

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PINELANDS REGIONAL BOARD OF EDUCATION,

Petitioner,

-and-

PINELANDS REGIONAL EDUCATION ASSOCIATION,

Respondent.

Docket Nos. SN-2022-007

SN-2022-008

SN-2022-010

(CONSOLIDATED)

SYNOPSIS

The Public Employment Relations Commission grants, in part, and denies, in part, requests of the Pinelands Regional Board of Education for a restraint of binding arbitration of grievances filed by the Pinelands Regional Education Association asserting that certain comments in the annual evaluations of four different teachers render them arbitrary, capricious, unreasonable, disciplinary, retaliatory for protected union activity, and in violation of the parties' collective negotiations agreement (CNA) and the New Jersey laws that govern evaluation of certificated teachers. The Commission finds that arbitral review is precluded with regard to portions of the challenged evaluations that discuss confirmed incidents of Harassment Intimidation and Bullying (HIB) against students by two of the grievants, as those HIB findings were appealed to the Commissioner of Education. The Commission declines to restrain arbitration of comments alleging three teachers violated non-HIB Board policies or directives, or the chain of command, or of conduct unbecoming a teaching staff member, as those comments do not relate predominately to teaching performance. The Commission restrains arbitration of comments in a fourth teacher's evaluation, finding the tone of those comments to be largely neutral and nonjudgmental, and do not otherwise accuse her of violating Board policies or the chain of command, or of conduct unbecoming a teaching staff member.

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.

P.E.R.C. NO. 2022-27

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(CONSOLIDATED)

Appearances:

For the Petitioner, Cooper Levenson, P.A., attorneys
(Amy Houck Elco, of counsel and on the briefs; Yolanda
N. Melville, on the briefs)

For the Respondent, Mellk O'Neill, attorneys (Arnold M.
Mellk, of counsel and on the brief; Edward A. Cridge,
on the briefs)

DECISION

On September 17, 2021, the Pinelands Regional Board of Education (Board) filed scope of negotiations petitions seeking a restraint of binding arbitration of grievances filed by the Pinelands Regional Education Association (Association) on behalf of four teaching staff members employed by the Board: S.S. and P.R. (AR-2022-076); A.L. (AR-2022-077); and D.G. (AR-2022-079).

The grievances object to certain comments in the grievants' respective annual evaluations which, the Association maintains, render the evaluations arbitrary, capricious, unreasonable, disciplinary, and in retaliation for protected union activity; and which violate the parties' collective negotiations agreement

(CNA) and the New Jersey laws that govern evaluation of certificated teachers.

The Board filed briefs, exhibits and the certifications of its Assistant Superintendent of Schools and Supervisor of English and Social Studies, Gina Frasca. The Association filed briefs.^{1/} These facts appear.

The Association represents regularly employed teaching staff members, special services staff, library/media specialists, school nurses, guidance counselors, secretaries, bookkeepers, accounting clerks, attendance officers, clerk typists, teacher aids, custodial staff, maintenance staff, sign-language interpreters and receiving personnel. The Board and Association are parties to a CNA in effect from July 1, 2018 through June 30, 2021. The grievance procedure ends in binding arbitration.

Frasca certifies that P.F., S.S., A.L. and D.G. serve as teaching staff members at Pinelands Regional High School. The District utilizes a teacher evaluation model, developed by Dr. Robert Marzano, that relies on teachers incorporating "elements" from four domains of instruction:

Domain 1: Classroom Strategies and Behaviors
Domain 2: Preparing and Planning
Domain 3: Reflecting on Teaching
Domain 4: Collegiality and Professionalism

^{1/} The Association did not submit a certification. N.J.A.C. 19:13-3.6(f) requires that all pertinent facts be supported by certification(s) based upon personal knowledge.

Frasca certifies that on May 24, 2021, she issued S.S., P.F., A.L., and D.G. their annual evaluations, which included the following respective comments in Domain 4 of each document, in pertinent part:

Evaluation of S.S.:

[S.S.] was investigated and found as a confirmed HIB (Harassment Intimidation and Bullying) against students. Pictures of students at lunch without masks were sent to [S.S.] and the photographs ended up on a disparaging social media page meant to embarrass people without masks. [S.S.] forwarded these pictures of students. She did not bring her concerns to the administration. This incident caused negative implications for students, parents, and the district as a whole.

