

P.E.R.C. NO. 87-102

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF NATIONAL PARK
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-87-7

NATIONAL PARK EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, finds disputed contract clauses concerning teacher transfers to be not mandatorily negotiable.

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Appearances:

For the Petitioner, Capehart & Scatchard, P.A.
(Joseph F. Betley, of counsel)

For the Respondent, New Jersey Education Association
(Eugene J. Sharp, UniServ Representative)

DECISION AND ORDER

On August 25, 1986, the Borough of National Park Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board asserts that provisions the National Park Education Association ("Association") seeks to maintain in a successor collective negotiations agreement are not mandatorily negotiable. These provisions concern teacher transfers.

The Association is the majority representative of certain Board employees, including teachers. The Board and Association are parties to a collective negotiations agreement effective from July 1, 1983 to June 30, 1986.^{1/} Articles XIII and XIV address teacher

^{1/} This petition was filed during the negotiations for a new agreement.

transfers. The Board contends that paragraph B of Article XIII and paragraphs A, C and E of Article XIV are not mandatorily negotiable.

Article XIII, Paragraph B states:

In the determination of requests for voluntary reassignment, the wishes of the individual teacher shall be honored to the extent that the reassignment does not conflict with the instructional requirement and best interest of the school system. No such request shall be denied arbitrarily, capriciously, or without basis in fact. If a teacher's request for reassignment has been denied, a renewed or subsequent request made in the following school year shall be granted under the conditions described above, unless there is no available position to which the teacher can be reassigned or an adequate placement for the teacher cannot be obtained. If more than one teacher has applied for the same position, the determination as to which teacher shall receive it shall be made by seniority. In the event of equivalent seniority, a joint committee consisting of two (2) persons appointed by the Superintendent and two (2) persons appointed by the Association shall determine the selection.

Article XIV, Paragraph A states:

No vacancy shall be filled by means of involuntary reassignment if there is a qualified volunteer available to fill said position.

Article XIV, Paragraph C states:

When an involuntary reassignment is necessary, a teachers' area of competence, major or minor field of study, length of service in the National Park School District, and other relevant factors, including, among other things, state and/or federal laws, rules, regulations or administrative directives, shall be considered in determining which teacher is to be transferred or reassigned.

Article XIV, Paragraph E states:

Teachers being involuntarily transferred or reassigned from their present position shall have preference over those seeking voluntary transfer or reassignment in regard to choice among those positions which are vacant. Final decisions will rest with the Administration.

Established caselaw dictates that these disputed contract provisions are not mandatorily negotiable. See Ridgefield Pk. Ed. Ass'n v. Ridgefield Pk. Bd. of Ed., 78 N.J. 144 (1978), and Byram Tp. Bd. of Ed., P.E.R.C. No. 76-27, 2 NJPER 143 (1976), aff'd, 152 N.J. Super. 12, 25 (App. Div. 1977). Accordingly, acting pursuant to authority delegated to me by the full Commission, I, therefore, find these provisions non-negotiable.

ORDER

Article XIII, Paragraph B and Article XIV, Paragraphs A, C and E are not mandatorily negotiable.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

DATED: Trenton, New Jersey
February 13, 1987