

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD BAORD OF EDUCATION,

Respondent,

Docket No. CO-79-292-27

-and-

RIDGEFIELD TEACHERS' ASSOCIATION,

Charging Party.

SYNOPSIS

The Commission dismisses a complaint in an unfair practice case filed by the Association against the Board. The case arose when a teacher failed to attend an evening PTA meeting and subsequently received a written memorandum in her file noting her non-attendance, setting forth the policy of why attendance is required and reaffirming that attendance was required unless excused in advance by the Principal. In agreement with the Hearing Examiner, the Commission found that there was a well established practice of attendance at PTA meetings as part of the professional duties of teachers. However, contrary to the Hearing Examiner, the Commission found that the action of the Principal in placing the memorandum in the teacher's file was action that could have reasonably been expected and did not result in any change in terms and conditions of employment. Accordingly, no violation of the Act was found.

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-79-292-27

RIDGEFIELD TEACHERS' ASSOCIATION,

Charging Party.

Appearances:

For the Respondent, Stanley Turitz, Esq.

For the Charging Party, Goldberg & Simon, Esqs.  
(Mr. Sheldon H. Pincus, of Counsel)

DECISION AND ORDER

An Unfair Practice Charge was filed with the Public Employment Relations Commission on April 24, 1979 by the Ridgefield Teachers' Association (the "Association") alleging that the Ridgefield Board of Education (the "Board") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), specifically N.J.S.A. 34:13A-5.4(a)(1) and (5). The Association alleges that the Board unilaterally adopted a requirement contrary to past practice that teachers employed at two schools in the district attend all Parent-Teacher Association meetings or be subject to written criticism for failure to attend. The Association contends that this requirement increased job duties and workload.

Pursuant to N.J.A.C. 19:14-2.1, a Complaint and Notice of Hearing was issued on October 24, 1979. A hearing was held on January 8, 1980 before Commission Hearing Examiner Robert T. Snyder. On February 4, 1980 the Hearing Examiner issued his Recommended Report and Decision, a copy of which is attached hereto and made a part hereof.<sup>1/</sup> The Board filed exceptions on February 19, 1980. Pursuant to a request to extend time for filing, the Association filed its exceptions on March 7, 1980. On April 8, 1980 the Commission invited the parties to address the relevance of the decision of the Appellate Division in In re Hazlet Twp. Board of Education, P.E.R.C. No. 79-57, 5 NJPER 113 (¶10066 1979), PERC rev'd Docket No. A-2875-78 (3/27/80). Both parties filed responses by April 22, 1980.

Based upon the entire record, the Hearing Examiner found a past practice existed whereby teachers at two schools in the district recognized an obligation to participate in evening P.T.A. meetings or to provide notice and reason why they could not attend. The Hearing Examiner found this obligation to attend P.T.A. meetings was a past practice which had existed consistently for a period of four years. The instant matter involved a teacher who failed to attend and subsequently received a written "memorandum" in her file. Based on his finding of a past practice, the Hearing Examiner found no violation of N.J.S.A. 34:13A-5.4(a)(1) and (5) with regard to the requirement that all teachers attend P.T.A. meetings or advise the principal that they would not attend. However, the Hearing Examiner did find that

<sup>1/</sup> H.E. No. 80-31, 6 NJPER 96 (¶11050 1980).

the memorandum placed in her file, without limitation to its use, was tantamount to a penalty which was unilaterally imposed by the Board without notice and without negotiations with the Association. The memorandum placed in the file was found by the Hearing Examiner to have a possible effect on terms and conditions of employment. Thus, he found the Board to have violated N.J.S.A. 34:13A-5.4(a)(1) and (5).<sup>2/</sup>

The exceptions by the Board are two-fold. One, the Board excepts to the characterization of the memorandum as a disciplinary action or as a penalty. Second, the Board asserts that it is the right of a school administrator to comment, either verbally or in writing, on the performance of a teacher as an exercise of non-negotiable managerial prerogative. In addition, the Board objects to the failure of the Hearing Examiner to include in the Notice to Public Employees that the Complaint as to the allegations of a violation of N.J.S.A. 34:13A-5.4(a)(1) and (5) based on the failure to negotiate the teacher attendance requirement at P.T.A. meetings were dismissed in their entirety.