Violation of Policies:

3211 Code of Ethics
3881 Inappropriate Staff Conduct
5512 Harassment Intimidation and Bullying
9120 Public Information Program
Additional training on these policies was provided.

[S.S.] did not follow the chain of command when concerned with students at lunch without masks. Instead, [S.S.] shared the pictures. Four district policies were violated by not following proper protocols and not informing the administration of her concern. Although [S.S.] admitted to sharing the pictures, she did not comment at her due process meeting with Dr. McCooley.

[S.S.] engaged in the social media page displaying a picture of other Pinelands' employees and, during the school day commented, "f***ing idiots." Violation of policy 3211 - "Shall not knowingly make false or malicious statements about a colleague."

[S.S.] also invited the Ocean County Prosecutor's office staff into school without notifying the principal as per policy 9150 School Visitors "No visitor may confer with a pupil in school without the approval of the Principal; any such conference may take place only in the presence of a teaching staff member and/or an administrator."

Earlier in the year, [S.S.] was the only ELA teacher that did not want to use a common assessment for her SGO.^[2/] When asked to revise her SGO, she sent her supervisor an unprofessional and contentious email.

[S.S.'s] professionalism and collegiality were unacceptable this year. [S.S.'s] conduct was unbecoming of a teaching staff member and caused disruption to the education of the students involved and to the educational environment as a whole.

Evaluation of P.F.:

[P.F.] was investigated and found as a confirmed HIB (Harassment and Bullying) against students. [P.F.] took pictures of students at lunch without masks and the photographs ended up on a disparaging social

2/ The record does not indicate what "SGO" stands for. We take administrative notice that the New Jersey Department of Education addresses "SGOs," or "Student Growth Objectives," as follows:

Executive Order 214 (January 11, 2021) removed Student Growth Objectives (SGOs) from counting towards the summative score of any educator. The completion of SGOs remains in effect and be used to inform instructional decisions and educator practice.

SGOs are long-term academic goals for groups of students set by teachers in consultation with their supervisors.

[<https://www.state.nj.us/education/AchieveNJ/teacher/objectives.shtml>]

media page meant to embarrass people without masks. [P.F.] did not bring her concerns to the administration. This incident caused negative implications for students, parents, and the district as a whole.

Violation of Policies:

3211 Code of Ethics
3881 Inappropriate Staff Conduct
5512 Harassment Intimidation and Bullying
9120 Public Information Program
Additional training on these policies was provided.

[P.F.] did not follow the chain of command when concerned with students at lunch without masks. Instead, [P.F.] took pictures of students at lunch without masks and shared the pictures with colleagues. Four district policies were violated by [P.F.] . . .

Although [P.F.] was honest about taking the pictures of students without authorization, she did not comment at her due process meeting with Dr. McCooley. [P.F.'s] actions were unprofessional and unacceptable. [P.F.'s] conduct was unbecoming of a teaching staff member and caused disruption to the education of the students involved and to the educational department as a whole.

Evaluation of A.L.:

[A.L.] received pictures of a student without masks during lunch and did not report this concern to the administration. . . . [3/]
[A.L.] needs to maintain professionalism both in and out of school, as she is a representative of our district. Several of her inappropriate Facebook posts have been shared with the administration. In the future, it is expected that [A.L.] will

3/ A.L.'s evaluation included certain other comments that were not contested as being disciplinary or arbitrable by Association in its brief. See n.6, infra.

refrain from posting negatively about our district and promote our district in a positive way. Any and all concerns about the operations of the district should be addressed with the administration.

Evaluation of D.G.

[D.G.] admitted to taking a picture of another staff member who was in the office without a mask on. This picture ended up on a disparaging social medial page created to publicly embarrass people without masks. [D.G.] violated policy 3211/"Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law." [D.G.] should have brought her concerns to the building principal.

