

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAZLET BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-94-102

HAZLET TEACHERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission declines to restrain binding arbitration of a grievance filed by the Hazlet Education Association against the Hazlet Board of Education. The grievance asserts that the Board violated the parties' collective negotiations agreement when it issued letters of reprimand to two teachers who failed to attend a meeting allegedly scheduled outside of normal working hours. The Association is no longer seeking that an administrator be disciplined. That issue is moot. The Commission also finds that it does not appear that the Association is challenging the Board's right to schedule instructional meetings for teachers. That issue is different from whether the administrator's letter was properly issued. If the arbitrator sustains the grievance and issues an award which the Board believes significantly interferes with its prerogatives, it may seek relief from the award.

P.E.R.C. NO. 95-26

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Appearances:

For the Petitioner, Kenney, Gross, McDonough & Stevens
attorneys (Michael J. Gross, of counsel; Mark S. Tabenkin,
on the brief)

For the Respondent, Marc Abramson, NJEA UniServ
Representative

DECISION AND ORDER

On May 27, 1994, the Hazlet Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Hazlet Education Association. That grievance asserts that the Board violated the parties' collective negotiations agreement when it issued letters of reprimand to two teachers who failed to attend a meeting allegedly scheduled outside of normal working hours.

The parties have filed exhibits and briefs. These facts appear.

The Association represents the Board's certificated staff. The Board and the Association entered into a collective negotiations

agreement effective from July 1, 1991 until June 30, 1994. Its grievance procedure ends in binding arbitration.

On October 28, 1993, an administrator sent a memorandum to basic skills (BSIP) teachers in grades K through 8 scheduling two meetings for November 10. A meeting for teachers in grades K through 5 was scheduled for 3:05 p.m.; another meeting for teachers in grades 6 through 8 was scheduled for 7:30 a.m. to 8:05 a.m. Two teachers in the higher grades did not attend the early meeting and allegedly did not notify the administrator that they would not be there.

On November 12, 1993, the administrator wrote a letter to each teacher. The letter stated:

I was disappointed when you failed to attend the BSIP staff meeting on November 10. This was an important meeting in which your job tasks, responsibilities, and expectations as a teacher of BSIP were outlined, reviewed, and discussed.

Your responsibilities to your students, the School and the BSI Program have been neglected by your failure to attend this meeting.

On November 19, 1993, the Association filed a grievance contesting the "reprimands for not reporting to a meeting called before the normal contracted working hours." The grievance demanded that the administrator be disciplined for unilaterally changing the contract and harassing the teachers; the letters be removed from the employees' personnel files; and the Board be ordered to cease and desist from future action that violates past practice and the contract.

The superintendent and the Board denied the grievance. The Association demanded binding arbitration, identifying the grievance as a reprimand/work hour violation. This petition ensued.

The Board agrees with the Association that the part of the grievance contesting the reprimands is legally arbitrable. However, it sought a restraint of arbitration to the extent the grievance seeks to have the administrator disciplined and to the extent the grievance seeks to bar it from scheduling meetings for basic skills teachers.

The Association contended that the grievance simply asserts that there was no just cause for the reprimands. It stated that the Board's objection to the demand for relief is premature until an arbitrator actually grants it. Nevertheless, it stated that it will not seek discipline for the administrator as part of its relief. It further contended that neither the grievance nor the demand for arbitration mentioned the scheduling of basic skills meetings.

In its reply brief, the Board noted that the Association had withdrawn its demand that the administrator be disciplined. It recognized that the issue may be moot.

Our jurisdiction is narrow. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 154 (1978), states:

The Commission is addressing the abstract issue: is the subject matter in dispute within the scope of collective negotiations. Whether that subject is within the arbitration clause of the agreement, whether the facts are as alleged by the grievant, whether the contract provides a defense for the employer's alleged action, or even whether there is a valid arbitration clause

in the agreement or any other question which might be raised is not to be determined by the Commission in a scope proceeding. Those are questions appropriate for determination by an arbitrator and/or the courts.

Thus, we do not consider the contractual merits of the Association's grievance or any contractual defenses the Board may have.

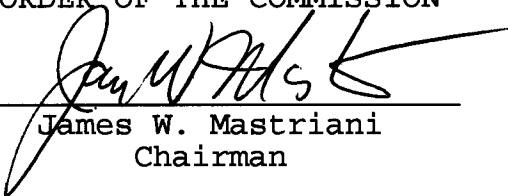
The Association is no longer seeking that the administrator be disciplined. That issue is moot.

It also does not appear that the Association is challenging the Board's right to schedule instructional meetings for teachers. It asserts that its grievance does not mention the current method of scheduling basic skills meetings. That issue is different from whether the administrator's letter was properly issued. We, therefore, will not restrain arbitration. If the arbitrator sustains the grievance and issues an award which the Board believes significantly interferes with its prerogatives, it may seek relief from the award.

ORDER

The request of the Hazlet Board of Education for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Goetting, Klagholz, Ricci, Smith and Wenzler voted in favor of this decision. None opposed. Commissioner Bertolino abstained from consideration.

DATED: September 29, 1994
Trenton, New Jersey
ISSUED: September 30, 1994