

P.E.R.C. NO. 94-76

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH PLAINFIELD BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-94-31

NORTH PLAINFIELD ASSOCIATION
OF EDUCATIONAL ADMINISTRATORS
AND SUPERVISORS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the North Plainfield Association of Educational Administrators and Supervisors against the North Plainfield Board of Education. The grievance asserts that the Board violated the parties' collective negotiations agreement when the assistant superintendent directed a supervisor to change an evaluation. The Commission finds that the Board's prerogative to designate its evaluators authorizes the assistant superintendent to have that change made.

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Appearances:

For the Petitioner, Cassetta, Taylor and Whalen, labor relations consultants (Bruce Taylor, consultant)

For the Respondent, Lake and Schwartz, attorneys (Robert M. Schwartz, of counsel)

DECISION AND ORDER

On September 27, 1993, the North Plainfield Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance filed by the North Plainfield Association of Educational Administrators and Supervisors. The grievance asserts that the Board violated the parties' collective negotiations agreement when an assistant superintendent directed a supervisor to change an evaluation.

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

The Association represents the Board's principals, assistant principals, administrators, directors and supervisors. The parties entered into a collective negotiations agreement

effective from June 30, 1992 to July 1, 1994. The grievance procedure ends in binding arbitration of contractual disputes and advisory arbitration of policy disputes affecting terms and conditions of employment.

Marie O'Brien is a supervisor. On December 18, 1992, she observed an English class taught by Arlene Koumjian. Her observation report included this statement: "There was no Oral Written English today."

Koumjian complained about this statement. The assistant superintendent then directed O'Brien to delete it and replace it with this sentence: "It should be noted that in pre-conference, Mrs. Koumjian stated that a segment on composition revision/editing would not occur today because of time constraints." O'Brien complied.

The Association filed a grievance. It asserted that Board policy and state law give supervisors the right to decide what to include in an evaluation and preclude an assistant superintendent from changing the evaluation; a displeased teacher should write a rebuttal to the evaluation rather than complain to the administration. It also asserted that the change "constitutes...a loss or denial of professional advantage with [O'Brien's] staff." The Association requested that the evaluation remain in its original form.

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 this grievance or any contractual defenses the Board may have.

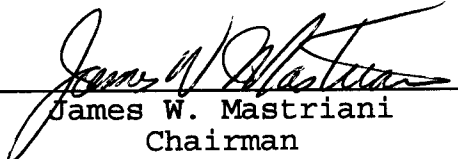
A school board has a prerogative to determine who will evaluate its employees. Rutgers, the State Univ. and Rutgers Council of AAUP Chapters, 256 N.J. Super. 104 (App. Div. 1992), aff'd 131 N.J. 118 (1993). Burlington Cty. College, P.E.R.C. No. 90-13, 15 NJPER 513 (¶20213 1989); NJIT, P.E.R.C. No. 85-73, 11 NJPER 56 (¶16029) 1984); Brookdale Community College, P.E.R.C. No. 84-84, 10 NJPER 111 (¶15058 1984). The Board has entrusted its supervisors with observing teachers and writing observation reports, but it has also apparently authorized its assistant superintendent to have changes made in an evaluation if she sees fit. The disputed change does not involve what the evaluator observed the teacher do, but rather what the teacher told the observer would not be done. The Board's prerogative to designate its evaluators authorizes the assistant superintendent to have that change made. Hoboken Bd. of Ed., P.E.R.C. No. 84-139, 10 NJPER 353 (¶15164 1984). Cf. Nutley Tp., P.E.R.C. No. 93-48, 19 NJPER 47 (¶24021 1992) (restraining

binding arbitration over including captain's memorandum in sergeant's personnel file; captain's memorandum states that supervisor's evaluation was too lenient). Accordingly, we will restrain binding arbitration over this grievance.

ORDER

The request of the North Plainfield Board of Education for a restraint of binding arbitration is granted.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

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

DATED: January 24, 1994
Trenton, New Jersey
ISSUED: January 25, 1994