[D.G.] was also sent correspondence on June 8, 2021 that clearly stated the following: "In order to follow your process, please set up a meeting with your immediate supervisor at your earliest convenience." [D.G.] did not set up a meeting with me to further discuss this segment of her 2020-2021 evaluation.

Frasca certifies that the notations inform S.S., P.F., A.L. and D.G. about how students should be treated by their teachers, while also offering the grievants constructive ways to comport themselves. Frasca certifies that the "constructive ways" of comportment include the statements in A.L.'s evaluation that "any and all concerns about the operations of the district should be addressed with the administration," and "[i]n the future, it is expected that [A.L.] will refrain from posting negatively about

our district and promote our district in a positive way"; and the statement in D.G.'s evaluation that she "should have brought her concerns to the building principal." Frasca does not cite specific examples of purportedly "constructive" statements in the evaluations of S.S. and P.F. Frasca certifies that all the notations resulted from the teachers' failure to meet the professional expectations for the District's teaching staff. They contain no warnings of future disciplinary action, and are in conformance with the District's utilization of the Marzano Model.

Frasca further certifies that specifically, the evaluative tool seeks to ensure that: "[t]he teacher interacts with other teachers in a positive manner to promote and support student learning" (Domain 4, element 55); "[t]he teacher interacts with students and parents in a positive manner to foster learning and promote positive home/school relationships" (Domain 4, element 56); and "[t]he teacher is aware of the district's and school's rules and procedures and adheres to them" (Domain 4, element 59).

The Association filed grievances on behalf of S.S., P.F., A.L. and D.G. each alleging:

[T]he evaluation is being brought to discipline [the grievants] for alleged events involving their terms and conditions of employment which are presently being litigated (PEOSH: [P.F.] v. PRSD and [S.S.] v. PRSD retaliation for health & safety complaints, ULP: Pinelands Education Association v. Pinelands BOE -discipline for

protected activities, PETITION to COMMISSIONER of EDUC: HIB appeal). These evaluations are not only arbitrary, capricious and unreasonable but it is evidence beyond peradventure as disciplinary and punitive. It is also retaliation against these members for having engaged in protected activity. See quotes above. Accordingly, the evaluations are in violation of 4E, the just cause provision of the CBA, as well as the New Jersey laws that govern evaluation of certificated teachers.

. . .
The Association contends that the instant matter involves an administrative decision affecting the terms and conditions of employment and is a violation of Chapter 123 and any other contract articles, Board Policies and laws relevant to the instant matter.

The grievances seek as relief, among other things: removal of the evaluations from the grievants' personnel files and "any other file" kept by the Board; voidance of the respective evaluation scores; and re-evaluation of the grievants.

The Board denied the Association's grievance petitions. The Association subsequently submitted Requests for Submission of a Panel of Arbitrators on September 1, 2021. This petition ensued.

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.

Thus, we do not consider the merits of the grievance or any contractual defenses the employer may have.

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 employers 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 not 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.]

We must balance the parties' interests in light of the particular facts and arguments presented. City of Jersey City v. Jersey City POBA, 154 N.J. 555, 574-575 (1998).

_____ A school board has a managerial prerogative to observe and evaluate employees. Bethlehem Tp. Ed. Ass'n v. Bethlehem Tp. Bd. of Ed., 91 N.J. 38 (1982). Disciplinary reprimands, however, may

be contested through binding arbitration. N.J.S.A. 34:13A-29;
N.J.S.A. 34:13A-5.3.

In Holland Tp. Bd. of Ed., P.E.R.C. No. 87-43, 12 NJPER 824
(¶17316 1986), aff'd, NJPER Supp.2d 183 (¶161 App. Div. 1987), we
distinguished between evaluations of teaching performance and
disciplinary reprimands. We set forth the following approach:

We realize that there may not always be a precise demarcation between that which predominantly involves a reprimand and is therefore disciplinary within the amendments to N.J.S.A. 34:13A-5.3 and that which pertains to the Board's managerial prerogative to observe and evaluate teachers and is therefore nonnegotiable. We cannot be blind to the reality that a "reprimand" may involve combinations of an evaluation of teaching performance and a disciplinary sanction; and we recognize that under the circumstances of a particular case what appears on its face to be a reprimand may predominantly be an evaluation and vice-versa. Our task is to give meaning to both legitimate interests. Where there is a dispute we will review the facts of each case to determine, on balance, whether a disciplinary reprimand is at issue or whether the case merely involves an evaluation, observation or other benign form of constructive criticism intended to improve teaching performance. While we will not be bound by the label placed on the action taken, the context is relevant. Therefore, we will presume the substantive comments of an evaluation relating to teaching performance are not disciplinary, but that statements or actions which are not designed to enhance teaching performance are disciplinary.

