

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WEST WINDSOR-PLAINSBORO REGIONAL  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-97-43

WEST WINDSOR-PLAINSBORO  
SERVICE ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of language in an expired collective negotiations agreement between the West Windsor-Plainsboro Regional Board of Education and the West Windsor-Plainsboro Service Association. The first portion of the disputed language requires that involuntary transfers or reassignments of custodians be made based on length of service. The Commission finds that this portion addresses transfer criteria and is not mandatorily negotiable. The second portion of the disputed language provides that if the least senior custodian objects, the transfer or reassignment shall be made only after a meeting with the least senior custodian and the Principal and Supervisor of Buildings and Grounds. The Commission finds that this portion is mandatorily negotiable except to the extent, if any, it requires that the least senior custodian be transferred or reassigned.

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, Carroll & Weiss, attorneys  
(Robert J. Merryman, of counsel)

For the Respondent, Klausner & Hunter, attorneys  
(Stephen B. Hunter, of counsel)

DECISION AND ORDER

On November 18, 1996, the West Windsor-Plainsboro Regional Board of Education petitioned for a scope of negotiations determination. The Board seeks a declaration that language in its expired collective negotiations agreement with the West Windsor-Plainsboro Service Association is not mandatorily negotiable. The language addresses involuntary transfers and reassignments.

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

The Association represents the Board's bus drivers, van drivers, substitute drivers, twelve-month custodians, ten-month

custodians, assistant head custodians, maintenance workers, bus mechanics, tradesmen, twelve-month secretaries, ten-month secretaries and instructional assistants. The Association and the Board are parties to a collective negotiations agreement effective from July 1, 1993 through June 30, 1996.

During negotiations for a successor contract, the parties could not agree upon the negotiability of language in subsection 1.3 of Article VIII, entitled Involuntary Transfer. That subsection provides:

Custodians who desire a transfer may file a written statement of such desire with the Business Administrator. When an involuntary transfer or reassignment is necessary a custodian's length of service shall be the determining factor of which custodian is to be transferred or reassigned. In the event the least senior custodian objects, an involuntary transfer or reassignment shall be made only after a meeting between the custodian involved and the Principal and Supervisor of Buildings and Grounds. In the event that the custodian objects to the transfer or reassignment at this meeting, the Superintendent will meet with the custodian upon request. The custodian may have an Association representative at all such meetings.

The Association seeks to retain this language in a successor agreement. The Board contends that the underlined language cannot be retained because it is not mandatorily negotiable.

Our jurisdiction is narrow. We consider only the abstract negotiability of the disputed language. In re Byram Tp. Bd. of Ed., 152 N.J. Super. 12, 30 (App. Div. 1977).

In general, transfer criteria and transfer decisions are not mandatorily negotiable. N.J.S.A. 34:13A-25; Local 195, IFPTE v. State, 88 N.J. 393 (1982); Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144 (1978). But transfer procedures have been held to be mandatorily negotiable. See, e.g., Old Bridge Tp. Bd. of Ed. v. Old Bridge Ed. Ass'n, 98 N.J. 523 (1985); Bethlehem Tp. Ed. Ass'n v. Bethlehem Tp. Bd. of Ed., 91 N.J. 38; Local 195. The first underlined sentence addresses transfer criteria and is not mandatorily negotiable.

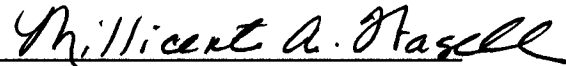
In addition, the underlined part of the next sentence is not mandatorily negotiable to the extent, if any, it requires that the least senior custodian be transferred or reassigned. The remainder of the subsection provides a procedural opportunity to discuss a transfer. Middletown Tp. Bd. of Ed., P.E.R.C. No. 97-86, 23 NJPER 125 (¶28060 1997). It does not lose its negotiability because the beginning of the sentence limits the availability of the procedure to "the least senior custodian." But this procedure may not be used to bar an emergent transfer or reassignment. See Monroe Tp. Bd. of Ed., P.E.R.C. No. 80-146, 6 NJPER 301 (¶11143 1980).

#### ORDER

The second sentence of Article VIII, subsection 1.3, is not mandatorily negotiable.

The third sentence of Article VIII, subsection 1.3 is mandatorily negotiable except to the extent, if any, it requires that the least senior custodian be transferred or reassigned.

BY ORDER OF THE COMMISSION



Millicent A. Wasell  
Chair

Chair Wasell, 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: May 29, 1997  
Trenton, New Jersey  
ISSUED: May 30, 1997