

P.E.R.C. NO. 87-151

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PISCATAWAY TOWNSHIP
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-87-34

PISCATAWAY TOWNSHIP
EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of provisions which the Piscataway Township Education Association seeks to maintain in a successor collective negotiations agreement with the Piscataway Township Board of Education. The Commission finds that a provision which prohibits discrimination is mandatorily negotiable. The Commission further finds, however, that the following provisions are not mandatorily negotiable: prohibiting the assignment of extracurricular activities; restricting reassignments and transfers and promotional preferences for those already employed in the district.

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Appearances:

For the Petitioner, Cassetta & Taylor
(Garry M. Whalen)

For the Respondent, Klausner, Hunter & Oxfeld, Esqs.
(Nancy Iris Oxfeld, of counsel)

DECISION AND ORDER

On December 15, 1986, the Piscataway Township Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board asserts that provisions the Piscataway Township Education Association ("Association") seeks to maintain in a successor collective negotiations agreement are not mandatorily negotiable. Both parties have filed briefs.

The Association is the majority representative of certain Board employees, including teachers. The Board and Association have concluded negotiations on a collective negotiations agreement effective from July 1, 1986 to June 30, 1989. They agreed that clauses which are the subject of this petition will be removed from the agreement if found to be illegal.

The Board contends that paragraphs A.6 and E of Article VII, providing that extracurricular activities and overnight field trips shall be voluntary, are not mandatorily negotiable. Established caselaw dictates that these provisions are not mandatorily negotiable. See Penns Grove-Carney's Point Ed. Ass'n v. Penns Grove-Carney's Point Bd. of Ed., 209 N.J. Super 115 (App. Div. 1986); Mainland Reg. Teach. Ass'n v. Mainland Reg. Bd. of Ed., 176 N.J. Super. 476 (App. Div. 1980), certif. den. 87 N.J. 312 (1981); and Ramapo-Indian Hills Ed. Ass'n, Inc. v. Ramapo-Indian Hills H.S. Dist. Bd. of Ed., 176 N.J. Super. 35 (App. Div. 1980).^{1/}

Articles XI.B.3 and C and Articles XII.D and E contain identical language concerning reassignments and transfers. They provide that the requests of the individual teacher will be honored if not in conflict with the district's interests and that involuntary transfers and reassignments will not be made if there is a volunteer acceptable to the principal. Articles XI.C and XII.E mirror language found non-negotiable in Ridgefield Pk. Ed. Ass'n v. Ridgefield Pk. Bd. of Ed., 78 N.J. 144 (1978). Articles XI.B.3 and XII.D are substantially similar to language found non-negotiable in

^{1/} The contract language at issue does not address compensation for such assignments or procedural matters.

East Brunswick Bd. of Ed., P.E.R.C. No. 81-123, 7 NJPER 242 (¶12109 1981).

Article XIII.F requires that preference be given to candidates for promotion who are already employed in the district. This limitation is non-negotiable. See In re Byram Tp. Bd. of Ed., 152 N.J. Super. 12 (App. Div. 1977); N. Bergen Tp. Bd. of Ed. v. N. Bergen Fed. Teach., 141 N.J. Super. 97 (App. Div. 1976).

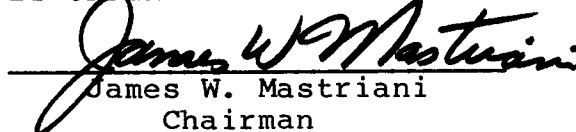
Finally, Article XXVI.A provides that the Board will not engage in invidious discrimination when making personnel decisions. Such clauses are mandatorily negotiable and may remain in collectively negotiated agreements. See Maurice River Bd. of Ed., P.E.R.C. No. 87-91, 13 NJPER 123, 124 (¶18054 1987). If a personnel decision involves a non-negotiable managerial prerogative, however, binding arbitration is barred. Teaneck Bd. of Ed. and Teaneck Teachers Ass'n, 94 N.J. 9 (1983).

ORDER

Article VII, Paragraphs A.6 and E; Article XI, Paragraphs B.3 and C; Article XII, paragraphs D and E; and Article XIII, Paragraph F are not mandatorily negotiable.

Article XXVI, Paragraph A is mandatorily negotiable.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioners Bertolino and Reid abstained.

DATED: Trenton, New Jersey
May 20, 1987
ISSUED: May 21, 1987