[Id. at 826.]

If the challenged portions of the evaluations at issue relate predominately to evaluations of the quality of the grievants' performance as teaching staff members, then restraint of arbitration is appropriate. When a document is "challenged as constituting the imposition of discipline[,] . . . the content, language/tone and context of the documents are all relevant in considering whether they, on balance, read more like benign forms of constructive criticism intended to improve teaching performance, or more like reprimands intended as a form of discipline." Delaware Valley Reg. Bd. of Ed., P.E.R.C. No. 2017-39, 43 NJPER 295 (¶83 2017). In that respect, "comments regarding . . . non-teaching performance concerns . . . are not arbitrable if they are neutral and non-punitive." Id., citing, inter alia, N. Plainfield Bd. of Ed., P.E.R.C. No. 89-94, 15 NJPER 252 (¶20102 1989) (restraining arbitration of comments about attendance that were predominantly informational and "neutral in tone, not pejorative"). Statements that contain accusations of improper conduct are not "neutral in tone," and have been deemed to be disciplinary and subject to arbitration. Bergenfield, supra. Similarly, we declined to restrain arbitration of a grievance challenging a superintendent's letter which "pass[ed] judgment" on a teacher's conduct, specifically by concluding that the teacher violated a policy requiring her to follow a specific chain of command. Peguannock Tp. Bd. of Ed.,

P.E.R.C. No. 2008-28, 33 NJPER 280 (¶105 2007) (finding such a letter did not "address or evaluate the staff member's teaching performance").

Other generally evaluative indicators include whether a corrective action plan is imposed, Delaware Valley, supra, and whether the disputed statements are issued as part of the regular evaluation process. Bergenfield, supra.

The Board argues that the four annual evaluations at issue consisted of nonarbitrable assessments of teaching performance, and resulted from the teachers' failure to meet the professional expectations for the District's teaching staff. The District has a managerial prerogative to address concerns that the teachers' actions violated State laws, regulations, and Board policies and to make subjective educational determinations about their professional and legal obligation to fulfill the administrative expectancies of teaching staff members. The notations in the evaluations of S.S. and P.F. advise them that the "incident caused negative implications for students, parents, and the district as a whole," and inform them about how students should be treated by their teachers, while also offering them constructive ways to comport themselves. The notations in A.L.'s evaluation likewise inform her about how students should be treated by teachers, while also offering constructive ways to comport herself, specifically that "any and all concerns about

the operations of the district should be addressed with the administration" and "[i]n the future, it is expected that [A.L.] will refrain from posting negatively about our district and promote our district in a positive way." D.G.'s evaluation simply memorializes her inappropriate behavior with a focus on appropriate instructional strategies for the future rather than punishment for the incident. Therefore, the Board argues, the notations should not be considered as disciplinary reprimands that may be challenged through binding arbitration.

The Board further argues that the evaluations at issue did not violate state laws and regulations governing teacher evaluation under the Teacher Effectiveness and Accountability for the Children of New Jersey (TEACH NJ) Act, N.J.S.A. 18A:6-117, et seq., and are in conformance with a state-approved teacher evaluation model (the Marzano model). The Board additionally argues that N.J.A.C. 6A:10-1.3, a TEACH NJ implementing regulation applicable to the parties' CNA, provides that collective bargaining agreements should not include "topics subject to bargaining [that] involve matters of educational policy or managerial prerogatives," therefore, the TEACH NJ regulations would not apply here.