On the other hand, the Association urges the Commission to uphold the determination by the Hearing Examiner that the memorandum was disciplinary within the meaning of the decision in In re Demarest Board of Education, P.E.R.C. No. 80-40, 5 NJPER 415 (¶10217 1979), appeal pending App. Div. Docket No. A-704-79.

<sup>2/</sup> See footnote #13 of the Hearing Examiner's Recommended Report and Decision.

With respect to the Appellate Division's decision in Hazlet, supra., the Board argues that that decision invalidates the reasons used by the Hearing Examiner to support his finding that the Board committed an unfair practice. The Board urges the Commission to apply the holding of Hazlet to the instant matter.

Conversely, the Association argues that the Hazlet decision does not apply. In Hazlet, the comments objected to were part of the evaluation process. Here, the Association avers that the memorandum was an ad hoc response to an immediate encounter between a teacher and a principal. The Association contends that in this matter the issue is discipline, and not an adverse comment pursuant to an evaluation.

After an independent review of the entire record in this matter, the Commission adopts the Hearing Examiner's Recommended Decision and Order in part and rejects it in part.

With respect to the requirement of teacher attendance at P.T.A. meetings, the Commission, in agreement with the Hearing Examiner, finds that the Board did not violate N.J.S.A. 34:13A-5.4(a)(1) and (5). The record supports the finding of the Hearing Examiner that attendance at P.T.A. meetings was an existing part of the professional duties of the teachers as evidenced by the conduct of the teachers over a period of four years.

With respect to the issue of the implementation of a penalty for a failure to attend P.T.A. meetings, the Commission disagrees with the conclusion of law of the Hearing Examiner.

It is important to consider the factual background of this case. The Hearing Examiner found that attendance at P.T.A. meetings was required and that the teachers had ample notice of this requirement. It appears from the record that there was an expectancy that a teacher would be reprimanded for failure to attend. This is evidenced by the fact that those teachers who could not attend a particular meeting advised the principal of the reasons for their lack of attendance. It is undisputed that a teacher failed to attend. In response to this non-attendance, the principal spoke to her and then placed a letter in her file. That letter <sup>3/</sup> noted the failure of the teacher to attend the P.T.A. meeting, set forth the policy of why attendance is required, and reaffirmed that attendance was required, unless excused by the principal in advance.<sup>4/</sup>

Hence, we find that, even if this action was discipline,<sup>5/</sup> the Board, through one of its agents, has not taken any action which its teachers could not have reasonably expected. No change in terms and conditions of employment has occurred as a result of the filing of a memorandum which records the lack of attendance by this employee at a P.T.A. meeting.

<sup>3/</sup> See Exhibit A, attached to the Hearing Examiner's Report.

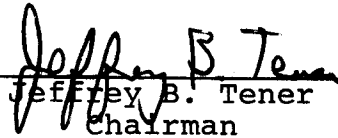
<sup>4/</sup> We note that the teacher was not threatened, suspended or otherwise disciplined in any tangible way.

<sup>5/</sup> In In re Glassboro Board of Ed, P.E.R.C. No. 77-12, 2 NJPER 355 (1976), the Commission held that a board of education could unilaterally establish a tardiness policy, but a board must negotiate, upon demand, concerning disciplinary procedures and penalties which affect terms and conditions of employment.

ORDER

Accordingly, for the reasons set forth above, IT IS  
HEREBY ORDERED that the Complaint is dismissed in its entirety.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
Jeffrey B. Tener  
Chairman

Chairman Tener, Commissioners Hartnett and Parcells voted  
for this decision. None opposed. Commissioners Graves,  
Newbaker and Hipp were not present.

DATED: Trenton, New Jersey  
May 20, 1980  
ISSUED: May 22, 1980

STATE OF NEW JERSEY  
BEFORE A HEARING EXAMINER OF THE  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD BOARD OF EDUCATION,

Respondent,

- and -

Docket No. CO-79-292-27

RIDGEFIELD TEACHERS' ASSOCIATION,

Charging Party.

