

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EAST ORANGE EDUCATION ASSOCIATION,

Petitioner,

-and-

Docket No. SN-77-20

EAST ORANGE BOARD OF EDUCATION,

Respondent.

SYNOPSIS

In a scope of negotiations proceeding initiated by the Education Association, the Commission rules on the negotiability of the first step of the teachers' salary guide. During the course of negotiations for a successor collective negotiations agreement, the Association sought to negotiate, in part, with respect to the first step of the teachers' salary guide, which matter the Board contended was not a required subject for collective negotiations. The Commission notes that the first step of the teachers' salary guide is an indivisible part of the compensation scheme affecting all the teachers employed by the Board and as such is a required subject for collective negotiations. The Board was therefore ordered to negotiate in good faith upon the demand of the Association with respect to the first step of the teachers' salary guide.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EAST ORANGE EDUCATION ASSOCIATION,

Petitioner,

Docket No. SN-77-20

-and-

EAST ORANGE BOARD OF EDUCATION,

Respondent.

Appearances:

For the Petitioner, Rothbard, Harris & Oxfeld, Esqs.
(Mr. Sanford R. Oxfeld, of Counsel)

For the Respondent, Love & Randall, Esqs.
(Mr. Melvin Randall, of Counsel)

DECISION AND ORDER

A Petition for Scope of Negotiations Determination was filed with the Public Employment Relations Commission (hereinafter the "Commission") on January 20, 1977 by the East Orange Education Association (hereinafter the "Association")^{1/} seeking a determination as to whether a certain matter in dispute is within the scope of collective negotiations within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. (hereinafter the "Act").^{2/} The statement of dispute in the

^{1/} In a letter submission dated February 22, 1977 the Board stated that it joined with the Association in submitting this instant Scope Petition to the Commission for a determination and resolution.

^{2/} The Commission's authority to determine whether the matter in dispute is within the scope of collective negotiations is provided by N.J.S.A. 34:13A-5.4(d), which states: "The Commission shall at all times have the power and duty, upon the request of any public employer or majority representative, to make a determination as to whether a matter in dispute is within the

(Continued)

Petition requests a determination as to whether the first step of the teachers' salary guide is a required subject for collective negotiations.

The factual context in which the instant dispute arose is not complicated and is undisputed by the parties. The Association represents teachers and associated educational personnel employed by the Board. These individuals are presently covered by a collective negotiations agreement covering the period between September 1, 1975 and August 31, 1977. During the course of negotiations for a successor agreement the Association sought to negotiate, in part, with respect to the first step of the teachers' salary guide, which matter the Board contends is not a required subject for collective negotiations. The aforementioned Scope Petition was thereafter filed by the Association in response to the Board's position with regard to the negotiability of the first step of the teachers' salary guide.

In support of its Scope Petition, the Association filed a letter memorandum dated January 18, 1977. Thereafter the Board filed its positional statement in a letter dated February 22, 1977. Neither party has requested an evidentiary hearing or oral argument in this matter.

2/ (Continued) scope of collective negotiations. The commission shall serve the parties with its findings of fact and conclusions of law. Any determination made by the commission pursuant to this subsection may be appealed to the Appellate Division of the Superior Court."

It is uncontroverted by the parties that the New Jersey Employer-Employee Relations Act in apposite part requires that a public employer such as the Board negotiate in good faith with the recognized or certified majority representative of its employees, with respect to the terms and conditions of their employment.^{3/} The Association contends in its submissions that the first step of the salary guide affecting members of its negotiations unit clearly involves a term and condition of employment, i.e., compensation for members of the negotiations unit represented by the Association, and as such is a required subject for collective negotiations. The Association further notes that it is unclear as to the Board's alleged justification in refusing to negotiate the first step of the professional salary guide. The Board in its positional statement, in response to the Association's Scope Petition, simply raises the following questions without further elaboration or comment:

- "1. How can the Education Association as a collective entity represent persons who are not on the salary guide?
2. What impact if any on the negotiations process would result if the subject herein is considered mandatorily negotiable?"

After careful analysis of the Scope Petition and the parties' submissions, the Commission concludes that the first

^{3/} N.J.S.A. 34:13A-5.3 provides in part: "Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established. In addition, the majority representative and designated representatives of the public employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment."

step of the teachers' salary guide is a required subject for collective negotiations. In Board of Education of the City of Englewood v. Englewood Teachers Association, 64 N.J. 1 (1973) the New Jersey Supreme Court determined that working hours and compensation of individual teachers were terms and conditions of employment within the contemplation of the Act. The Court noted, in pertinent part, that the Englewood Board of Education's unilateral denial of tuition reimbursement being sought by a teacher as well as his application for placement on a certain step of a salary guide related to contract interpretations which "...would directly and most intimately affect the employment terms and conditions of the...[individual] involved without affecting any major educational policies." Id. at p. 8. The Court further noted that "[s]urely working hours and compensation are terms and conditions of employment within the contemplation of the Employer-Employee Relations Act. [These] matters along with physical arrangements and facilities and customary fringe benefits would appear to be the items most evident in the legislative mind." Id. at pp. 6 and 7. The Commission has heretofore rendered determinations that matters involving the compensation of public employees are required subjects for collective negotiations.^{4/}

^{4/} See, e.g., In re Hillside Board of Education, P.E.R.C. No. 76-11, 1 NJPER 55 (1975); In re Rutgers, The State University, P.E.R.C. No. 76-13, 2 NJPER 13 (1975) and In re East Brunswick Board of Education, P.E.R.C. No. 77-6, 2 NJPER 279, motion for reconsideration denied, P.E.R.C. No. 77-26, 3 NJPER _____ (1976), appeal pending, App. Div., Docket No. A-250-76.

It appears from the Board's very limited submissions in this matter that the Board is concerned that it in some way would be forfeiting its management prerogatives with regard to the establishment of hiring rates relating to new teaching personnel if it would negotiate the first step of the teachers' salary guide with the Association and that this would have some impact on the negotiations process. Initially, we point out that our determination that the first step of a salary guide is a required subject for negotiations in no way compels the Board to agree to specific proposals made concerning the compensation to be accorded to individuals at that particular level. Furthermore, it is true that, assuming negotiations for a successor agreement are concluded before the start of the subsequent school year, most if not all of the employees who will occupy such a position are not then working for the board. Nevertheless, they will commence employment in September and their salary, as with that of all other public employees who are represented by an employee organization, are subject to mandatory negotiations. Additionally, if salary increments are withheld pursuant to N.J.S.A. 18A:29-14 or pursuant to contractual provisions, individuals presently at the first step of the salary guide could possibly remain on that step for the 1977-1978 school year as well. The Commission concludes that the first step of a particular salary guide is an indivisible part of the compensation scheme affecting all the teachers employed by the Board and as such is a required subject for collective

negotiations. The Commission also takes administrative notice of the fact that negotiations relating to the first step of teachers' salary guides are commonplace in almost all school districts throughout the State. In fact in school districts with so called "ratio salary guides" the only step of the salary guide that is negotiated by the parties is the first step of such guides.

ORDER

With respect to the matter in dispute relating to the first step of the teachers' salary guide which we have hereinabove determined to be a required subject for collective negotiations, the East Orange Board of Education is hereby ordered to negotiate in good faith upon the demand of the East Orange Education Association.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

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

DATED: Trenton, New Jersey
April 19, 1977
ISSUED: April 20, 1977