

P.E.R.C. NO. 89-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SAYREVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-88-63

SAYREVILLE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the Sayreville Education Association against the Sayreville Board of Education. The grievance contests the promotion of a secretary employed for less than six months. The Commission finds that the grievance seeks to determine whether a candidate who lacks a specific promotional criterion should be promoted. It is not mandatorily negotiable.

P.E.R.C. NO. 89-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SAYREVILLE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-88-63

SAYREVILLE EDUCATION ASSOCIATION,

Respondent.

Appearances:

For the Petitioner, Wilentz, Goldman & Spitzer, Esqs.
(Joseph J. Jankowski, of counsel)

For the Respondent, Oxfeld, Cohen, Blunda, Friedman, LeVine
& Brooks, Esqs. (Arnold S. Cohen, of counsel)

DECISION AND ORDER

On March 11, 1988, the Sayreville Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board seeks to restrain binding arbitration of a grievance filed by the Sayreville Education Association ("Association"). The grievance contests the promotion of a secretary employed for less than six months.

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

The Board and the Association are parties to an agreement effective from July 1, 1986 to June 30, 1989. Its grievance procedure ends in binding arbitration. Article 17, section B(3), provides:

Vacancy(s) shall be awarded to the most senior qualified employee within each unit sub-group who submits a bid unless the employee is ineligible as provided hereafter. A new employee must have worked six (6) months before being eligible to submit such a bid. [Emphasis supplied]

On October 27, 1986, Geraldine Kearny was hired as a substitute clerk. On December 16, she was appointed to a level IV clerk/typist position. Within six months, she was officially promoted, subject to a 90 day probation period, to a level III secretary position. On April 27, 1987, the Association grieved this promotion as violating Article 17, section B(3). The grievance was denied and the Association demanded binding arbitration. This petition ensued.

The Board contends that the grievance infringes on its prerogative to select the best employee to fill a vacancy. The Association urges that there is no significant educational policy involved in a promotion to a level III secretary position. It notes that the underlined language was added to the parties' agreement at the insistence of the Board and argues that the grievance challenging the Board's breach of that language is negotiable and arbitrable.

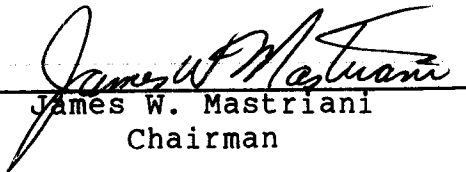
Promotional criteria are not mandatorily negotiable, but promotional procedures are. Snitow v. Rutgers Univ., 103 N.J. 116 (1986); Council of N.J. State Coll. Locals NJSFT/AFT/AFL-CIO v. State Bd. of Higher Ed., 91 N.J. 18 (1982). This grievance seeks to determine whether a candidate who lacks a specific promotional criterion should be promoted. It is not mandatorily negotiable. See State v. State Troopers NCO Ass'n, 179 N.J. Super. 80 (App. Div.

1981); N. Bergen Tp. Bd. of Ed. v. N. Bergen Fed. of Teachers, 141
N.J. Super. 97 (App. Div. 1976).

ORDER

The request of the Sayreville Board of Education for a
restraint of arbitration is granted.

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