SYNOPSIS

A Hearing Examiner recommends that the Public Employment Relations Commission find that the Board violated section 13A-5.4(a)(5) and (1) of the New Jersey Employer-Employee Relations Act when one of its elementary school principals unilaterally, and without prior negotiations with the Association, placed a letter in a tenured teacher's personnel file critical of her failure and refusal to abide by an accepted practice that teachers attend P.T.A. evening meetings or provide a reasonable excuse for not attending.

The Association's claim that the requirement of teacher attendance also violated the Board's negotiations obligation was rejected by the Examiner on the ground that the evidence showed teacher and Association recognition of attendance as a professional obligation. The Examiner concluded, however, in accordance with Commission precedent, that the notation placed in the teacher's personnel file constituted a form of discipline requiring prior negotiations before it may be imposed, rather than the adoption of evaluative criteria which is a non-negotiable matter of educational policy.

The Examiner recommended that the Board expunge the letter and negotiate in good faith with the Association prior to establishing penalties for failure of teachers to comply with the evaluative criteria regarding teacher participation in P.T.A. meetings.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law.



STATE OF NEW JERSEY  
BEFORE A HEARING EXAMINER OF THE  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD BOARD OF EDUCATION,

Respondent,

- and -

Docket No. CO-79-292-27

RIDGEFIELD TEACHERS' ASSOCIATION,

Charging Party.

Appearances:

For the Respondent  
Stanley Turitz, Esq.

For the Charging Party  
Goldberg & Simon, Esqs. (By Sheldon H. Pincus, Esq., Of Counsel)

HEARING EXAMINER'S RECOMMENDED  
REPORT AND DECISION

On April 24, 1979, the Ridgefield Teachers' Association ("Association" or "Charging Party") filed an unfair practice charge with the Public Employment Relations Commission ("Commission") alleging that the Ridgefield Board of Education ("Board" or "Respondent") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act ("Act"), as amended, N.J.S.A. 34:13A-1 et seq. Specifically, the Association alleges that on or about November 15, 1978 the Board adopted, unilaterally, a requirement contrary to past practice that teachers employed at the Shaler and Bergen Boulevard Schools attend all Parent Teacher Association meetings and be subject to written criticism for failure to attend, thereby also increasing job duties and workload, in violation of N.J.S.A. 34:13A-5.4(a)(1) and (5). <sup>1/</sup>

1/ These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

It appearing to the Director of Unfair Practices that the allegations of the amended charge, <sup>2/</sup> if true, may constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued thereon on October 24, 1979. By answer filed on November 5, 1979, the Respondent denied the allegations of unfair practice and averred that attendance at Parent Teacher conferences in the schools in question had been a past practice for ten years. As the collective agreement contains a provision expressly preserving all past practices and conditions, such required attendance has been a negotiated item, and the Charging Party is thus estopped to contravene its own contract and the Complaint should be dismissed. Hearing was held on January 8, 1980. Both parties were given full opportunity to examine witnesses, present evidence and argue orally. Both parties have filed post-hearing briefs, the Charging Party on January 23, 1980 and the Respondent on January 25, 1980 and they have been duly considered.

Upon the entire record in the case and from my observation of the witnesses and their demeanor I make the following:

FINDINGS OF FACT

1. The Association has for some years been the exclusive representative for collective negotiations with the Board concerning grievances and terms and conditions of employment for classroom teachers, among other professional personnel. <sup>3/</sup> The most recent collective agreement between the parties covering the period July 1, 1978 to June 30, 1981 contains the following provision in Article 24, subparagraph B.:

Except as this Agreement shall otherwise provide, all terms and conditions of employment applicable on the effective date of this Agreement to employees covered by this Agreement shall continue to be so applicable during the term of this Agreement unless otherwise provided in this Agreement.

The same agreement also contains a provision concerning Teacher Evaluations,

---

<sup>2/</sup> By letters dated August 14 and September 13, 1979, the Charging Party amended the outstanding charge to eliminate certain other allegations which had been resolved. Accordingly, Complaint issued only on the allegation described herein.

