter make a recommendation of the school calendar to the Board, and the Board shall make a final decision as to the entire school calendar.

J-1, Article 11, defines in pertinent part the teacher work day as follows:

> A. Teachers
>
> 3. <u>The work day</u>. The normal work day of the teacher shall generally be from 8:15 a.m. to 3:20 p.m. The administration may, in the best interest of the pupils, assign teachers to arrive one half hour earlier than the normal work day.

> Teachers assigned to early arrival will be dismissed one half hour before the normal work day dismissal. The administration may request volunteers but may not assign teachers to arrive and to leave one half hour later than the normal work day.
>
> a. For the normal work day in grades K-4 students will be allowed to enter the classroom at 8:35 a.m. and homeroom shall begin at 8:40 a.m.
>
> b. The schedule (day) for grades 5-8 shall be as follows:
>
> 1. Student homeroom shall begin at 8:40 a.m.
>
> 2. Student lunch/activity period shall be 40 minutes.
>
> 3. Teacher lunch shall be guaranteed at 40 minutes per day.
>
> 4. Teachers' duties during this activity period shall consist of no more than 3 activities and 2 planning periods per week. Planning periods shall mean conferring with parents, department meetings, conferring with guidance and the like.
>
> 5. Teacher day shall end at 3:20 p.m. except on Fridays where it shall end at 3:10 p.m.

The Association represents secretaries and custodians in the same unit with teachers. The secretaries work day during the school year is from 8:00 a.m. to 4:00 p.m. (J-1, Art. 11 Section B), and the custodians work an eight hour day between the hours of 6:00 a.m. and 12 o'clock midnight (J-1, Art. 11, Sec. C.1.). That same section also provides:

> In the event of a 1:00 p.m. closing, all evening custodians shall report at 12:30 p.m. and work until 8:30 p.m.

The teachers had the same 185 day work year in their 1996-1998 (J-2), 1994-1996 (J-3), 1992-1994 (J-4), and their 1988-1990 (J-5) collective agreements. The normal teacher work day in J-2, J-3 and J-4, however, was 8:30 a.m. - 3:20 p.m., and was 8:30 a.m. to 3:30 p.m. in J-5, and in the 1975-1977 (J-5) and 1973-1975 (J-7) collective agreements.

2. The school calendar for the 1998-1999 (J-9), 1997-1998 (J-10), 1996-1997 (J-11), 1995-1996 (J-12) and 1994-1995 (J-13) academic years included a 1:00 p.m. closing the day before both the Christmas and spring vacations.3/ The 1999-2000 school calendar (J-8), however, did not include an early dismissal or early school closing before the Christmas or spring vacation.

3. In January 1999, the Board's Chief School Administrator, Gerard Schaller, delivered a copy of the Board's proposed school calendar for the upcoming 1999-2000 school year to the Association's calendar committee and pointed out there would be no early dismissal before the Christmas and spring vacations (T28). At a general staff meeting of teachers and secretaries on February 1, 1999, Schaller again explained there would be full day sessions for teachers on the days preceeding the Christmas and spring vacations. That was the first time Association President Tom Predale became aware of the Board's intent (T19-T20, T28-T29). Predale acknowledged that through Schaller's actions the Board fully

---

3/ Those calendars also provided for a 1:00 p.m. closing the day before the Thanksgiving recess.

complied with Article 10, Section B of J-1 (T28-T29). Predale took no immediate action upon initially learning about the Board's proposed calendar (T20).

At a public meeting of the Board on February 23, 1999, Schaller explained there would be full rather than half days for teachers and students the days before the Christmas and spring vacations. The Board adopted that calendar at that time (T29, R-1, J-8).

In March and/or April 1999, Predale spoke to Schaller about why there would not be an early dismissal the day before the Christmas and spring vacations. Schaller explained the reasons and Predale took no action (T21-T22).

In July 1999, Predale received some labor relations training and learned that work hours, workload and pupil/teacher contact time were generally negotiable. As a result of that training, Predale, in early August 1999, told Schaller that he believed the change of the work hours on the days before Christmas and spring vacations was negotiable, and he told Schaller the Association wanted to negotiate (T22-T23).

4. On August 20, 1999 (J-14), Predale sent the following letter to Schaller:

> It has come to the attention of the Mountainside Education Association that a change has occurred in the 1999-2000 school calendar. A half day (12/23/99) has been increased to a full day constituting a change in working conditions for the staff.

