

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

KEANSBURG BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-86-54

KEANSBURG TEACHERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a Petition for Scope of Negotiations Determination filed by the Keansburg Board of Education. The Board seeks an order restraining implementation of an arbitration award issued against it. The award requires the Board to negotiate with the Keansburg Teachers Association over appropriate compensation for an increase in pupil contact time. The Commission's policy, however, is to dismiss petitions filed after the conclusion of arbitration proceedings unless a proceeding to modify, vacate or confirm the award has been initiated pursuant to N.J.S.A. 2A:24-7 and the Superior Court has transferred the scope of negotiations issues to us for our determination. The Commission finds that "special circumstances" do not exist to warrant departure from this policy.

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Appearances:

For the Petitioner, Bennett, Davison & Munoz, P.A.  
(John O. Bennett, III, of counsel)

For the Respondent, Oxfeld, Cohen & Blunda, Esqs.  
(Mark J. Blunda, of counsel)

DECISION AND ORDER

On February 24, 1986, the Keansburg Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board seeks an order restraining implementation of an arbitration award issued against it. The award requires the Board to negotiate with the Keansburg Teachers Association ("Association") over appropriate compensation for an increase in pupil contact time.

The parties have filed briefs and documents. The following facts appear.

The Association is the majority representative of the Board's teachers and certain other employees. The Board and Association have entered a collective negotiations agreement

effective from 1984 to 1987. The grievance procedure ends in final and binding arbitration. Article II D requires negotiations before existing rules governing working conditions are modified.

On March 13, 1985, an elementary school principal issued a memorandum assigning teachers to supervise students outside and in the hall areas of the school for the periods of 8:40 a.m. to 8:50 a.m. and 2:40 p.m. to 2:50 p.m.

The Association filed a grievance seeking the elimination of the extra duties and compensation at \$10.00 an hour for the duties performed. The grievance was denied by the principal, superintendent and Board.

The Association then submitted the grievance to binding arbitration. On November 14, 1985, Arbitrator James Begin conducted a hearing in which the Board and Association participated.

On February 5, 1986, the arbitrator issued his award. He ruled that the Board had violated Article II D by unilaterally substituting student supervision responsibilities for duty-free time without negotiating over appropriate compensation; and he directed the Board to commence negotiations over the appropriate compensation, if any, for this change.

On February 24, the Board filed this petition. There is no proceeding pending in the Superior Court of New Jersey to confirm, vacate or modify the arbitrator's award. N.J.S.A. 2A:24-7.

We will ordinarily dismiss petitions filed after the conclusion of arbitration proceedings unless a proceeding to modify, vacate or confirm the award has been initiated pursuant to N.J.S.A. 2A:24-7 and the Superior Court has transferred the scope of negotiations issues to us for our determination. See Ocean Tp. Bd. of Ed., P.E.R.C. No. 83-164, 9 NJPER 397 (¶14181 1983). The Board argues that "special circumstances" exist which warrant consideration of its untimely petition. It asserts in particular that the Association has filed an unfair practice charge and amended charge alleging similar unilateral, uncompensated increases in pupil contact time occurring during the 1985-86 school year<sup>1/</sup> and that it has filed an Answer claiming a managerial prerogative to act. It believes that we should entertain this petition since it involves events and issues similar to those raised in the unfair practice proceedings.

We dismiss the instant petition. The grievance concerned discrete events which occurred in March 1985; and the arbitrator's remedy is limited to negotiations over the amount of compensation, if any, which should be paid for the extra work then imposed.

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<sup>1/</sup> The charge alleges that the Board unilaterally assigned teachers in two elementary schools 40 extra minutes per day of student supervision in the halls, cafeteria and "time out" room. The amended charge alleges that the Board unilaterally assigned teachers in two elementary schools to central detention duty. These duties were allegedly uncompensated and allegedly reduced preparation and professional time.

Compliance with the arbitrator's limited award in no way compromises the Board's ability to present its managerial prerogative defense in the unfair practice proceedings concerning the separate and later events.

ORDER

The Petition for Scope of Negotiations Determination is dismissed.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioners Bertolino and Reid abstained.

DATED: Trenton, New Jersey  
December 22, 1986  
ISSUED: December 23, 1986