<sup>3/</sup> I find that the Association and the Board are an employee organization and majority representative of employees, and a public employer, respectively within the meaning of the Act.

Article 15, which in subparagraph B.1 defines "evaluation" to mean a written evaluation prepared by the Administrative/Supervisory Staff Member who visits the classroom for the purpose of observing a Teacher Staff Member's performance of the instructional process. Subparagraph B.4 provides any teacher with the right to respond in writing to his evaluation within five school days.

2. Two K through five elementary schools in the Ridgefield School District are the Shaler Boulevard and Bergen Boulevard Schools. For some years Shaler has employed seven teachers and Bergen has employed 11 teachers. These two schools have a common Principal, August W. Vogel, who has functioned in that position for a period in excess of four years, since December 1975 at Bergen and since May 1975 at Shaler.

3. A Parent Teacher Association ("P.T.A.") has been in existence for many years at the Shaler Boulevard and Bergen Boulevard Schools. Over the years, the P.T.A. has held five meetings annually at each of the two schools. For each school year, in the chronological order of their occurrence, they are a Back to School night at which teachers are introduced to parents, a meeting presenting the school program for the year, a Founder's Day Program, a Cultural Arts Show presented by the students and an Exhibit Night at which the year's academic work and growth are reviewed (T. 54-5). Only the Arts Show meeting is held during the day within the teachers' normal workday, the four others taking place in the evening.

4. During his tenure as Principal, Vogel has strongly urged the teaching staff at each school to attend all P.T.A. meetings. In the opening day bulletin issued to teachers at the beginning of each school year Vogel noted that he expected the teachers to attend (T. 52; 55-6). During his cross-examination, Vogel acknowledged that he, in effect, required such attendance. <sup>4/</sup>

4/ Charging Party's two witnesses did not contradict the thrust of Vogel's testimony. Association President Richard J. Brockel confirmed that based upon his conversations with teachers at the two schools, the Principal had made it a practice to require attendance at P.T.A. meetings, although he denied that Vogel's predecessors as Principal had followed such a practice (T. 16). Ann Maksymiak, now retired, but a teacher at Bergen School from 1948 to 1978, testified that while she did not perceive attendance as a requirement, she had attended most P.T.A. meetings, Vogel had asked her to attend and believes she told the Principal in advance if she was going to miss a meeting for personal reasons and afterward if an emergency arose which prevented her from attending. (Vogel testified he did not recall her missing a meeting). She recalled attending "almost 100%" and then, on re-direct examination recalled being out sick a few days which included a P.T.A. meeting night and not being asked by Vogel why why she did not attend.

5. Vogel testified, without contradiction, that during his tenure, close to 100% of the teachers attended all P.T.A. meetings, and those who did not attend invariably notified him ahead of time if they could not. Laurie Rau, a tenured teacher newly employed at the Shaler School for school year 1978-79, failed to attend the Back to School Night evening meeting at her school or to provide Vogel with an explanation for her failure. In a prior conversation with Vogel, Rau informed her Principal that she had no intention of coming to the meeting, she had no reason for not attending and she did not think attendance was part of her responsibility. Prior to this incident, no teacher had failed to attend a P.T.A. meeting without giving Vogel an explanation as to why he or she wasn't attending (T. 54).

6. By memorandum dated October 25, 1978, Vogel informed Rau of his displeasure with her failure to attend and her failure to notify him in advance of her intent not to attend. Vogel noted, inter alia, "We have only five P.T.A. meetings during the school year, of which four are evening meetings. As an educational commitment, it is expected that teachers attend all P.T.A. meetings." The letter is reproduced in full and annexed hereto as Exhibit "A". A copy of the letter was placed in Ms. Rau's personnel file.

