

P.E.R.C. NO. 96-66

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-96-14

SOMERVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Somerville Board of Education for a restraint of arbitration of a grievance filed by the Somerville Education Association. The Association alleges that the Board violated the parties' collective negotiations agreement when it failed to assign an "Honors Geometry" course to a teaching staff member. The Commission finds the Board's assertion that a non-negotiable personnel action is "non-grievable" to be without merit and that disputes involving non-negotiable personnel actions may be submitted to advisory arbitration.

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Appearances:

For the Petitioner, McDonald, Rogers & Rizzolo, attorneys  
(Michael J. Rogers, of counsel)

For the Respondent, Zazzali, Zazzali, Fagella & Nowak,  
attorneys (Richard A. Friedman, of counsel)

DECISION AND ORDER

On August 11, 1995, the Somerville Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of arbitration of a grievance filed by the Somerville Education Association. The Association alleges that the Board violated the parties' collective negotiations agreement when it failed to assign an "Honors Geometry" course to a teaching staff member.

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

The Association represents the Board's teachers. The parties entered into a collective negotiations agreement effective from July 1, 1994 through June 30, 1997. The contract contains a grievance procedure ending in advisory arbitration.

James Matthews is a mathematics teacher at Somerville High School. His teaching schedule for 1994-95 did not include Honors Geometry, a course he had taught before. The Association filed a grievance alleging that Matthews had been disciplined without just cause. The Board denied the grievance and the Association demanded arbitration.

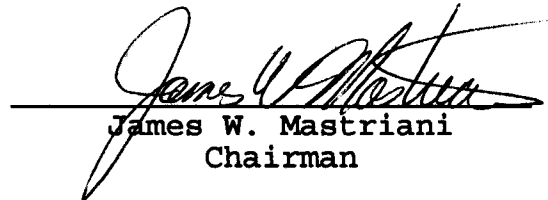
The Board asserts that staff scheduling decisions are neither grievable nor arbitrable. The Association argues that because the grievance procedure ends in advisory arbitration, the Board's petition should be dismissed. The Association's brief waives any claim that an arbitration award would be binding.

The Board's assertion that a non-negotiable personnel action is "non-grievable" is without merit. The New Jersey Supreme Court has held that disputes involving non-negotiable personnel actions may be submitted to advisory arbitration. See Teaneck Bd. of Ed. and Teaneck Teachers Ass'n, 94 N.J. 9, 19-20 (1983); Bernards Tp. Bd. of Ed. v. Bernards Tp. Ed. Ass'n, 79 N.J. 311, 325-326 (1979). We therefore decline to restrain advisory arbitration of this grievance. See South Hackensack Bd. of Ed., P.E.R.C. No. 81-118, 7 NJPER 234 (¶12104 1981), aff'd NJPER Supp.2d 136 (¶118 App. Div. 1983); Bergen Community College, P.E.R.C. No. 92-27, 17 NJPER 429 (¶22207 1991).

ORDER

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

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Buchanan, Finn, Ricci and Wenzler voted in favor of this decision. None opposed. Commissioner Boose abstained from consideration. Commissioner Klagholz was not present.

DATED: March 28, 1996  
Trenton, New Jersey  
ISSUED: March 29, 1996