

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WEEHAWKEN BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-78-10

WEEHAWKEN EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

In a scope of negotiations proceeding initiated by the Board of Education, the Commission determined that the issue of the criteria to be used by a supervisor or administrator in the evaluation process and any adjustments and decisions made pursuant to these evaluations relates to a permissive subject of collective negotiations. In accordance with the Commission's decision in In re Bridgewater-Raritan Regional Board of Education, P.E.R.C. No. 77-21, 3 NJPER 23 (1976), the Commission concludes that the grievance concerning this issue may proceed to arbitration if otherwise arbitrable under the terms of the parties' agreement. The request of the Board of Education for a permanent restraint of arbitration concerning this matter was therefore denied.

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Appearances:

For the Petitioner, LeRoy D. Safro, Esq., Of Counsel

For the Respondent, Goldberg & Simon, Esqs.

(Theodore M. Simon and Louis P. Bucceri, On the Brief)

DECISION AND ORDER

On November 15, 1977, the Weehawken Board of Education (the "Board") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission seeking a determination as to whether certain matters in dispute between the Board and the Weehawken Education Association (the "Association") were within the scope of collective negotiations.

The Board indicated in its Scope Petition that the instant dispute had arisen with respect to certain matters which the Association had sought to process pursuant to a negotiated grievance procedure and concerning which the Association had invoked arbitration. More specifically, the Board asserted that at issue was the negotiability and arbitrability of the issue of the criteria to be used by a supervisor or administrator in the evaluation process and any adjustments and decisions made pursuant to these evaluations. The Association had filed a grievance, dated June 29, 1977, alleging that the principal of the High School had violated various contractual provisions

by including within certain annual evaluations disparaging remarks and erroneous information concerning the alleged non-cooperation of particular teachers who were engaged in Association activities. The Association sought as relief the removal of these evaluations from the teachers' file and the reprimanding of the principal that would include an order to limit his evaluations in the future to the quality of the work performed by teachers in the classroom. The matter proceeded through the grievance process. Arbitration was sought and an arbitrator, Julius Cohen, was designated to hear the instant grievances.

The Board's Scope Petition also requested that the Commission grant interim relief in the form of an order restraining the arbitration proceedings concerning the issue in dispute. In a letter dated November 29, 1977, the Special Assistant to the Chairman of the Commission, citing various Commission decisions concerning the negotiability of the matters at issue in the instant Scope Petition and the arbitrability of both permissive and mandatory subjects of negotiations, suggested to the parties that it was unlikely that the Commission would grant the Board's request for interim relief. The Board was invited to contact the Special Assistant, if it desired, to proceed further with its request for a restraint of arbitration. The Board thereafter informed the Special Assistant that it did desire to pursue its application for interim relief in the form of a temporary restraining order.

In a written decision the Special Assistant, in accord with the Commission's decision in In re Bridgewater-Raritan Regional Board of Education, P.E.R.C. No. 77-21, 3 NJPER 23 (1976, denied the Board's request for interim relief in the form of a temporary restraint of arbitration.^{1/}

Following the Special Assistant's determination, the parties were given the opportunity to file supplemental briefs. Neither party filed such a brief.

After careful consideration of the parties' submissions in this matter and the Special Assistant's interlocutory decision we conclude that the subject matter in dispute is a permissive subject of negotiations, substantially for the reasons stated by the Special Assistant to the Chairman in his interlocutory decision, and the dispute between the parties may proceed to arbitration if otherwise arbitrable under the terms of their collective negotiations agreement. Therefore, the request of the Board for a permanent

^{1/} In re Weehawken Board of Education, P.E.R.C. No. 78-38, 4 NJPER 7 (Para. 4004 1978). The Commission has delegated to the Special Assistant the authority to conduct Show Cause proceedings on requests for interim relief and to issue interlocutory determinations on behalf of the Commission. These interlocutory decisions constitute a determination as to whether the facts of a particular case warrant the exercise of the discretion which the Commission possesses to restrain arbitration in appropriate circumstances. A copy of this interlocutory decision is attached and made a part hereof.

restraint of arbitration must be and is hereby denied.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Forst, Hartnett and Parcels
voted for this decision. Commissioner Hurwitz voted against
this decision. Commissioner Hipp abstained.

DATED: Trenton, New Jersey

March 16, 1978

ISSUED: March 22, 1978