

P.E.R.C. NO. 93-95

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BLOOMFIELD BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-91-24

BLOOMFIELD PRINCIPALS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Bloomfield Board of Education violated the New Jersey Employer-Employee Relations Act by refusing to negotiate in good faith with the Bloomfield Principals Association over compensation for assignment of a second school to an elementary school principal.

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Charging Party.

Appearances:

For the Respondent, Schwartz, Simon & Edelstein, attorneys  
(Nathanya G. Simon, of counsel)

For the Charging Party, Lake & Schwartz, attorneys  
(Robert W. Schwartz, of counsel)

DECISION AND ORDER

On July 27, 1990, the Bloomfield Principals Association filed an unfair practice charge against the Bloomfield Board of Education. The Association alleges that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1), (3) and (5),<sup>1/</sup> by assigning

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<sup>1/</sup> 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. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage 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...."

Principal Robert Pellegrino as acting principal of an additional school and refusing to negotiate over compensation for the increased workload.

On February 6, 1991, a Complaint and Notice of Hearing issued. The Board's Answer claims a managerial prerogative to assign Pellegrino additional duties without additional compensation.

On May 6, 1991, Hearing Examiner Margaret A. Cotoia conducted a hearing. The parties examined witnesses and introduced exhibits. They waived oral argument, but filed post-hearing briefs.

On April 29, 1992, the Hearing Examiner recommended dismissing the Complaint. H.E. No. 92-27, 18 NJPER 286 (123123 1992). She found that although Pellegrino's work increased as a result of the additional assignment, the increase in duties did not constitute a mandatorily negotiable workload increase.

On May 11, 1992, the Association filed exceptions. It claims that the Hearing Examiner's conclusion in finding no. 14 that Pellegrino's work hours and total number of work days did not increase cannot be reconciled with her conclusion in finding no. 12 that Pellegrino spent seven to ten hours a week on Forest Glen School duties in addition to his duties at the Fairview School. It emphasizes that it does not challenge the Board's right to make the additional assignment, it simply seeks to negotiate compensation for the increase in workload.

On May 27, 1992, the Board filed an answering brief incorporating its post-hearing brief. The Board admits that

Pellegrino's work increased as principal of two schools, but claims that taking work home and working through lunch is standard practice for all administrators. It further claims that it relieved Pellegrino of five hours of work at Fairview to make up for the five hours required at Forest Glen. It urges adoption of the recommended decision. On June 3, with the Board's consent, the Association filed a reply.

We have reviewed the record. The Hearing Examiner's findings of fact (H.E. at 2-15) are generally accurate. We incorporate them except for finding no. 14's statement that Pellegrino's work hours did not change as a result of the Forest Glen assignment. The Hearing Examiner previously found that Pellegrino spent seven to ten hours a week on Forest Glen duties in addition to his duties at Fairview. Finding no. 12. He also used his lunch time, worked later than in the past, and brought work home. We add to finding no. 2 that as acting principal, Peterson earned \$62,000 a year. We add to finding no. 8 that N.J.A.C. 6:8-3.3 requires that every school have a full-time, non-teaching principal unless a waiver is granted. A crucial factor in the County Superintendent's decision to grant a waiver was the Board superintendent's representation that the former acting principal would be a lead teacher (R-6). The majority of a lead teacher's responsibilities are non-teaching. Nevertheless, the former acting principal was assigned a full teaching load at Forest Glen (T141). We add to finding no. 14 that the job description for elementary

principal speaks in the singular and appears to contemplate that a principal will be in charge of one elementary school.

Superintendent Scardaville testified that the additional assignment "was not asking Mr. Pellegrino to do too much above and beyond what his job description called for" (T128).

