

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MAINLAND REGIONAL HIGH SCHOOL
BOARD OF EDUCATION,

Petitioner,

Docket No. SN-80-38

-and-

MAINLAND REGIONAL TEACHERS' ASSO-
CIATION,

Employee Representative.

SYNOPSIS

In a scope of negotiations determination rendered by the Chairman, the Chairman concludes that, consistent with prior decisions, a clause in individual extra-curricular activity contracts which permits resignation or termination on 30 days notice is not mandatorily negotiable. Therefore, the Association is refrained from arbitrating a grievance relating to the Board's removal of the disputed clause from these individual contracts.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MAINLAND REGIONAL HIGH SCHOOL
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-80-38

MAINLAND REGIONAL TEACHERS' ASSO-
CIATION,

Employee Representative.

Appearances:

For the Petitioner, Tort, Jacobs, Gross, Rosenberger
and Todd, Esqs. (Mr. Gerard C. Gross, of Counsel)

For the Employee Representative, Eugene J. Sharp,
NJEA UniServ Representative

DECISION AND ORDER

On November 1, 1979, the Mainland Regional High School Board of Education ("Board") filed a Petition for Scope of Negotiations Determination seeking a ruling as to whether certain matters in dispute with the Mainland Regional Teachers' Association ("Association") were within the scope of collective negotiations under the New Jersey Employer-Employee Relations Act ("Act"). Briefs were submitted by both sides and the Board filed a reply brief on January 30, 1980.^{1/}

Pursuant to N.J.S.A. 34:13A-6(f), the Commission has delegated to the undersigned the authority to issue scope decisions in

1/ The Board also submitted an Order to Show Cause seeking interim restraint of arbitration proceedings. A voluntary stay of arbitration pending decision herein was accepted by the Association.

cases involving issues previously decided by the Commission and/or the State Judiciary, thereby permitting an expeditious disposition of these matters.

In an earlier decision involving the same parties, P.E.R.C. No. 80-8, 5 NJPER 301 (¶10162 1978), Appeal pending Docket No. A-4566-78, the Commission held that the assignment of teachers to extra-curricular activities was not mandatorily negotiable, and therefore was non-arbitrable, although workload and compensation implications theoretically would be able to proceed to arbitration.^{2/} Thereupon the Board unilaterally removed a clause from individual extra-curricular contracts which had permitted termination of the teacher or resignation by the teacher upon thirty days notice to the other party. The Association grieved this action and seeks to proceed to arbitration.

Given our earlier decision that acceptance of extra-curricular assignments is not mandatorily negotiable, it must logically follow that neither is the right of a teacher to resign from such an assignment. To hold otherwise would negate our prior holding. Furthermore, in In re Rutherford Bd. of Ed., P.E.R.C. No. 77-22, 3 NJPER 37 (1977), we specifically held that the right to resign from an extra-curricular assignment is neither negotiable nor arbitrable.^{3/} Therefore, arbitration in this matter must be restrained.

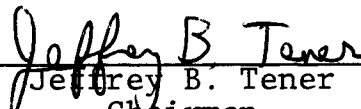
^{2/} In the earlier matter the Association did not seek to arbitrate workload or compensation.

^{3/} Although Rutherford arose under a Chapter 303 contract as opposed to a Chapter 123 contract, its holding is applicable because the Supreme Court in State v. State Supervisory Employees Assn., 78 N.J. 54 at 67 (1978) essentially adopted the test for negotiability under Chapter 303 as set forth in the Dunellen Trilogy in 1973.

ORDER

For the foregoing reasons, IT IS HEREBY ORDERED that the Mainland Regional Teachers' Association refrain from arbitrating or seeking to arbitrate the removal of a right to resign clause from individual extra-curricular contracts.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

DATED: Trenton, New Jersey
February 1, 1980