

P.E.R.C. NO. 2001-39

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAMILTON TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2001-24

HAMILTON TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Hamilton Township Board of Education for a restraint of arbitration of a grievance filed by the Hamilton Township Education Association. The grievance contests the transfer of a teacher from an elementary school position to a middle school/high school position. N.J.S.A. 34:13A-25 prohibits binding arbitration over all transfers of school board employees between work sites.

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. 2001-39

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAMILTON TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2001-24

HAMILTON TOWNSHIP EDUCATION
ASSOCIATION,

Respondent.

Appearances:

For the Petitioner, Destribats, Campbell, DeSantis, MaGee
& O'Donnell, attorneys (Dennis M. DeSantis, on the brief)

For the Respondent, Bergman & Barrett, attorneys
(Michael T. Barrett, on the brief)

DECISION

On November 16, 2000, the Hamilton Township Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance contesting the transfer of a teacher from an elementary school position to a middle school/high school position.

The parties have filed briefs and exhibits. These facts appear.

The Association represents the Board's teachers and certain other employees. Linda Piantoni has been employed by the

Board for 30 years as a health and physical education teacher. During the 1999-2000 school year, she was employed at three elementary schools. On July 12, 2000, she was notified that, effective the next day, she would be transferred to fill a vacant position requiring half-time attendance at Reynolds Middle School and half-time attendance at Hamilton High School. The transfer occurred.

On July 21, 2000, the Association grieved the transfer, asserting that it was disciplinary and not supported by just cause. The Board denied the grievance and the Association demanded arbitration. This petition ensued.

The Board asserts that N.J.S.A. 34:13A-25 precludes arbitration of this grievance and N.J.S.A. 34:13A-27 requires that the Commission, rather than an arbitrator, determine whether a contested transfer between work sites was disciplinary. It also asserts that it had sound educational reasons for the transfer and requests a hearing if the basis for a transfer is disputed. The employer joins in that request.

The Association asserts that Piantoni was transferred because a parent, also the PTA president, complained that she conducted a class improperly. It also asserts that N.J.S.A. 34:13A-27 permits arbitration over the basis for the transfer.

N.J.S.A. 34:13A-25 provides:

Transfers of employees by employers between work sites shall not be mandatorily negotiable except that no employer shall transfer an employee for disciplinary reasons.

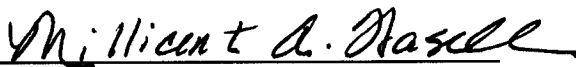
This provision prohibits binding arbitration over all transfers of school board employees between work sites.^{1/} See Mt. Arlington Bd. of Ed., P.E.R.C. No. 98-4, 23 NJPER 450 (¶28211 1997). Mountainside Bd. of Ed., P.E.R.C. No. 94-25, 19 NJPER 536 (¶24251 1993). See also Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144 (1978). We accordingly grant the Board's request for a restraint of binding arbitration over its decision to transfer Piantoni to another work site.

We note that Piantoni has filed a contested transfer petition. The Board has objected that her petition is untimely. We do not consider the contested transfer petition or the Board's objection at this time.

ORDER

The request of the Hamilton Township Board of Education for a restraint of binding arbitration over the transfer between work sites is granted.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Madonna, McGlynn, Ricci and Sandman voted in favor of this decision. None opposed. Commissioner Muscato was not present.

DATED: January 25, 2001
Trenton, New Jersey
ISSUED: January 26, 2001

^{1/} Given this statutory prohibition, the reasons for the transfer between work sites are immaterial. We therefore deny the request for a hearing.