

P.E.R.C. NO. 86-114

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OLD BRIDGE TP. BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-86-17

OLD BRIDGE TP. EDUCATION ASSOCIATION ,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a request of the Old Bridge Township Board of Education to restrain binding arbitration of a grievance that the Old Bridge Township Education Association filed against the Board. The grievance alleges the Board violated the parties' agreement by assigning a single substitute to cover the classes of two absent teachers without paying her an additional stipend. The Commission holds that the issue of an additional stipend for one substitute, who has been hired to perform the work of two regular teachers, is mandatorily negotiable.

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Respondent.

Appearances:

For the Petitioner, Wilentz, Goldman & Spitzer, Esqs.  
(Steven J. Tripp, of Counsel)

For the Respondent, Oxfeld, Cohen & Blunda, Esqs.  
(Sanford R. Oxfeld, of Counsel)

DECISION AND ORDER

On September 9, 1985, the Old Bridge Township Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board seeks a restraint of binding arbitration of a grievance which the Old Bridge Township Education Association ("Association") filed. The grievance alleges that the Board violated a collectively negotiated agreement by assigning a single substitute to cover the classes of two absent teachers.

The parties have filed briefs, reply briefs and exhibits. The following facts appear.

The Association is the majority representative of the Board's professional employees, including substitute teachers and non-professional employees. The Board and the Association are

parties to a collective negotiations agreement effective from July 1, 1983 through June 30, 1985. That agreement contains a grievance procedure which ends in binding arbitration.

In June, 1985, while two art teachers were on a field trip, the Board called in a single substitute to handle both teachers' classes which were combined for the occasion. On June 20, 1985, the Association filed grievance No. 8526 which alleged that the assignment violated various, specified provisions of the agreement and sought as relief a directive that the Board cease assigning one substitute for two teachers' classes, and an additional day's pay for the affected substitute teacher. The grievance was denied by the Board, the Association demanded arbitration and the instant petition ensued.

The Board contends that the grievance is not arbitrable because it challenges the Board's non-negotiable right to establish class size and is bereft of any allegations that work hours and work load were extended. The Association contends that the grievance does not interfere with class size,<sup>1/</sup> but instead challenges the Board's circumvention of contractual language which requires it to pay an additional stipend to a teacher required to supervise a class for which no substitute has been summoned [Article VII(D)].

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<sup>1/</sup> The Association contends that the Board's decision to combine, for a single day, two existing classes into one has nothing to do with class size, which was already determined when the Board initially set the size of the art classes and hired two teachers to instruct them.

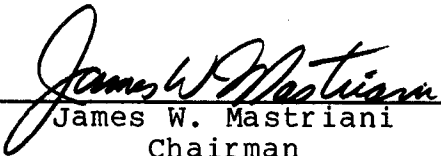
Even if we assume that the combining two classes into one for a single day while regular teachers are on a field trip could be considered a matter of significant educational policy, the issue of an additional stipend for one substitute, who has been hired to perform the work of two regular teachers, is a severable and mandatorily negotiable issue. See City of Elizabeth and Elizabeth Fire Officers Assn, Loc. 2040, IAFF, P.E.R.C. No. 84-75, 10 NJPER 39 (¶15022 1983), aff'd 198 N.J. Super. 382 (App. Div. 1985) While a public employer has the right to select and deploy its personnel, it does not have the right to do so solely to avoid paying negotiated stipends or premium rates for overtime work. See Rutgers, The State University v. Local 1761, AFSCME, Council No. 52, P.E.R.C. No. 79-72, 5 NJPER 186 (¶10103 1979), mot. for recon. P.E.R.C. No. 79-92, 5 NJPER 230 (¶10127 1979), aff'd. App. Div. Docket No. A-3651-78 (7/1/80) and Rutgers, The State University v. American Federation of State, County & Municipal Employees, P.E.R.C. No. 82-20, 7 NJPER 505 (¶12224 1981), affmd App. Div. Dkt. No. A-468-81T1 (5/18/83). Moreover, we disagree with the Board that the grievance does not allege that there was an increase in workload. A grievance which alleges that one employee did the work of two carries with it an implicit assertion that workload was increased. Whether that was so and whether there is any entitlement to

additional compensation are issues for the arbitrator. We will allow the grievance to proceed to arbitration.<sup>2/</sup>

ORDER

The Board's request for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioner Reid abstained. Commissioners Hipp and Horan were not present.

DATED: Trenton, New Jersey  
April 18, 1986  
ISSUED: April 21, 1986

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<sup>2/</sup> We will not speculate about what remedies might or might not be appropriate in the event the Association prevails at arbitration. Deptford Bd. of Ed., P.E.R.C. No. 81-84, 7 NJPER 88 (¶12034 1981). At this juncture, it suffices to say that some amount of compensation for increased workload or an order to negotiate additional compensation would be permissible remedies.