

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLESEX BOARD OF EDUCATION,

Petitioner,

Docket No. SN-80-46

-and-

MIDDLESEX EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Chairman had refused a request of the Board of Education to restrain arbitration of a grievance. The grievance involved two critical memoranda which had been placed in the personnel file of a faculty member by his Principal. Subsequent to the Chairman's decision, the Appellate Division issued its decision reversing the Commission's decision in In re Hazlet Twp. Bd. of Ed., P.E.R.C. No. 79-57, 5 NJPER 113 (¶10066 1979), rev'd App. Div. Docket No. A-2875-78 (3/27/80). Based upon the Appellate Division's decision, the Commission granted the Board's motion for reconsideration of the Chairman's initial decision. The Commission's Hazlet decision had held that the application of evaluation criteria, although the criteria themselves, was a mandatory subject of negotiations. The Appellate Division reversed. Accordingly, in this decision, the Chairman reversed his earlier decision and granted the request of the Board of Education that arbitration be permanently restrained.

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Appearances:

For the Petitioner, Metzler Associates
(Dr. Stanley C. Gerrard)

For the Respondent, Stephen E. Klausner, Esq.

DECISION AND ORDER

The Middlesex Board of Education ("Board") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission on November 8, 1979 seeking restraint of arbitration of a grievance which the Middlesex Education Association ("Association") sought to submit to arbitration. After considering the briefs, the Chairman issued a decision on February 8, 1980 ^{1/} in which he refused to restrain arbitration. On February 19, 1980, the Board filed a motion for reconsideration which the Commission granted in a decision issued on April 7, 1980.^{2/} In that decision, the Commission invited the parties to submit additional briefs by April 18, 1980.^{3/}

^{1/} P.E.R.C. No. 80-98, 6 NJPER 82 (¶111042 1980).

^{2/} P.E.R.C. No. 80-120, 6 NJPER ___ (¶ 1980).

^{3/} The Board's brief was timely filed. The Association did not submit its letter memorandum until May 8, 1980.

The grievance involves two critical memoranda which were placed in the personnel file of a faculty member by his principal involving a planned field trip which, among other things, criticized his actions in attempting to raise money for part of the field trip.

This case is governed by the Appellate Division's recent decision in In re Hazlet Twp. Board of Education, P.E.R.C. No. 79-57, 5 NJPER 113 (¶10066 1979), rev'd App. Div. Docket No. A-2875-78 (3/27/80). The Chairman relied upon the Commission's Hazlet decision and the Board's motion for reconsideration was granted because of the intervening reversal of Hazlet by the Appellate Division.

The Commission's Hazlet decision held that the application of evaluation criteria but not the criteria themselves was a mandatory subject of negotiations. The Appellate Division rejected the view that these two matters can be distinguished, and held that comments in the evaluation process were reviewable by the Commissioner of Education and not through binding arbitration. The undersigned is constrained by the Court's decision in Hazlet to grant the Board's request for a permanent restraint of arbitration.

The Association, while arguing that Hazlet is distinguishable from this case because this case, unlike Hazlet, involved discipline,^{4/} urges that this matter be transferred by us to the Commissioner of Education in the event that we find

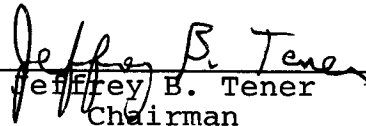
^{4/} The Board denies that the employee was disciplined. He simply had the two memoranda placed in his file. This individual left the employ of the school district in June 1979.

Hazlet controlling. While nothing in this decision is intended to prevent the Association from pursuing this matter in any appropriate forum, we believe that it would be more appropriate for the party seeking to have a matter heard by a particular agency to file with that agency.^{5/}

ORDER

Based upon the above, the undersigned, based upon Hazlet Twp. Bd of Ed, supra, hereby reverses his earlier decision and grants the Board's request for a permanent restraint of arbitration. The Association is ordered to refrain from submitting or seeking to submit to binding arbitration the grievance involving the May 3 and 8, 1979 memoranda from the principal to the grievant which have been placed in the personnel file of the grievant.

BY ORDER OF THE COMMISSION


Jeffrey B. Tener
Chairman

DATED: Trenton, New Jersey
May 23, 1980

^{5/} This decision is being issued by the undersigned pursuant to a delegation of authority by the Commission pursuant to N.J.S.A. 34:13A-6(f).