

P.E.R.C. NO. 89-81

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LACEY TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-88-75

LACEY TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains, in part, and declines to restrain, in part, a grievance filed by the Lacey Township Education Association against the Lacey Township Board of Education. The Commission restrains arbitration to the extent the grievance claims that a change in an evaluation rating was a reprisal for filing a grievance. It declines to restrain arbitration of an allegation that the employer did not provide the grievant with a timely written evaluation.

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Appearances:

For the Petitioner, Curry & Stein, Esqs.
(Mark Rogers, of counsel)

For the Respondent, Charles Walker, UniServ
Representative, New Jersey Education Association

DECISION AND ORDER

On May 25, 1988, the Lacey Township Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Lacey Township Education Association ("Association"). The grievance alleges that the Board violated the parties' collective negotiations agreement when it changed a rating on a teacher's observation report from satisfactory to unsatisfactory.

On August 11, 1988, Commission designee Charles A. Tadduni conducted an interim relief proceeding. The parties submitted briefs, reply briefs and exhibits and argued orally.

On September 1, 1988, the designee restrained arbitration over part of the grievance, but not over another part. I.R. No. 89-3, 14 NJPER 596 (¶19253 1988). He stated:

To the extent that the grievance alleges that the change of evaluation rating from equivocal to negative was done in reprisal for a grievance filing, the grievance is non-negotiable and non-arbitrable. Accordingly, the Association is restrained from proceeding with the arbitration on this issue pending a decision by the full Commission.^{1/}

To the extent that the grievance alleges that the Board did not provide grievant Mutter with a timely written evaluation, the issue is mandatorily negotiable and arbitrable. Accordingly, the Board's request for a temporary restraint of arbitration of this issue is denied.

We have reviewed the record. The designee's findings of fact are thorough and accurate. We incorporate them. The designee's discussion of the applicable law is similarly thorough and accurate. We incorporate that as well.

^{1/} Allegations of discrimination for filing grievances may be addressed through unfair practice proceedings. See Englewood Bd. of Ed., P.E.R.C. No. 88-141, 14 NJPER 461 (19192 1988).

ORDER

The Lacey Township Education Association is restrained from submitting its grievance to binding arbitration to the extent it claims that the change in the evaluation rating was a reprisal for a grievance. The Board's request for a restraint of arbitration is otherwise 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. Commissioners Bertolino and Reid abstained.

DATED: Trenton, New Jersey
January 9, 1989
ISSUED: January 10, 1989