

P.E.R.C. NO. 80-82

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TEAMSTERS LOCAL 676,

Petitioner,

-and-

Docket No. SN-80-26

DEPTFORD TOWNSHIP BOARD
OF EDUCATION,

Respondent.

SYNOPSIS

The Chairman of the Commission, in a scope of negotiations proceeding, orders Teamsters Local 676 to refrain from seeking negotiations with regard to a proposal which would restrict the Board of Education's right to transfer janitors from school to school. The Chairman concluded, consistent with prior Commission and judicial decisions, that contract proposals restricting a board of education from transferring its employees are not required subjects for collective negotiations.

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Appearances:

For the Petitioner, Tomar, Parks, Seliger, Simonoff
& Adourian, Esqs. (Ms. Mary L. Crangle, on the Memorandum)

For the Respondent, Capehart and Scatchard, P.A.
(Mr. Alan R. Schmoll, on the Brief)

DECISION AND ORDER

A Petition for Scope of Negotiations Determination was filed by Teamsters Local 676 (the "Teamsters") with the Public Employment Relations Commission on October 5, 1979 seeking a determination as to whether a matter in dispute between the Teamsters and the Deptford Township Board of Education (the "Board") is within the scope of collective negotiations. During the course of negotiations the Teamsters sought to negotiate substantive restrictions on the Board's right to transfer janitors involuntarily from school to school. The Board maintained that the topic of janitorial transfers was not a required subject for collective negotiations. This petition was filed to resolve this particular negotiability dispute.

The Teamsters filed a Letter Memorandum dated October 8, 1979 in support of its position. The Board filed a brief with the

Commission that was dated November 12, 1979.

The Commission, pursuant to N.J.S.A. 34:13A-6(f), has delegated to the undersigned, as Chairman of the Commission, the authority to issue scope of negotiations decisions on behalf of the entire Commission when the negotiability of the particular issue or issues in dispute has previously been determined by the Commission and/or the state judiciary.

The Commission in prior decisions has determined that contract proposals substantively restricting a board of education from transferring its employees, e.g. a provision that permits transfers to be effectuated only after the approval of the affected individual, are not required subjects of negotiations. See, e.g. In re City of Trenton Board of Education, P.E.R.C. No. 77-24, 2 NJPER 351 (1976), In re Ridgefield Park Board of Education, P.E.R.C. No. 78-9, 3 NJPER 319 (1977), and In re Jefferson Township Board of Education, P.E.R.C. No. 80-21, 5 NJPER 386 (¶10196 1979), motion for reconsideration denied, P.E.R.C. No. 80-49, 5 NJPER 485 (¶10246 1979). These decisions flowed from the New Jersey Supreme Court's decision in Ridgefield Park Board of Education v. Ridgefield Park Education Association, 78 N.J. 144, 4 NJPER 341 (¶4164 1978) in which the Court concluded that a decision to involuntarily transfer teachers within a school district is an illegal subject for collective negotiations.

The Teamsters maintain that Ridgefield Park, supra, is not pertinent because that decision found that teacher transfers and not janitorial transfers were non-negotiable matters of governmental policy. The Teamsters assert that, contrary to the transferring of

professional employees, the manner of assigning janitors has no relation to the provision of a thorough and efficient education, but intimately and directly affects the work and welfare of the janitors. The undersigned must conclude, however, that there is no reasonable basis to distinguish transfer decisions affecting professional employees from those affecting non-professionals. Transfer decisions relate to the deployment of particular employees and staffing requirements in general, issues that have been determined by the Commission to be non-mandatory subjects for collective negotiations in other than professional employee contexts. ^{1/}

Transfer decisions also are integrally related to decisions concerning assignments which have been deemed to concern managerial prerogatives. ^{2/}

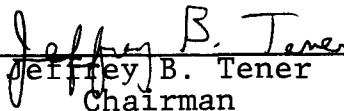
1/ See e.g., In re Rutgers, The State University, P.E.R.C. No. 76-13, 2 NJPER 13 (1976); In re Borough of Roselle, P.E.R.C. No. 76-29, 2 NJPER 142 (1976); In re Newark Firemen's Union, P.E.R.C. No. 76-40, 2 NJPER 139 (1976); In re City of Jersey City, P.E.R.C. No. 77-33, 3 NJPER 66 (1977); In re Township of Weehawken, P.E.R.C. No. 77-63, 3 NJPER 175 (1977); In re Township of Saddle Brook, P.E.R.C. No. 78-72, 4 NJPER 192 (¶4097 1978); In re Town of Northfield, P.E.R.C. No. 78-82, 4 NJPER 247 (¶4125 1978); In re Township of Maplewood (FMBA), P.E.R.C. No. 78-89, 4 NJPER 258 (¶4132 1978); In re Township of Maplewood (PBA), P.E.R.C. No. 78-92, 4 NJPER 265 (¶4135 1978); In re Cinnaminson Township, P.E.R.C. No. 79-5, 4 NJPER 310 (¶4156 1978); In re Township of Clark, P.E.R.C. No. 79-50, 5 NJPER 90 (¶10049 1979); In re Township of Mount Holly, P.E.R.C. No. 79-51, 5 NJPER 91 (¶10050 1979); In re City of Perth Amboy, P.E.R.C. No. 79-86, 5 NJPER 205 (¶10117 1979) and In re Borough of Edgewater, P.E.R.C. No. 80-15, 5 NJPER 368 (¶10188 1979).

2/ See e.g. In re Town of Kearny, P.E.R.C. No. 80-81, 5 NJPER (¶ 1979); In re Cinniminson Township (Police Assn), P.E.R.C. No. 79-5, 4 NJPER 310 (¶4156 1978); In re Ridgefield Park Board of Education, P.E.R.C. No. 78-9, 3 NJPER 319 (1977) appeal dismissed by stipulation, A-411-77; In re Borough of Roselle, P.E.R.C. No. 76-29, 2 NJPER 142 (1976) and In re North Plainfield Bd of Ed, P.E.R.C. No. 76-16, 2 NJPER 49 (1976).

ORDER

Based on the above discussion, it is hereby determined that a proposal substantively restricting the Deptford Township Board of Education's right to involuntarily transfer janitors from school to school is an illegal subject for collective negotiations. Teamsters Local 676 is hereby ORDERED to refrain from seeking negotiations with regard to this proposal.^{3/}

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

DATED: January 4, 1980
Trenton, New Jersey

^{3/} The undersigned notes that the Teamsters have not sought to bring the issue of procedural aspects of the transfer process before the Commission for a scope of negotiations determination. The Commission has consistently found that procedural aspects of the assignment and transfer process, e.g. written notice of transfers and assignments, posting of job vacancies, the filing of transfer requests, etc. are mandatory subjects for collective negotiations. See e.g. In re Fairview Board of Education, P.E.R.C. No. 80-18, 5 NJPER 378 (¶10193 1979).