7. The issuance by Vogel of the October 5, 1978 memorandum and a subsequent Association executive meeting in November where the discussion included Vogel's activity in checking with teachers prior to P.T.A. meetings and his practice in requiring attendance resulted in the filing of a grievance on this subject, among others, on December 19, 1978. Prior to this grievance no complaint had been filed by the Association or any teachers regarding their attendance and participation in the meetings. The particular grievance claimed that requiring attendance at P.T.A. meetings or implying such a requirement by written criticism of those not attending is contrary to the terms and conditions of employment and to Article 24:Section B of the agreement between the parties previously quoted at paragraph 1. Principal Vogel denied the grievance at level one, the Superintendent of Schools denied the grievance at level two, and the Board denied it at level three, that being the final step in the grievance process pursuant to Article 3 of the parties' agreement. The gist of the denial was that there has long been a practice to have teachers at the schools in question attend P.T.A. meetings, that teacher attendance is necessary to insure parent-teacher dialogue to foster the needs of the children, and that the requirement is flexible to the extent that it includes acceptance of reasonable excuses for non-attendance. At the Board level, rejection was also grounded upon its exercise of a managerial pre-

rogative not effecting terms and conditions of the contract.

ISSUES

1. Does the record establish a past practice pursuant to which Shaler and Bergen Boulevard School teachers recognized an obligation to participate in evening P.T.A. meetings or provide notice and reason why they could not?

2. Is the Board's conduct of subjecting teachers to written criticism for the failure to attend all P.T.A. meetings a mandatory subject of bargaining?

ANALYSIS

Counsel stipulated on the record that the existence or absence of the past practice described in the framing of issue No. 1 would determine whether or not the Board could mandate teacher attendance at P.T.A. meetings. They agreed that if there was no past practice the Board could not require such attendance, and conversely, if the practice had been established, the teachers would be required to continue to attend or provide reasons why they could not (T. 62). Counsel agreed that the Commission's decision in Carteret Board of Education, P.E.R.C. No. 80-30, 5 NJPER para. 10205 (p. 397 1979) was controlling on the threshold issue as to whether participation in P.T.A. meetings is mandatorily negotiable (T. 63). As a consequence of this latter agreement, neither party has litigated this scope issue. While I have some reservations that Carteret disposes of this issue, <sup>5/</sup> in view of this stipulation - in effect, a concession

<sup>5/</sup> In Carteret the Commission held that board of educations could not unilaterally impose an after-school workshop on teachers in contrast to their unilateral right to assign teachers to be advisors to extra or co-curricular student activities where student supervision is involved. In re Rutherford Board of Education, P.E.R.C. No. 77-22, 3 NJPER 37 (1976). The Commission reasoned that boards must be able to insure that student activities are properly supervised, while the workshop for teachers only did not have this aspect. An argument could be made that the interaction with parents at P.T.A. meetings furthers important educational objectives, among them home reinforcement of curriculum and re-evaluation of curriculum in light of parental feedback, which boards may insure without being required to negotiate the requirement of teacher attendance. Of course, absent existence of the past practice, and assuming arguendo, that the decision to assign teachers to attend the P.T.A. meetings is non-negotiable, the Board may still be compelled to negotiate the effects on teachers' compensation and workload. Thus, the facts regarding the existence of a practice become even more significant.

by Respondent that decision by it to compel participation in evening P.T.A. meetings <sup>6/</sup> is a term and condition of employment mandating collective negotiations on the Association's demand - I will now examine the evidence regarding practice in light of counsel's understanding of this matter.

I conclude that the record supports a finding that attendance at the P.T.A. evening meetings was an activity which the teachers and their Association recognized as a professional obligation which could only be avoided on the occasion of some overriding personal commitment, and even then, the obligation required advance notice of nonattendance be provided the Principal. In so concluding, reliance is placed on the following factors:

1. During the almost four years of his tenure, Principal Vogel had consistently made teaching personnel at the two schools aware of the educational importance he attached to their participation in the regularly scheduled series of P.T.A. meetings, each carrying a theme intimately related to the curriculum and student achievement. The Principal's expression of concern took the form of announcements at the opening of school and his expectation of their attendance was noted in the opening day bulletin to teaching staff.

2. In accordance with these announcements, most of the teachers attended consistently, and those who did not on occasion invariably provided the Principal with advance notice of the reason they could not attend. Even the sole teacher who testified for Charging Party recognized an obligation to provide notice, although it appears that she probably did not miss any meetings since Vogel's tenure.

