

P.E.R.C. NO. 89-50

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket Nos. SN-88-30
& SN-88-31

UNION TOWNSHIP SUPERVISORS'
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of grievances filed by the Union Township Supervisors Association against the Union Township Board of Education to the extent the grievances challenge the Board's right to assign cafeteria and hall duties to supervisors. The Commission declines to restrain binding arbitration to the extent the grievances seek compensation for the assignments or challenge the method of choosing among equally qualified supervisors to perform the assignments.

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Appearances:

For the Petitioner, Green & Dzwilewski, Esqs.
(Alan P. Dzwilewski, of counsel)

For the Respondent, Katzenbach, Gildea & Rudner, Esqs.
(Arnold M. Mellk, of counsel)

DECISION AND ORDER

On November 13, 1987, the Union Township Board of Education ("Board") filed two Petitions for Scope of Negotiations Determination. The Board seeks to restrain binding arbitration of two similar grievances filed respectively by the Union Township Supervisors' Association ("Association") and an individual. These grievances assert that the Board violated a collective negotiations agreement when it assigned supervisory personnel to cafeteria and hall duty.

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

The Association is the majority representative of the Board's supervisors, testing coordinators and nurses. The Board and the Association have an agreement effective from September 1, 1986 through August 31, 1989. The grievance procedure ends in binding arbitration for grievances alleging a violation of the agreement.

On September 2, 1986, Robert M. Petracco, the high school principal, notified the "Supervisors and Guidance Staff" that they would be assigned to cafeteria duty during the fourth period due to the limited number of staff available for such duty.^{1/} Following staff comment on September 9, 1986, the principal prepared a "week-on, week-off" schedule on September 18, 1986, effective September 28, 1986.

Mary Jane Bergen is the district-wide test coordinator. In 1986-1987 her office was located at Union High School. It formerly was located in the administration building. She was one of the supervisory personnel assigned cafeteria and hall duty.

On October 8, 1976, Bergen filed a grievance alleging that the principal lacked authority to assign her to the duty and that the assignment was outside her the job description and a change in working conditions. The grievance sought relief from the assignment and compensation for the extra duty.

^{1/} The Board asserts that there were six fewer teachers available for cafeteria and hall assignments in 1986-1987 than in the prior year. Teachers are in a different collective negotiations unit.

On October 17, 1986, the Association filed a grievance on behalf of sixteen supervisory employees, including Bergen, seeking relief from the duty assignments. Both grievances were denied and the Association demanded arbitrations.^{2/} This petition ensued.

The Board asserts that any alleged increase in workload caused by the assignments is a result of a reduction in force in the 1986-87 school year and, therefore, is neither negotiable nor arbitrable. It relies on Maywood Bd. of Ed., 168 N.J. Super. 45 (App. Div. 1979), certif. den. 81 N.J. 792 (1979); Old Bridge Tp. Bd. of Ed., P.E.R.C. No. 86-113, 12 NJPER 360 (¶17136 1986), aff'd App. Div. Dkt. No. A-4429-85T6 (1987), certif. den. 108 N.J. 665 (1987); and Fair Lawn Bd. of Ed., P.E.R.C. No. 87-135, 13 NJPER 356 (¶18146 1987).

The Association contends that Maywood is inapplicable, "there being no proof that a RIF was effectuated by the Board pursuant to N.J.S.A. 18A:28-9."^{3/} The Association cites Plainfield Bd. of Ed., P.E.R.C. No. 80-42, 5 NJPER 418 (¶10219 1979), holding that assigning teachers to cafeteria duty is not mandatorily negotiable, but workload or work hour increases are.

^{2/} In a response to Bergen's grievance, a Board representative acknowledged that the assigned duties were not within her job description.

^{3/} The Board has shown the staff reduction by attaching rosters of employees for the 1985-1986 and 1986-1987 school years. It has not demonstrated whether the reduction in staff was the result of layoffs, retirements, resignations, a combination of all three or other personnel actions. The Association does not dispute that there were six fewer teachers in the high school during 1986-1987.


The assignment of supervision duties involving student safety and control to teaching staff is not mandatorily negotiable. See In re Byram Tp. Bd. of Ed., 152 N.J. Super. 12 (App. Div. 1977); South Brunswick Tp. Bd. of Ed., P.E.R.C. No. 85-60, 11 NJPER 22 (¶16011 1984). However, compensation for such duties and the method of allocating such duties among equally qualified staff are mandatorily negotiable. In Hamilton Tp. Bd. of Ed., P.E.R.C. No. 87-18, 12 NJPER 737 (¶17276 1986), aff'd App. Div. Dkt. No. A-1551-86T8 (12/18/87), certif. den. N.J. (1988), the employer was required to negotiate about compensation for assigning a supervisor teaching duties outside his job description which he performed because of a staff shortage. See Atlantic Highlands Bd. of Ed., P.E.R.C. No. 87-28, 12 NJPER 758 (¶17286 1986); Hunterdon Cen. H.S. Bd. of Ed., P.E.R.C. NO. 87-83, 13 NJPER 78 (¶18035 1986) (compensation for and frequency and rotation of supervision negotiable). See also Rahway Bd. of Ed., P.E.R.C. No. 88-29, 13 NJPER 757 (¶18286 1987) (compensation for substantial workload increase after RIF mandatorily negotiable). Accordingly, arbitration will be only partially restrained.

ORDER

The request of the Union Township Board of Education for a restraint of binding arbitration is granted to the extent the grievances challenge the Board's right to assign cafeteria and hall

duties to supervisors. To the extent the grievances seek compensation for the assignments or challenge the method of choosing among equally qualified supervisors to perform the assignments, the request for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Johnson, Smith, and Wenzler voted in favor of this decision. Commissioners Reid and Bertolino abstained. None opposed.

DATED: Trenton, New Jersey
October 20, 1988
ISSUED: October 21, 1988