The Association argues that comments in an evaluation that are addressed to misconduct, and not to poor teaching, are disciplinary in nature, and, hence, arbitrable. The subject

comments make clear that S.S., P.F., A.L. and D.G. were involved in documenting and reporting COVID-19 related safety violations on Board property.^{4/} Their alleged disclosure, dissemination and/or receipt of photographs of a maskless staff member and students, and S.S.'s alleged invitation of law enforcement onto Board property, without reporting their "concerns" to the administration, and without following the "chain of command," do not arise from their performance of teaching duties or interaction with students.

The Association argues that S.S.'s alleged inappropriate comment on social media about her co-workers has nothing to do with her classroom performance. S.S.'s alleged unprofessional and contentious email to a supervisor sounds in discipline, and her alleged engagement in "conduct unbecoming a teaching staff member" is disciplinary, per se.

The Association argues that the comment critical of P.F. for not making a statement during a meeting with the Superintendent sounds in insubordination, and her alleged engagement in "conduct unbecoming a teaching staff member" is disciplinary, per se.

The Association, in its brief, identifies the "subject discipline" of A.L. as including the following comments in her evaluation:

^{4/} The Association alleges that the Board retaliated against S.S. and P.F. for doing so, a dispute which is currently the subject of an Unfair Practice Charge pending before PERC.

- [A.L.] received pictures of a student without masks during lunch and did not report this concern to the administration.
- [A.L.] needs to maintain professionalism both in and out of school, as she is a representative of our district. Several of her inappropriate Facebook posts have been shared with the administration.
- In the future, it is expected that [A.L.] will refrain from posting negatively about our district and promote our district in a positive way.
- Any and all concerns about the operations of the district should be addressed with the administration.
- We expect [A.L.] to attempt to extinguish negativity buy [sic] coming to the administration with her concerns. If there are any additional concerns, please reach out to the administration.

[(Association's Br. at 5.)]

The Association argues that the comments about A.L.'s need "to maintain professionalism both in and out of school" (relating to her alleged inappropriate Facebook posts) concerns statements made in A.L.'s personal capacity, outside of the school district, and have no nexus with her teaching performance, teaching-related duties, or her interactions with students. The comment directing A.L. to "refrain from posting negatively" about the district and to promote it "in a positive way" purports to restrict A.L. from speaking on matters of public concern and to compel her to engage in "positive" speech, but these issues have nothing to do with A.L.'s teaching and related performance issues.

The Association argues that the comment accusing S.G. of violating a policy prohibiting disclosure of information about colleagues is discipline imposed to chill and restrain employees from reporting COVID-19 related safety violations, and is not remotely "evaluative" her teaching performance. The comment accusing D.G. of failing to follow an administrative directive to schedule a meeting clearly falls within the ambit of arbitrable discipline.

The Board replies, among other things, that the Association offers no support for its contention that each paragraph of each challenged portion of the respective evaluations must be examined individually. The Board disputes the Association's contention that the comments had nothing do with teaching performance, because the conduct involved students and other staff who served as teaching staff members for the District. The Board further argues that its use of the phrase "conduct was unbecoming" is not punitive, and reiterates that the evaluations do not include any penalty of future or current discipline, or any tenure charges under N.J.S.A. 18A:6-10. Finally, the Board contends that because the Association in its briefs failed to address any alleged TEACH NJ violation, the Commission should not address this purported claim altogether.

Analysis

S.S. and P.F. Evaluations

We make no determination with regard to the portions of the challenged evaluations that discuss that S.S. and P.F. were each "investigated and found as a confirmed HIB (Harassment Intimidation and Bullying) against students," based on S.S.'s receipt of and P.F.'s taking of "[p]ictures of students at lunch without masks" that "ended up on a disparaging social media page meant to embarrass people without masks," in violation of the Board's HIB policy, and the comments stating that the "incident caused negative implications for students, parents, and the district as a whole." The record reflects that these HIB findings have been appealed to the Commissioner of Education (COE) pursuant to N.J.S.A. 18A:37-15b(6)(e). As such, a choice of forum to the COE has already been selected, precluding arbitral review.