3. The requirement to attend was tempered by recognition of the fact that from time to time occasions would arise of a personal nature which could excuse nonattendance. Emergencies also provided another area of flexibility in the requirement.

4. The only teacher in a four year period who did not recognize the obligation was newly employed at one of the two schools. Her conversation with the Principal evidenced a total disregard for the parameters of the obligation to attend or provide advance notice of a reasonable excuse for failure to attend.

5. It was not until the Principal expressed his displeasure in writing to the teacher in the October 25 memorandum and retained the memo in the

---

<sup>6/</sup> As to the one day meeting, as it was held during the teachers' regular in-school work day, even if no prior practice existed there was no extension of work day, and even a claim of added workload would appear to be de minimus.

teacher's file, that the Association grieved the requirement. Issue was joined not over the assignment (or teacher recognition of an educationally related responsibility) but evaluating teachers because of nonattendance. Until substantive evaluation was suggested the assignment was honored.

The foregoing recital establishes a consistent practice recognized by the teaching staff at the two schools of attending the P.T.A. meetings or providing advance notice if they could not. Since this practice continued over a four year period at least, <sup>7/</sup> the Association must be charged with knowledge of it, if only from the fact that its building representatives participated therein.

The teachers employed at Shaler and Bergen Boulevard Schools for at least the last four years having consistently attended the regularly scheduled P.T.A. meetings each dealing with a different aspect of the parent-teacher relationship, or on the infrequent occasions of their absences having provided advance notice of a reasonable excuse, and the Association having acquiesced in such practice without having made any demand for compensation, such conduct raises an implied, mutual understanding that attendance at the P.T.A. meetings was deemed a term and condition of employment which attaches to the position. <sup>8/</sup> This conclusion is buttressed by reference to Article 24, subp. B of the parties 1978-81 agreement which may reasonably be interpreted in accordance with the understanding of both counsel as memorializing all terms and conditions of employment existing at the outset of the agreement, including the implied agreement pursuant to which teachers regularly attended P.T.A. meetings with some flexibility to be exercised by the Administration in monitoring compliance. <sup>9/</sup>

In view of the foregoing I recommend dismissal of the allegation of Charging Party that the Respondent refused to negotiate with respect to the decision to assign attendance, and compensation and related workload questions related to such attendance. <sup>10/</sup>

<sup>7/</sup> Whether or not the practice began under one or another principal who preceded Vogel is irrelevant to this conclusion. See In re Caldwell-West Caldwell Board of Education, P.E.R.C. No. 80-64, appeal pend. App. Div. Docket No. A-1727-79.

<sup>8/</sup> See Central High School Dist. v. Teachers, 91 LRRM 2615 (N.Y. Sup. Ct. Special Term, Part III, 1975).

<sup>9/</sup> When the Association sought and the parties agreed on additional compensation for special duties, they took care to include such understandings in their agreement (see Schedules C, D, E, F, and G of the current agreement, J-1).

<sup>10/</sup> Note is taken of the fact that the record fails to contain any specific reference to Respondent's position on negotiating workload other than its answer denying violation. In particular there is no evidence that the Association ever demanded or that Respondent ever failed to refuse to negotiate with respect to workload  
(continued next page)

The second issue remains to be considered. Respondent argues that a school administrator cannot be restricted in his right to place an opinion or evaluative report in a teacher's personnel file, citing In re Teaneck Board of Education, 161 N.J. Super. 75 (App. Div. 1978), reversing P.E.R.C. No. 78-3, 3 NJPER 224 (1977), <sup>11/</sup> as controlling authority. At first blush, Teaneck seems to be dispositive. There, as here, the school administrator placed in certain teacher's files negative comments relating to their non-participation in allegedly voluntary after-school activities, i.e., Back to School Night and extracurricular activities. However, those comments had been made in mid-year evaluations, and the Association contended that they were not contractually includable in evaluation reports. The union was there contesting the employer's right to comment at all about such matters in terms of evaluation, not the extent to which the employer's comments may rise to the level of a sanction or a discipline. The Commission has since commented on the result reached in Teaneck as being limited to the adoption or the establishment of criteria to be utilized in evaluating employees. <sup>12/</sup> Just as in Hazlet, id., the Association is not contesting the right of the Board to establish nonattendance at P.T.A. meetings as a criteria for purposes of evaluating teacher professional performance. The Association is, however, claiming that the principal's letter constitutes an application of that criteria which affects employees' terms and conditions of employment.

