

P.E.R.C. NO. 79-96

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOPE TOWNSHIP BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-79-78

HOPE TOWNSHIP EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

In a scope of negotiations proceeding, the Commission concludes that the gravamen of the relevant grievance relates to an alleged unilateral increase in workload and not the Board's right to determine whether it will employ teacher aides in a particular school year. Accordingly, the Commission, consistent with an interim decision of the Commission's Special Assistant, rules that this matter is a required subject for collective negotiations for the reasons cited by the Special Assistant. Therefore, the Commission denies the request of the Board for a permanent restraint of arbitration.

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Appearances:

For the Petitioner, Lyn Paul Aaroe, Esq.

For the Respondent, Mr. John A. Thornton, Jr.

DECISION

On March 1, 1979 the Hope Township 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 a certain matter in dispute between the Board and the Hope Township Education Association (the "Association") is within the scope of collective negotiations.

The Board indicated in its scope petition that the instant dispute arose with respect to a particular matter which the Association sought to process pursuant to a negotiated grievance procedure and concerning which the Association has invoked arbitration pursuant to this grievance procedure. More specifically, the Board asserted that at issue was the negotiability and arbitrability of the assignment of teacher aides to assist teachers in the performance of their professional duties.

The Board also requested that the Commission grant interim relief in the form of an order temporarily restraining arbitration proceedings concerning the issue in dispute during the pendency of this scope of negotiations petition. Although the Board was apparently granted an indefinite postponement of the arbitration hearing scheduled in this case by the appointed arbitrator, the Board requested a written Interlocutory Decision in this matter since it still desired to pursue its application for interim relief in the form of a temporary restraining order.

On May 1, 1979 in an Interlocutory Decision, Stephen B. Hunter, the Special Assistant to the Chairman, denied the Board's request for interim relief in the form of a temporary restraint of arbitration.<sup>1/</sup> The Special Assistant concluded that the gravamen of the relevant grievance related to an alleged unilateral increase in teacher workload and did not relate to the Board's right to determine whether it would employ teacher aides in a particular school year. He then concluded, consistent with pertinent Commission and judicial precedent, that workload is a required subject for collective negotiations and that a dispute concerning

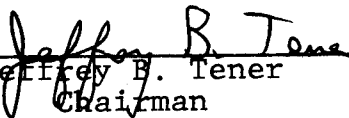
1/ In re Hope Township Board of Education, P.E.R.C. No. 79-85, 5 NJPER (1979). The Commission has delegated to the Special Assistant the authority to conduct Show Cause proceedings on requests for interim relief and to issue interlocutory determinations on behalf of the Commission. These interlocutory 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 hereto and made a part hereof.

this issue could proceed to arbitration, if otherwise arbitrable under the parties' agreement.<sup>2/</sup>

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 reaffirm that the subject matter in dispute, i.e., teacher workload, is a required subject for collective negotiations, substantially for the reasons stated by the Special Assistant to the Chairman in his Interlocutory Decision and we hereby adopt that decision as our own. 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 restraint of arbitration must be and is hereby denied.

BY ORDER OF THE COMMISSION

  
 Jeffrey B. Tener  
 Chairman

Chairman Tener, Commissioners Graves and Hartnett voted for this decision. None opposed. Commissioners Hipp and Newbaker abstained. Commissioner Parcels was not present.

DATED: Trenton, New Jersey  
 May 22, 1979  
 ISSUED: May 23, 1979

<sup>2/</sup> See e.g., Burlington Cty Coll Faculty Ass'n v. Board of Trustees, 64 N.J. 10 (1973); Byram Twp. Bd of Ed v. Byram Twp. Ed Ass'n, P.E.R.C. No. 76-27, 2 NJPER 143 (1976) affmd 152 N.J. Super. 12 (App. Div. 1977); In re Rahway Board of Education, P.E.R.C. No. 79-30, 5 NJPER 23 (¶10015 1978) and In re Fair Lawn Bd of Ed, P.E.R.C. No. 79-44, 5 NJPER 48 (¶10032 1979).