

P.E.R.C. NO. 95-84

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GREATER EGG HARBOR REGIONAL HIGH
SCHOOL DISTRICT BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-94-100

OAKCREST-ABSEGAMI TEACHERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a motion for reconsideration of P.E.R.C. No. 95-58, 21 NJPER _____ (¶ _____ 1995), filed by the Oakcrest-Absegami Teachers' Association. In that decision, the Commission restrained binding arbitration of a grievance filed by the Association against the Greater Egg Harbor Regional High School District Board of Education. The grievance contested the withholding of a teacher's salary increment. The Commission concluded that whether the teacher maintained an appropriate educational environment is a question predominately involving an evaluation of teaching performance, subject to review by the Commission of Education.

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.

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Appearances:

For the Petitioner, Louis J. Greco, attorney

For the Respondent, Selikoff & Cohen, attorneys
(Steven R. Cohen and Keith Waldman, on the brief)

DECISION AND ORDER

On March 21, 1995, the Oakcrest-Absegami Teachers' Association moved for reconsideration of P.E.R.C. No. 95-58, 21 NJPER ____ (¶ ____ 1995). In that decision, we restrained arbitration of a grievance filed by the Association against the Greater Egg Harbor Regional High School District Board of Education. The grievance contested the withholding of a teacher's salary increment. The Board opposes reconsideration.

We granted the Board's request for a restraint of arbitration because we found that the withholding was based predominately on an evaluation of teaching performance. See N.J.S.A. 34:13A-26; -27(d). The Association contends that the Board based its decision to withhold on objective (but disputed) findings

that the teacher engaged in acts of sexual harassment against female pupils rather than on a subjective assessment of his classroom performance.

The issue here is not simply whether the teacher did or did not commit an inappropriate act. The Board found that the teacher:

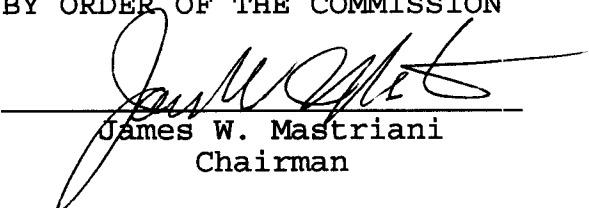
maintained a hostile environment in his English class for female, blonde [,] students by making repeated negative remarks about their intelligence and capabilities, and that he held such students up to ridicule by making such remarks to the class as a whole; that he repeated such conduct after being clearly notified by students that they objected to his conduct and that he inappropriately offered to grant academic credit for physical characteristics not related to academic performance.

We concluded that whether the teacher maintained an appropriate educational environment is a question predominately involving an evaluation of teaching performance, subject to review by the Commissioner of Education. The Association is free to challenge any of the Board's factual allegations before the Commissioner. There is no basis to reconsider our determination.

ORDER

Reconsideration of P.E.R.C. No. 95-58 is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Finn and Klagholz voted in favor of this decision. Commissioner Buchanan voted against this decision. Commissioner Boose abstained from consideration. Commissioners Ricci and Wenzler were not present.

DATED: April 10, 1995
Trenton, New Jersey
ISSUED: April 11, 1995