> While we understand that the calendar is a non-negotiable item, the issue of hours scheduled to work is negotiated. Therefore, a change such as this must be reached with the input of the MEA's negotiating team.
>
> Please notify me by September 1, 1999 so that I know how to proceed with this matter.

Schaller responded by letter of August 30, 1999 (J-15) explaining in pertinent part that the parties had already negotiated over work hours in Articles 10 and 11 of J-1. That letter provides:

> In response to your letter concerning the Winter Recess vacation, early dismissal vs. full day schedule, I must reiterate that the school calendar itself is not negotiable. There is no question that hours of work are negotiable, but it appears that they have already been negotiated. Articles X and XI of the collective negotiations agreement spell out the parties' rights and responsibilities in connection with the school calendar and hours of work. As you may recall, the proposed calendar was presented to the MEA last spring which included the full day in question as required by Article X, and that the total number of work days and work hours were within the limits of Article XI.
>
> Please be advised that the Board of Education voted to approve the calendar as presented, and that the MEA never filed a demand to negotiate a grievance at that time. The intent of having a full day, on the day in question, is educationally sound and in the interest of the students.
>
> If you should require further information, please see me.

Predale filed a formal demand to negotiate over the issue on September 7, 1999 (J-16) terming the Board's action as a unilateral change in terms and conditions of employment. Schaller responded on September 15, 1999 (J-17) agreeing that work hours were

negotiable but again explaining that they were already negotiated in Articles 10 and 11 of J-1.

On September 23, 1999, Predale filed a grievance (J-18) over the matter alleging a violation of Article 10 Section B. The grievance sought the return to a 1:00 p.m. closing on the days before Christmas and spring vacations. Schaller responded on September 30, 1999 (J-19) denying the grievance and refusing to return the days in question to 1:00 p.m. closings.

The Association moved their grievance to step three of the grievance procedure (the Board level) on October 12, 1999 (J-20). On November 16, 1999 (J-22), Predale notified the Board that it would hold the grievance in abeyance pending the determination of the unfair practice charge.

5. Although the Board scheduled full work days on the days in question, the work year remained within the 185 day work year provided in Article 10 (T37-T38). The Association would not object if the Board scheduled less than 185 work days (T39). When Predale was asked on direct examination whether J-1 dealt with the half-day work days, he responded "yes", in Article 11 Section A(3) where it said the "normal workday of the teacher shall generally be from 8:15 a.m. to 3:20 p.m." (T17). I credit his testimony.

ANALYSIS

The Association contends that the Board repudiated the parties collective agreement. In its opening remarks at hearing the

Association argued that this case is predominantly about Articles 10 and 11 of J-1. Later, Predale even said that the half work day issue was covered by the first sentence of Article 11, Section A(3), but in its post hearing brief the Association argued "It is clear that the contract does not establish and set an 8:15 a.m. to 3:20 p.m. work day on all days that teachers are required to work".

The theory advanced by the Association is that the words "normal work day" and "generally" in Article 11 Section A(3) are unclear, and that their meaning can be gleaned by referring to the workday provisions for the secretaries and custodians. The Association primarily argues that because Article 11 Section C(1) provides for a 12:30 p.m. start time for evening custodians in the event of a 1:00 p.m. school closing for teachers, the Board is obligated to maintain the 1:00 p.m. closings it has implemented in the past.

The Association relies upon certain cases to support its argument. Liberty Twp. Bd. Ed., P.E.R.C. No. 85-37, 10 NJPER 572 (¶15267 1984); Maywood Bd. Ed., P.E.R.C. No. 85-36, 10 NJPER 571 (¶15266 1984). In both cases the Commission found violations for the boards' unilaterally increasing half days to full days, but the Commission emphasized that the obligation to negotiate before increasing pupil contact time only applied in the absence of a contract defense.

While I agree with the Association that this case is predominantly about the meaning of Articles 10 and 11, I find that

its substative argument lacks merit. Here the Board raised a legitimate contract defense and I find the contract was clear on its face and allowed for the Board's action.

Disregarding the additional work days provided for in Article 10 Section A, that clause clearly provides for 185 pupil/teacher work days. Article 11, Section A(3) provides in its first sentence that the teachers normal work day will generally be from 8:15 a.m. to 3:20 p.m. Contrary to the Association's argument that the words "normal work day" and "generally" were unclear, I find that the second and third sentences of that very clause, Art. 11, Section A(3), and the sentence in Art. 11, Section A(3)(b)(5), explains the usage of those "conditional" words. Those sentences provide that the Board may assign teachers to arrive one-half hour earlier than the normal starting time and leave one-half hour earlier than the normal dismissal time. The sentence in Section A(3)(b)(5) provides for a 3:10 p.m. ending time on Fridays for teachers in grades 5-8. Thus, those conditional words in the first sentence were used simply to reflect that some teachers work day may vary from the normal 8:15 - 3:20 work day by starting and/or finishing sooner than other teachers. Otherwise, the parties' clear intent was that the work day be from 8:15 to 3:20.