On the facts before me, I conclude that the letter placed in teacher Rau's file constitutes a form of discipline. Reliance is placed on the following factors:

1. The letter was an ad-hoc response by the school administrator to an immediate encounter with a teacher in which his strongly held principals were challenged.
2. The letter was immediately prepared and placed in the teacher's file without following the normal evaluation format envisioned by the parties in Article 15 of the agreement. It thus constituted adverse comment as to the teacher's professionalism without regard to observation of the teacher's performance in the instructional process.

<sup>10/</sup> (continued)

factors related to teacher attendance. Absent any evidence of a refusal to negotiate the subject matter, a finding of such refusal - necessary to a conclusion of violation of subd. (a)(5) - could hardly be considered on the record in this proceeding.

<sup>11/</sup> The Court held that negotiation of evaluative criteria is against public policy, thus reversing the Commission which, at the time (prior to Ridgefield Park Ed. Assn. v. Ridgefield Park Bd. of Ed., 78 N.J. 144 (1978)) had concluded that negotiation of such subject matter was permissive.

<sup>12/</sup> Hazlet Twp. Bd. of Ed. and Hazlet Twp. Teachers Assn., P.E.R.C. No. 79-57, 5 NJPER 113 (para. 10066 1979), appeal pending App. Div. Docket No. A-2875-78.



3. Having been placed in the teacher's file, without limitation as to its use, it may be utilized in the future by the Board in numerous ways, each of which could have an adverse impact upon the teacher's tenure, assignment or earnings.

While Rau's conduct may, in fact, warrant the sanction imposed, since it is a sanction for failure to meet a Board criteria of attendance and participation in P.T.A. meetings, it requires negotiations with the Association before it may be imposed. <sup>13/</sup>

The practice found in resolution of Issue No. 1 encompassed required attendance at P.T.A. meetings. Not until the school administrator for the first time wrote the letter to Rau criticizing her attitude of non-involvement in these meetings was the teaching staff or Association placed on notice that non-compliance would subject teachers to the penalty of notations in an employee's personnel file. Since the Board implemented this penalty without notice to the Association so that it may negotiate the subject matter, the Board has engaged in conduct in violation of N.J.S.A. 34:13A-5.4(a)(5), and derivatively, (1).

Upon the foregoing, and upon the entire record in this case, the Hearing Examiner makes the following:

#### CONCLUSIONS OF LAW

1. The respondent Board has violated N.J.S.A. 34:13A-5.4(a)(5) and (1) by unilaterally implementing a penalty for failure to attend evening P.T.A. meetings held among parents and teachers of students attending the Shaler and Bergen Boulevard Schools, thus applying an evaluative criteria affecting terms and conditions of employment without prior negotiations with the Ridgefield Teachers' Association, the employees' exclusive negotiations representatives in an appropriate unit.

2. The Respondent Board has not violated N.J.S.A. 34:13A-5.4(a)(5) or (1) by regarding teacher attendance at such meetings as an integral part of the professional duties of the teachers as confirmed by the practice in the two schools over the last four years.

<sup>13/</sup> Demarest Board of Education and Demarest Education Association, P.E.R.C. No. 80-40, 5 NJPER 415 (para. 10217 1979), appeal pending App. Div. Docket No. A-704-79; In re Glassboro Bd. of Ed., P.E.R.C. No. 77-12, 2 NJPER 355 (1976); see discussion and cases cited, State of New Jersey and Local 195, I.F.P.T.E. and Local 518, S.E.I.U., P.E.R.C. No. 80-7 at 7, 5 NJPER para. 10161 (p. 299 1979), appeal pending App. Div. Docket No. A-4601-78.

