

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF THE TENURE
HEARINGS OF ROBERT PALUMBO,
RAYMOND KIRSCHBAUM AND RICHARD
ALEXANDER SCHOOL DISTRICT OF THE
CITY OF NEWARK, ESSEX COUNTY,

OAL DKT. NOS. EDU 3341-83
EDU 3343-83, EDU 3344-83

ROBERT PALUMBO, RAYMOND KIRSCHBAUM
and RICHARD ALEXANDER,

Petitioners,

-and-

BOARD OF EDUCATION OF THE CITY
OF NEWARK, ESSEX COUNTY,

OAL DKT. NOS. EDU 08603-83,
EDU 08606-83 and EDU 08612-83

Respondent.

NEWARK TEACHERS UNION LOCAL 481, AFT,
AFL-CIO, ROBERT PALUMBO, RAYMOND
KIRSCHBAUM and RICHARD ALEXANDER,

Petitioner,

-and-

BOARD OF EDUCATION OF THE CITY
OF NEWARK, ESSEX COUNTY,

OAL DKT. NOS. PERC 1056-84
PERC 1057-84, & PERC 2058-84
PERC DKT NOS. CO-83-213-103,
CO-83-214-104 & CO-83-283-105

Respondent.

SYNOPSIS

The Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, adopts a recommendation of an Administrative Law Judge that the Commission approve a settlement between, on the one hand, Newark Teachers Union, Local 401, AFT, AFL-CIO, Robert Palumbo, Raymond Kirschbaum and Richard Alexander and, on the other hand, the Board of Education of the City of Newark. The settlement disposed of tenure and increment withholding proceedings before the Commissioner of Education as well as unfair practice charges before the Commission. The Commissioner of Education had previously approved the settlement.

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BOARD OF EDUCATION OF THE CITY
OF NEWARK, ESSEX COUNTY,

Respondent.

Appearances:

For the Petitioners, Newark Board of Education
(Vickie Donaldson, General Counsel)

For the Respondents, Tomar, Gelade, Kamensky,
Klein, Smith & Lehmann, Esqs.
(Sidney H. Lehmann, Of Counsel)

DECISION AND ORDER

This case involves a consolidation of tenure and increment
withholding proceedings before the Commissioner of Education and
unfair practice charges before the Public Employment Relations
Commission. In particular, the Newark Board of Education brought
tenure charges against three employees and withheld their

employment and adjustment increments. These employees then filed petitions contesting the withholdings with the Commissioner of Education and unfair practice charges alleging that the tenure charges and increment withholdings were retaliatory with this Commission.

The tenure and increment withholding proceedings were consolidated with the unfair practice charge for hearing. It was determined that neither agency had a predominant interest and that each should separately consider whether the statute it administered had been violated.

The Administrative Law Judge conducted nine days of hearing. After the Board concluded its case, the employees moved to dismiss the allegations against them. The Administrative Law Judge, viewing the evidence in the light most favorable to the Board, granted the motion with respect to several allegations and denied it with respect to others. The hearing then continued.

Following the conclusion of the hearing, the parties reviewed the evidence in light of the earlier decision on the motions to dismiss. They then decided to settle all the matters in dispute. They agreed that all three employees would be reinstated, the tenure charges dropped, and their increments restored. They also agreed that two of the employees would be suspended without pay for 120 days and that the unfair practice proceedings would be dismissed.

On January 25, 1985, the Administrative Law Judge who heard the case issued a decision recommending approval of the

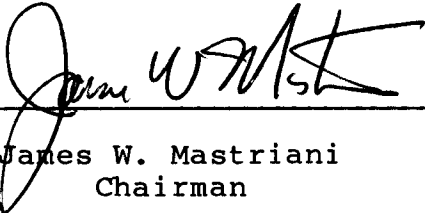
settlement. He found this settlement to be fair and reasonable in light of the evidence adduced. He then served his report on the Commissioner of Education and the Public Employment Relations Commission for their review.

On March 18, 1985, the Commissioner of Education approved the settlement.

Pursuant to N.J.S.A. 34:13A-6(f), the full Commission has delegated authority to me to consider this settlement. I have reviewed the record. Based on that review, I agree with the Administrative Law Judge that the settlement is fair and reasonable. I adopt that report and dismiss the unfair practice charges.

ORDER

The parties' settlement is approved. The unfair practice charges are dismissed.



James W. Mastriani
Chairman

DATED: Trenton, New Jersey
March 28, 1985