However, with regard to the alleged violations of non-HIB Board policies or directives, we find that the following comments in the evaluations of S.S. and P.F., are not neutral or non-punitive, they do not relate predominately to teaching performance, and they may be submitted to arbitration:

[S.S.] did not follow the chain of command when concerned with students at lunch without masks. . . . Four district policies were violated by not following proper

protocols and not informing the administration of her concern.

[S.S.] engaged in the social media page displaying a picture of other Pinelands' employees and, during the school day commented, "f***ing idiots." Violation of policy 3211 - "Shall not knowingly make false or malicious statements about a colleague."

[S.S.] also invited the Ocean County Prosecutor's office staff into school without notifying the principal as per policy 9150 School Visitors "No visitor may confer with a pupil in school without the approval of the Principal; any such conference may take place only in the presence of a teaching staff member and/or an administrator."

When asked to revise her SGO, [S.S.] sent her supervisor an unprofessional and contentious email.

[S.S.'s] conduct was unbecoming of a teaching staff member . . .

[P.F.] did not follow the chain of command when concerned with students at lunch without masks. . . . Four district policies were violated by [P.F.]

[P.F.'s] conduct was unbecoming of a teaching staff member . . .

The above comments "pass judgment" on S.S. and P.F. with regard to their alleged violations of District policies and failures to follow the chain of command, and with regard to S.S.'s alleged unprofessional and contentious email to a supervisor. The alleged unbecoming conduct of these teachers is arbitrable to the extent it refers to the above-quoted comments.

A.L. Evaluation

We find that the comments in the evaluation of A.L. (as to which the Association has argued are disciplinary and arbitrable^{5/}) may not be submitted to binding arbitration. The tone of those comments is largely neutral and nonjudgmental, except for characterizing her Facebook comments as being “inappropriate.” In contrast to those directed at S.S. and P.F., the challenged comments about A.L. do not accuse her of violating Board policies or the chain of command, or of conduct unbecoming a teaching staff member. We find that, on balance, these comments about A.L., regarding mostly non-teaching performance concerns, are not arbitrable because they are

5/ Because the Association, in its brief, makes no argument about them whatsoever, we find that it effectively concedes or does not contest the Board’s view that the following comments in A.L.’s evaluation are evaluative and not subject to binding arbitration:

Although [A.L.] joined the Summer 2020 Curriculum Writing Team, she let us know one day before the documents were due that she could not complete the work. [A.L.] was also a mentor in the previous school year and after asking several times for a state-mandated mentor log, she finally turned it in over a year later, holding up the standards certification process for her mentee.

See, Newark Bd. of Ed., P.E.R.C. No. 2021-48, 47 NJPER 524 (¶122 2021) (evaluative nature of certain documents not at issue where association conceded they were evaluative and made no argument about them being disciplinary and therefore arbitrable, or otherwise that the board failed to follow evaluation procedures).

largely informational and neutral in tone, not pejorative.

Delaware Valley, N. Plainfield, supra.

D.G. Evaluation

We find that the comments in the evaluation of D.G. alleging she violated a Board policy prohibiting disclosure of information about colleagues is not neutral or non-punitive, does not relate predominately to teaching performance, and may be submitted to arbitration. We find that the comment accusing D.G. of failing to schedule a follow-up meeting with her supervisor may be submitted to binding arbitration, as it is predominantly related to an alleged failure to comply with an administrative directive, not to the evaluation of teaching performance. Franklin Tp. Bd. of Ed., P.E.R.C. No. 2000-90, 26 NJPER 272 (¶31106 2000) (teacher's alleged failure to comply with administrative directive to contact parent not a basis to restrain arbitration of increment withholding).

Finally, although the Association's briefs did not address the Board's arguments regarding the TEACH NJ Act, the Board may make those arguments to an arbitrator as to the unrestrained portions of the evaluations discussed herein.

ORDER

The request of the Pinelands Regional Board of Education for a restraint of binding arbitration is granted, in part, and denied, in part.

BY ORDER OF THE COMMISSION

Chair Weisblatt, Commissioners Ford, Jones, Papero and Voos voted in favor of this decision. None opposed. Commissioner Bonanni was not present.

ISSUED: December 21, 2021

Trenton, New Jersey