

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OLD BRIDGE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2003-34

OLD BRIDGE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Old Bridge Board of Education for a restraint of binding arbitration of a grievance filed by the Old Bridge Education Association. The grievance contests staffing levels and workload distribution in the high school attendance office. The Commission concludes that a public employer has a managerial prerogative to determine when governmental services will be delivered and the staffing levels associated with the delivery of those services. There are no allegations that employees had to work longer, nor are there any compensation claims, severable or otherwise.

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.

On February 21, 2002, the Association filed a grievance stating:

The inadequate staffing of high school attendance office has resulted in excessive work load for current secretarial/clerical employees.

By way of relief, the grievance seeks the redistribution of the secretarial/clerical work force to provide adequate staffing of the high school attendance office. The Board denied the grievance, stating that "current employees' contractual rights have not been affected" and "it is up to administration to determine staffing patterns."

On June 5, 2002, the Association demanded arbitration. This petition ensued. Arbitration has been adjourned pending resolution of the scope petition.

Our jurisdiction is narrow. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 154 (1978), states:


The Commission is addressing the abstract issue: is the subject matter in dispute within the scope of collective negotiations. Whether that subject is within the arbitration clause of the agreement, whether the facts are as alleged by the grievant, whether the contract provides a defense for the employer's alleged action, or even whether there is a valid arbitration clause in the agreement or any other question which might be raised is not to be determined by the Commission in a scope proceeding. Those are questions appropriate for determination by an arbitrator and/or the courts.

A public employer has a managerial prerogative to determine when governmental services will be delivered and the staffing levels associated with the delivery of those services. City of Long Branch, P.E.R.C. No. 83-15, 8 NJPER 448 (¶13211 1982). The employer's interest in setting staffing levels outweighs the employees' interest in not having to work harder because of alleged inadequate staffing. There is no allegation that employees have had to work longer. Nor is there any compensation claim for us to consider, severable or otherwise. Under these circumstances, we restrain arbitration over the challenge to the staffing levels in the attendance office.

ORDER

The request of the Old Bridge Board of Education for a restraint of binding arbitration is granted.

BY ORDER OF THE COMMISSION

  
Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Buchanan, DiNardo, Mastriani, Ricci and Sandman voted in favor of this decision. Commissioner Katz was not present.

DATED: May 29, 2003  
Trenton, New Jersey  
ISSUED: May 30, 2003



Thus, we do not consider the merits of the grievance or the Board's defenses.

Local 195, IFPTE v. State, 88 N.J. 393 (1982), articulates the standards for determining whether a subject is mandatorily negotiable:

[A] subject is negotiable between public employer and employees when (1) the item intimately and directly affects the work and welfare of public employees; (2) the subject has not been fully or partially preempted by statute or regulation; and (3) a negotiated agreement would significantly interfere with the determination of governmental policy. To decide whether a negotiated agreement would significantly interfere with the determination of governmental policy, it is necessary to balance the interests of the public employees and the public employer. When the dominant concern is the government's managerial prerogative to determine policy, a subject may not be included in collective negotiations even though it may intimately affect employees' working conditions. [Id. at 404-405]

There is no preemption issue in this case.

The Board argues that the determination of staffing levels is a managerial prerogative and that requiring redistribution of the work force to provide adequate staffing of the attendance office is equivalent to a non-negotiable requirement that it hire more staff. The Board further argues that there is no severable compensation claim since employees are not required to work longer hours or during duty-free time.

P.E.R.C. NO. 2003-79

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Appearances:

For the Petitioner, Riker, Danzig, Scherer, Hyland &  
Perretti, LLP, attorneys  
(Anthony J. Murphy, on the brief)

DECISION

On January 10, 2003, the Old Bridge Township Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Old Bridge Education Association. The grievance contests staffing levels and workload distribution in the high school attendance office.

The Board has filed a brief and exhibits. The Association did not file a brief. These facts appear.

The Association represents secretarial and clerical staff, among other employees. The parties' collective negotiations agreement is effective from July 1, 2000 through June 30, 2003. The grievance procedure ends in binding arbitration.