RECOMMENDED ORDER

For the foregoing reasons and upon the entire record herein, IT IS HEREBY ORDERED that the Ridgefield Board of Education, its representatives and agents:

1. Cease and desist from:

a. Interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by the Act by refusing to negotiate in good faith with the Ridgefield Teachers' Association concerning the discipline or penalties to be imposed for failure of teachers at the Shaler and Bergen Boulevard Schools to comply with a requirement of attendance at P.T.A. meetings or prior notice and reason why they could not attend.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

a. Expunge from employee Laurie Rau's personnel file, a letter critical of her refusal and failure to comply with the requirement described above and negotiate in the future concerning the discipline or penalties to be imposed for teacher refusal or failure to comply with the evaluative criteria regarding required teacher attendance at P.T.A. meetings for the Shaler and Bergen Boulevard Schools.

b. Post at its central offices in the School District of Ridgefield, New Jersey, copies of the attached notice marked "Appendix B." Copies of said notice on forms to be provided by the Commission, shall, after being duly signed by Respondent's representative, be posted by Respondent immediately upon receipt thereof, and maintained by it for a period of at least sixty (60) consecutive days thereafter in conspicuous places including all places where notices to its employees are customarily posted. Reasonable steps shall be taken by said Respondent to ensure that such notices are not altered, defaced or covered by any other material.

c. Notify the Commission, in writing, within twenty (20) days of receipt of the Order of the steps the said Respondent has taken to comply herewith.

3. IT IS FURTHER ORDERED that so much of the Complaint as alleges a violation of N.J.S.A. 34:13A-5.4(a)(5) and (1) based upon a failure to negotiate the requirement of teacher attendance at P.T.A. meetings be dismissed in its entirety.

DATED: February 4, 1980  
Newark, New Jersey

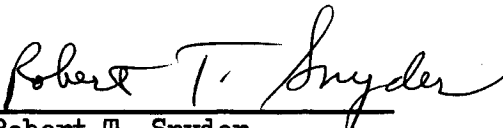
  
Robert T. Snyder  
Hearing Examiner

EXHIBIT "A"

October 25, 1978

TO: Mrs. Laurie Rau

FROM: August W. Vogel

I was very surprised that you did not attend the P.T.A. Meeting scheduled last evening. In my discussion with the staff on the first day of school, we shared the importance of parent/teacher/school communication.

The main reason that parents attend P.T.A. meetings is to initiate dialogue with staff members with reference to their children's progress and the activities of the school. This fact was certainly true last night and I personally get embarrassed when parents attend a P.T.A. Meeting and find their child's teacher is not present.

Education of children must be a combined effort. We need the support of the home and they, in turn, need to dialogue with us in order to determine how home and school together can provide the best possible educational program for their children.

We only have five P.T.A. Meetings during the school year, of which four are evening meetings. As an educational commitment, it is expected that teachers attend all P.T.A. Meetings.

It also would have been very helpful to be notified, in advance, of your intent not to attend.

AWF:jc

# NOTICE TO ALL EMPLOYEES

## PURSUANT TO

AN ORDER OF THE

## PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

## NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL cease and desist from interfering with, restraining or coercing our employees in the exercise of the rights guaranteed to them by the Act by refusing to negotiate in good faith with the Ridgefield Teachers' Association concerning the discipline or penalties to be imposed for failure of teachers at the Shaler and Bergen Boulevard Schools to comply with a requirement of attendance at P.T.A. meetings or prior notice and reason why they could not attend.

WE WILL expunge from employee Laurie Rau's personnel file, a letter critical of her refusal and failure to comply with the requirement described above and negotiate in the future concerning the discipline or penalties to be imposed for teacher refusal or failure to comply with the evaluation criteria regarding required teacher attendance at P.T.A. meetings for the Shaler and Bergen Boulevard Schools.

RIDGEFIELD BOARD OF EDUCATION

(Public Employer)

Dated \_\_\_\_\_

By \_\_\_\_\_ (Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with Jeffrey B. Tener, Chairman, Public Employment Relations Commission, P.O. Box 2209, Trenton, New Jersey 08625 Telephone (609) 292-6780