

P.E.R.C. NO. 98-89

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MILLTOWN BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-118

MILLTOWN EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Milltown Board of Education for a restraint of binding arbitration of a grievance filed by the Milltown Education Association. The grievance asserts that the Board violated the parties' collective negotiations agreement when it assigned central detention duty to teachers without compensation. The request is granted to the extent, if any, the grievance asserts that the Board cannot assign teaching staff members to supervise central detention, but denied to the extent the grievance seeks compensation for such assignments.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Petitioner, Borrus, Goldin, Foley, Vignuolo,
Hyman & Stahl, attorneys (Anthony B. Vignuolo, of counsel)

For the Respondent, Bergman & Barrett, attorneys
(Michael T. Barrett, of counsel)

DECISION

On May 21, 1997, the Milltown Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Milltown Education Association. The grievance asserts that the Board violated the parties' collective negotiations agreement when it assigned central detention duty to teachers without compensation.^{1/}

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

The Association represents teachers employed by the Board. The parties' collective negotiations agreement has a

^{1/} The Association also filed an unfair practice charge. That charge will be deferred to arbitration if the Association's grievance is legally arbitrable.

grievance procedure ending in binding arbitration of contractual disputes. Article XI of the contract is entitled Teaching Hours and Teaching Load. Section A4 provides:

The teacher's total in-school workday shall end ten (10) minutes after the pupils have been dismissed, except where his/her attendance is required including but not limited to the following: assistance to pupil, parent conference and staff meetings.

Section B provides:

The daily teaching load, exclusive of detention, for all teachers shall not exceed five (5) hours and fifty-five (55) minutes.

The Board's policy on Student Discipline refers to two types of detention. One type is classroom detention in which a teacher remains with a disciplined student after other pupils have been dismissed. Pupils in grades 1-3 can be detained until 4:00 p.m. Pupils in grades 4-8 can be detained until 4:30 p.m. The other type of detention is central detention. Central detention is held in the classroom of the supervising teacher on Tuesdays, Wednesdays, and Thursdays from 3:05 to 4:05 p.m.

The principal of the Joyce Kilmer School asserts, in a certification, that before the 1996-1997 school year, enough teachers had volunteered to supervise central detention so that no assignments were required.^{2/} This year the principal has had to

^{2/} The Association's brief asserts that central detention had been supervised for years by the principal or another administrator and that the reference to "detention" in Article XI means classroom detention only.

assign one non-tenured teacher and one tenured teacher to that duty. He has selected teachers for that duty based on two factors: (1) who has the pupil management skills needed for the job, and (2) who has not signed up for other after-school positions such as coaching or clubs. An assigned teacher need not remain longer than 10 minutes after pupil dismissal if no pupils are assigned to central detention that day.

The Association filed a grievance. The grievance asserted that the Board violated Article XI when it assigned teachers to supervise after-school detention at the Joyce Kilmer School, thus requiring teachers to work longer hours, without negotiating compensation. The Association sought compensation for past central detention assignments, negotiations over compensation for future assignments, and suspension of central detention assignments until compensation is negotiated.

The Board denied the grievance and the Association demanded arbitration.

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. We specifically do not consider whether the parties' contract contemplates assignments of teachers to supervise central detention.

The Board has a right to ensure that central detention is supervised by qualified teaching staff members. See Pompton Lakes Bd. of Ed., P.E.R.C. No. 82-85, 8 NJPER 221 (¶13090 1982). The Association's compensation claim, however, is mandatorily negotiable and legally arbitrable. We do not consider whether the claimed workload increase is too minor to warrant the contractual relief sought of negotiations over compensation. See, e.g., Fairfield Tp. Bd. of Ed., P.E.R.C. No. 98-32, 23 NJPER 541 (¶28268 1997); Lincoln Park Bd. of Ed., P.E.R.C. No. 85-54, 10 NJPER 646 (¶15312 1984).^{3/}

ORDER

The request of the Milltown Board of Education is granted to the extent, if any, the grievance asserts that the Board cannot

^{3/} In Pompton Lakes, we restrained arbitration over a grievance contesting a one-hour increase in the time a teacher would have to spend supervising detention over the course of the year. The grievance did not specifically seek compensation. In this case, by contrast, the two teachers are being assigned to supervise central detention one hour a day three afternoons a week throughout the year and the grievance does seek compensation.

assign teaching staff members to supervise central detention, but denied to the extent the grievance seeks compensation for such assignments.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed. Commissioner Boose was not present.

DATED: December 18, 1997
Trenton, New Jersey
ISSUED: December 19, 1997