

P.E.R.C. NO. 82-127

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD PARK BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-82-76

RIDGEFIELD PARK EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Chairman of the Commission, acting under authority delegated by the full Commission, grants the Board of Education's request for a permanent restraint of arbitration. The Chairman concluded that the grievance related to the Board's managerial prerogative to select an individual to fill a particular position or vacancy, in this case its ability to fill the position of varsity baseball coach with a teacher from outside the Ridgefield Park district.

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Appearances:

For the Petitioner, Aron, Till & Salsberg, Esqs.
(Rodney T. Hara, of Counsel)

For the Respondent, Bucceri & Pincus, Esqs.
(Louis P. Bucceri, of Counsel, Gregory T. Syrek,
on the Brief)

DECISION AND ORDER

On March 3, 1982, a Petition for Scope of Negotiations Determination was filed with the Public Employment Relations Commission by the Ridgefield Park Board of Education alleging that a dispute existed as to the negotiability of a grievance which the Ridgefield Park Teachers Association wished to submit to binding arbitration pursuant to a collectively negotiated agreement between the parties. The Board seeks a permanent restraint of arbitration on the grounds that the grievance relates to a non-negotiable subject. Briefs were submitted by both parties, the last of which was received by April 20, 1982.

The grievance filed in this matter alleged that the Board's employment of a varsity baseball coach from outside the

Ridgefield Park district violated the law, the agreement between the parties, and past practice in the district. The Board, in its brief, argues that its decision to select a particular individual to fill a vacancy is a managerial prerogative, as is its right to fill a vacancy with a person who is not employed in the Ridgefield Park district. It cites, inter alia, in support of its contention, In re Byram Twp. Board of Ed, 152 N.J. Super. 12, 27 (App. Div. 1977) and North Bergen Bd of Ed v. North Bergen Fed. of Teachers, 141 N.J. Super. 97, 103-104 (App. Div. 1976), and contends that its utilization of a non-Ridgefield Park teacher was made in accordance with the procedures outlined at N.J.A.C. 6:29-6.3(d), which governs the circumstances under which persons from outside the school district may fill co-curricular positions in the district's interscholastic athletic program.

The Association, in its brief, contends that the dispute concerns the failure of the Board to advertise the position to unit employees and thus relates to the mandatorily subject of procedures for the filling of a vacancy. See, Byram and North Bergen, supra. The Association also argues that it may challenge in the grievance procedure the Board's alleged failure to comply with the requirements of N.J.A.C. 6:29-6.3(d).

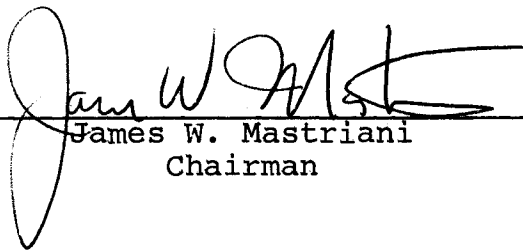
However, upon review of the grievance filed by the Association (which was submitted to the Commission in connection with this case), the undersigned finds that the gravamen of the grievance concerns the Board's appointment of an individual from

outside the district, rather than the Board's alleged failure to properly advertise that position. Accordingly, the undersigned determines that the grievance relates to the Board's managerial prerogative to select an individual to fill a particular position or vacancy, and hence is not arbitrable.

ORDER

Acting under authority delegated to the Chairman by the full Commission, I hereby grant the Board's request for a permanent restraint of arbitration.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

DATED: Trenton, New Jersey
June 18, 1982