

P.E.R.C. NO. 80-155

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOGOTA BOARD OF EDUCATION,

Petitioner,

Docket No. SN-80-120

- and -

BOGOTA EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

In a scope of negotiations determination, the Chairman, consistent with prior Commission decisions, orders the Association to refrain from seeking negotiations regarding a class size provision. Class size is not a mandatory subject of negotiations.

In re Bd. of Trustees of Middlesex County College, P.E.R.C. No.

78-13, 4 NJPER 47 (¶4023 1977) and In re Rutgers, the State University, P.E.R.C. No. 78-13, 2 NJPER 13 (1976).

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Appearances:

For the Petitioner, William DeLorenzo, Jr., Esq.

DECISION AND ORDER

On April 9, 1980 the Bogota 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 matter in dispute between the Board and the Bogota Education Association (the "Association") was within the scope of collective negotiations and therefore legally arbitrable. The Board filed a brief concerning its contentions in this matter which was received on May 5, 1980. The Association chose not to file a submission in this matter.

Pursuant to N.J.S.A. 34:13A-6(f), the Commission has delegated to the Chairman the authority to issue scope of negotiations decisions when the negotiability of the issue(s) in dispute has been previously determined by the Commission and/or the State judiciary.

The relevant facts in this matter are not in dispute. During the course of collective negotiations for a new contract for the 1980-1981 school year, a dispute arose concerning the negotiability of a particular provision referring to class size that had previously been included in negotiations agreements between the Board and the Association. The Article in dispute reads: "The High School English Teachers shall teach five periods per day, with the intent of reducing class size contingent upon room availability." The underlined section is in dispute.

The Board asserts that any provisions relating to class size are illegal subjects for collective negotiations in light of the New Jersey Supreme Court's Ridgefield Park Bd. of Ed. v. Ridgefield Park Ed. Ass'n, 78 N.J. 144 (1978) decision. During the course of negotiations, the Association contended that class size provisions were mandatorily negotiable under certain conditions.

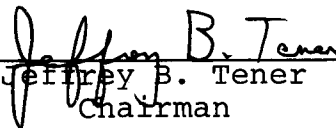
The Chairman, after consideration of the Article in dispute and the brief submitted in this matter, concludes that the underlined portion of the contract provision at issue that refers to class size considerations is not a mandatory subject for collective negotiations. The Commission, in Board of Trustees of Middlesex County College and Local 1940, American Fed. of Teachers (AFL-CIO), P.E.R.C. No. 78-13, 4 NJPER 47 (¶4023 1977), citing Rutgers, The State University and Rutgers Council of American Association of University Professors Chapters, P.E.R.C.

No. 76-13, 2 NJPER 13 (1976), has held that class size is not a mandatory subject of negotiations. The Commission has concluded that class size relates to basic educational policy decisions and not to negotiable terms and conditions of employment.<sup>1/</sup>

ORDER

For the foregoing reasons, IT IS HEREBY ORDERED that the Bogota Education Association refrain from seeking negotiations with regard to the class size provision herein found to be a non-mandatory subject of collective negotiations.

BY ORDER OF THE COMMISSION

  
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Jeffrey B. Tener  
Chairman

DATED: Trenton, New Jersey  
June 20, 1980

<sup>1/</sup> The workload aspect of the Article in dispute specifying that High School English Teachers shall teach five periods per day is mandatorily negotiable. In re Newark Bd of Ed, P.E.R.C. No. 79-24, 4 NJPER 486 (¶4221 1979), P.E.R.C. No. 79-38, 5 NJPER 41 (¶10026 1979), affmd App. Div. Docket No. A-2060-78 (1/26/80); Burlington Cty College Faculty Assn v. Bd of Trustees, Burlington Cty College, 64 N.J. 10 (1973); Red Bank Bd of Ed v. Warrington, 138 N.J. Super. 504 (1978); Byram Board of Education v. Byram Twp Ed Assn, 152 N.J. Super. 12 (App. Div. 1977) and Galloway Twp Board of Education v. Galloway Twp Ed. Assn, 157 N.J. Super. 74 (App. Div. 1978).