When the work year clause (Article 10, Section A) and the work day clause (Article 11, Section A(3)) are read together as they must, it means that the Board is authorized to schedule teachers to work 185 normal work days, meaning, 185 days from 8:15 a.m. to 3:20

p.m. If the Board chooses to implement early dismissal on some of those 185 days and still pay the teachers their contractual salary as it must, the Association is unlikely to complain since it will have received the better of the bargain. That is exactly what happened here until the Board choose to implement normal work days on the days in question.

The Association's argument that the language in Article 11, Section C(1), the custodians work hours, demonstrates the contract intent to require the 1:00 p.m. closings for teachers is unpersuasive. That clause provides for a 12:30 p.m. start time for evening custodians "in the event" of a 1:00 p.m. school closing. Obviously that language contemplates that there may be 1:00 p.m. closings, but it does not mandate 1:00 p.m. closings for teachers; it simply provides an earlier start time for evening custodians if there are 1:00 p.m. closings.

It is the Board's option to implement 1:00 p.m. closings. While the Board's practice for many years was to implement such closings on the days in question, that practice is inconsistent with what I have found to be the clear intent of the contract (185 normal work days) and, therefore, does not alter or waive the terms of the agreement. New Jersey Sports & Exposition Authority, P.E.R.C. No. 88-14, 13 NJPER 710, 711 (¶18264 1987); Randolph Tp. School Bd., P.E.R.C. No. 81-73, 7 NJPER 23 (¶12009 1980); see also New Brunswick Bd. Ed., 4 NJPER 84 (¶4040 1978), mo. for recon. den., 4 NJPER 156 (¶4073 1978), aff'd NJPER Supp.2d 60 (¶42 App. Div. 1979).

If the parties intent was to have 1:00 p.m. closings on some of the contractual 185 work days, I would have expected Article 11 Section A(3) to include language saying something like: the normal work day applies except on the days in question for which dismissal will occur at 1:00 p.m. No such language appears in J-1 and, therefore, a normal work day can be expected on all 185 work days.

The Association's reliance upon Liberty and Maywood is misplaced. Contrary to the Association's assertion in its brief, the controlling cases in this matter are Kittatinny Bd. Ed., P.E.R.C. No. 93-34, 18 NJPER 501 (¶23231 1992); Kittatinny Bd. Ed., P.E.R.C. No. 92-37, 17 NJPER 475 (¶22230 1991); and So. Amboy Bd. Ed., D.U.P. No. 93-40, 19 NJPER 258 (¶24128 1993). In the Kittatinny cases, the Commission held the Board acted lawfully by increasing hours in order to be consistent with the contract language despite a contrary past practice. In So. Amboy, the Director refused to issue a complaint finding the Board did not violate the Act by increasing pre-holiday days from half to full day sessions in accordance with the contract hours despite a contrary practice.

The result must be the same here. The Board had already negotiated for 185 normal work days and was therefore not required to negotiate over increasing the days in question to normal work

days. A public employer meets its negotiations obligation when it acts pursuant to its collective agreement. Sussex-Wantage Reg. Bd. Ed., P.E.R.C. No. 86-57, 11 NJPER 711 (¶16247 1985), Randolph Twp. Bd. Ed., P.E.R.C. No. 83-41, 8 NJPER 600 (¶13282 1982); Bound Brook Bd. Ed., P.E.R.C. No. 83-11, 8 NJPER 439 (¶13207 1982); Pascack Valley Bd. Ed., P.E.R.C. No. 81-61, 6 NJPER 554, 555 (¶11280 1980).

Having found that the Board acted within the parameters of its collective agreement, I find it unnecessary to discuss the Board's calendar prerogative and statute of limitations defenses.

Accordingly, based upon the above findings and analysis, I make the following:

CONCLUSIONS OF LAW

The Board did not violate 5.4a(1) and (5) of the Act by increasing the teaching day on the days before Christmas and spring vacation to a full day.

RECOMMENDATION

I recommend the Complaint be dismissed.

Arnold H. Zudick
Senior Hearing Examiner

Dated: August 25, 2000
Trenton, New Jersey