

P.E.R.C. NO. 85-30

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CLINTON TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-84-70

CLINTON TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission holds that a contract proposal concerning the ratings used in evaluating teachers is not mandatorily negotiable.

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Appearances:

For the Petitioner, Cassetta, Brandon & Taylor
(Raymond A. Cassetta)

For the Respondent, New Jersey Education Association
(John Thornton, UniServ Representative)

DECISION AND ORDER

On March 13, 1984, the Clinton Township Board of Education ("Board") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission. The Board seeks a declaration that a contract provision which the Clinton Township Education Association ("Association") proposes for inclusion in a successor contract is not mandatorily negotiable. That provision (Article XIV, paragraph 9) states: "Evaluation reports shall be rated 'outstanding, satisfactory,' or 'needs improvement,' with recommendations if the ratings of 'needs improvement' is noted."

The Board has filed a brief. It contends that the provision concerns the non-negotiable subjects of evaluation criteria and evaluation report content. The Association has not filed a brief.

We agree with the Board that the ultimate ratings it gives its employees are not mandatorily negotiable. We have held that proposals which would require evaluation reports to specify the strengths and weaknesses of teaching staff members are mandatorily negotiable because they protect the employees' vital interest in knowing of any perceived weaknesses which may affect their employment status or compensation, having an opportunity to correct any weaknesses before their formal evaluation, and having an opportunity to respond to any criticisms which they believe unfounded. In re Brookdale Community College, P.E.R.C. No. 84-84, 10 NJPER 111 (¶15057 1984); In re Ridgefield Park Bd. of Ed., P.E.R.C. No. 84-50, 9 NJPER 670 (¶14292 1983) ("Ridgefield Park").^{1/} Such proposals essentially incorporate the requirements of N.J.A.C. 6:3-1.21(f) and N.J.A.C. 6:3-19(f) and promote these rules' purpose to improve the quality of instruction.^{2/} The instant provision, however, is qualitatively different since it

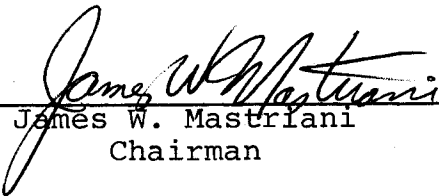
- ^{1/} Article XIV, Paragraph 8 of the parties' contract provides: "The evaluation reports shall include references to the strengths and/or weaknesses of the employee being evaluated and recommendations for improvement where weaknesses are noted." The instant scope petition does not question that provision, the same as one we found mandatorily negotiable in Ridgefield Park.
- ^{2/} By contrast, we have found not mandatorily negotiable contract proposals which would limit the content of evaluation reports in violation of these rules or which would create presumptions that areas of improvement listed in one evaluation report had been remedied if not repeated in the next report. See Ridgefield Park; In re Bethlehem Twp. Bd. of Ed., P.E.R.C. No. 80-5, 5 NJPER 290 (¶10159 1979), affmd 177 N.J. Super. 479 (App. Div. 1981), affmd 91 N.J. 38 (1982). The latter proposal would, in effect, transform a procedural right to know one's weaknesses into a substantive limitation upon a board's ability to evaluate them. See also In re Bd. of Ed. Borough of Fair Lawn, P.E.R.C. No. 84-39, 9 NJPER 648 (¶14281 1983).

would restrict the Board's ability to develop the ultimate ratings it believes most suitable and meaningful in evaluating its staff and since the regulations governing the evaluation of teaching staff members do not require these ratings to be included in evaluation reports. Accordingly, we hold the instant provision is not mandatorily negotiable.

ORDER

Article XIV, Paragraph 9, is not mandatorily negotiable.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Wenzler, Butch and Suskin voted for this decision. Commissioner Graves voted against this decision. Commissioners Hipp and Newbaker abstained.

DATED: Trenton, New Jersey
September 19, 1984
ISSUED: September 20, 1984