

P.E.R.C. NO. 83-120

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH PLAINFIELD BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-83-37

NORTH PLAINFIELD EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a Motion to Reconsider the decision of its Chairman in P.E.R.C. No. 83-103, 9 NJPER ____ (¶ ____ 1983). The Chairman had ruled non-negotiable a contract proposal which would require non-unit members to follow a particular procedure for making complaints against teachers.

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Appearances:

For the Petitioner, Cassetta, Brandon & Taylor
(Daniel J. Brandon, Consultant)

For the Respondent, John A. Thornton, Jr., UniServ
Representative, New Jersey Education Association

DECISION ON MOTION FOR RECONSIDERATION

On November 12, 1983, the North Plainfield Board of Education ("Board") filed a joint Petition for Scope of Negotiations Determination on behalf of itself and the North Plainfield Education Association ("Association") with the Public Employment Relations Commission. The Board asserted that a proposal which the Association presented during successor contract negotiations was not mandatorily negotiable. That proposal stated:

- A. Any complaint regarding a teacher made to any member of the administration or Board of Education which does or may influence evaluation or employment of a teacher shall be channeled as follows:
 - #1. The complainant shall meet with teacher in order to attempt to resolve the matter informally.

- #2. If the complainant is not satisfied, he/she shall meet with the appropriate administrator in the presence of the teacher.
- #3. If the complaint remains unresolved, the complainant shall meet with the Superintendent or his designee in the presence of the teacher.
- #4. In the event that the complaint is unresolved and requires an appearance before the Board, the complainant and teacher shall meet in closed session before the Board.

At steps #2 - #4 an individual may be accompanied by a representative.

- B. Each of the above meetings shall afford each constituent full opportunity to present information, show cause, or make recommendations for solution. Full participation is the goal for the resolution of complaints.
- C. Nothing contained herein shall deny the ability of the Board to conduct a hearing in accordance with N.J.S.A. 18A.1/¹

The Board contended that the complaint procedure set forth the procedure to be followed by anyone with a complaint about a negotiations unit member. This complaint procedure would, according to the Board, bind students, other employees, and citizens of the community and deter them from complaining about negotiations unit members. In addition, the Board argued that this complaint procedure would interfere with evaluations of unit members.

The Association's position was that the proposal was procedural in nature and was therefore within the scope of negotiations.

1/ Section C of the proposal was not in dispute.

On February 9, 1983, the Chairman of the Commission, pursuant to his authority to apply well-settled case law which the full Commission had delegated to him, found that the proposal was not mandatorily negotiable. P.E.R.C. No. 83-103, 9 NJPER ____ (¶ ____ 1983). He relied upon the Commission's decision in In re Bd. of Trustees of Middlesex Community College, P.E.R.C. No. 78-13, 4 NJPER 47 (¶4023 1978) ("Middlesex") where we held non-negotiable proposals which bound third parties, be they students, parents, or other non-unit members of the community, to follow a particular complaint procedure.

On February 17, 1983, the Association requested reconsideration. The Association argues that Middlesex is not applicable because here the complaint procedure is specifically tied, through paragraph A, to the evaluation of teachers.

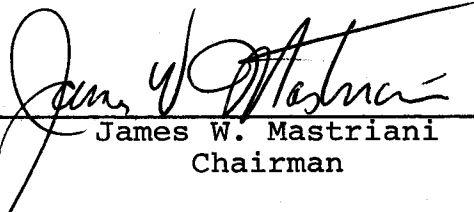
Under N.J.A.C. 19:13-3.11, which incorporates the standards of N.J.A.C. 19:14-8.4, a motion for reconsideration will not be granted unless extraordinary circumstances exist. We do not believe such circumstances exist here. We agree with the Chairman that Middlesex bars negotiation of a complaint procedure, such as that before us, which would compel third parties to obey its dictates. Further, the ability of the Board to consider a complaint in evaluating or continuing employment of a teacher cannot be made dependent upon the complainant's willingness to follow a particular complaint procedure. The Association, however, may negotiate procedural protections which do not bind

third parties, but do allow teachers to know the substance of complaints against them and to respond fully.

ORDER

The Motion for Reconsideration is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Hartnett and Suskin voted in favor of this decision. Commissioner Graves voted against the decision. Commissioners Hipp and Newbaker abstained. Commissioner Butch was not present.

DATED: Trenton, New Jersey
March 16, 1983
ISSUED: March 17, 1983