The Board made an economic decision to eliminate the full-time principal at the Forest Glen School. That decision was a managerial prerogative.<sup>2/</sup> As a consequence, the Board assigned responsibility for Forest Glen to the principal of another school. That decision, flowing from the decision to eliminate the full-time principal, was also a managerial prerogative. Maywood Bd. of Ed. v. Maywood Ed. Ass'n, 168 N.J. Super. 45 (App. Div. 1979), certif. den. 81 N.J. 292 (1979). But Maywood does not go so far as to hold that all compensation issues associated with the assignment of duties after a reduction in force are not negotiable. Since Maywood, the Supreme Court has articulated a three-part test to determine whether a subject is mandatorily negotiable. Local 195, IFPTE v. State, 88 N.J. 393 (1982), states:

[A] subject is negotiable between public employers and employees when (1) the item intimately and directly affects the work and welfare of public employees; (2) the subject has not been fully or partially preempted by statute or regulation; and (3) a negotiated agreement would not significantly interfere with the

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<sup>2/</sup> This case does not involve a challenge to the Board's right to assign a principal two schools. It simply involves a claim that the Board was obligated to negotiate over additional compensation for the assignment.

determination of governmental policy. To decide whether a negotiated agreement would significantly interfere with the determination of governmental policy, it is necessary to balance the interests of the public employees and the public employer. When the dominant concern is the government's managerial prerogative to determine policy, a subject may not be included in collective negotiations even though it may intimately affect employees' working conditions. [Id. at 404-405]

Applying this test, we have followed Maywood and found that in some cases there are no severable compensation issues after a non-negotiable decision is implemented. See, e.g., Old Bridge Bd. of Ed., P.E.R.C. No. 86-113, 12 NJPER 360 (¶17136 1986), aff'd App. Div. Dkt. No. A-4429-85T6 (3/25/87), certif. den., 108 N.J. 665 (1987) (no claim that secretaries had to work longer hours or during duty-free time or proof that workload was significantly increased); Caldwell-West Caldwell Bd. of Ed., P.E.R.C. No. 87-137, 13 NJPER 360 (¶18148 1987) (no allegation that employee would have to work longer hours or during duty-free time, or have to perform duties outside her job classification).

In other cases, we have found compensation claims mandatorily negotiable if they involved significant, measurable workload increases. In Rahway Bd. of Ed., P.E.R.C. No. 88-29, 13 NJPER 757 (¶18286 1987), the Association alleged such a workload increase. Teachers were assigned an additional teaching period after a reduction in force. The Association's claim for compensation involved only budgetary, not educational considerations. Applying the balancing test, we allowed arbitration

of the claim that teachers assigned an additional teaching period after a RIF were entitled to additional compensation. See also Teaneck Bd. of Ed., P.E.R.C. No. 92-19, 17 NJPER 415 (¶22199 1991).

The Board does not appear to dispute that if the Association has proved a significant increase in workload, then compensation would be negotiable. Post-hearing brief at 16. What is in dispute is whether the Association met that burden. Based on the record before us, we believe that it did. While the Hearing Examiner's consideration of the record was thoughtful and comprehensive, we decline to adopt her ultimate conclusion.

By regulation of the Commissioner of Education, principals may be assigned only one school unless a waiver is granted. N.J.A.C. 6:8-3.3. A waiver was granted here with the express understanding that the former principal of the Forest Glen School would be a lead teacher and have predominately non-teaching duties. Instead he had a full teaching load, leaving Pellegrino with nearly full administrative responsibility for Forest Glen in addition to his responsibilities as principal of Fairview. Pellegrino testified that he worked longer, at home, and through his lunch hour. Other principals on occasion work beyond the regular day, but Pellegrino's assignment was both quantitatively and qualitatively different. His longer work hours became regular and his responsibilities were unique in the district. As the Hearing Examiner found, the program Pellegrino supervised at Forest Glen for the 1990-91 school year was

the same one the previous acting principal had supervised. Pellegrino was in charge of approximately 46 special education students ranging in age from 5 to 21 as well as six classroom teachers, a speech teacher, a nurse, a music teacher, two physical education teachers and eight child study team members. His responsibilities included staff evaluation, faculty meetings, parent contact and back to school nights. He handled mail, processed reports, discussed program and staffing concerns, settled disagreements among staff, visited students, attended special olympic programs, signed purchase orders and monitored spending of funds.<sup>3/</sup>

We recognize that, with a waiver from the Commissioner of Education, a principal's responsibilities may extend beyond a single building. We also recognize that a principal is a manager obligated to perform many tasks above and beyond a prescribed work day. But the facts here are unique. This is not simply an intensification of work case where an employee works "harder" within the confines of negotiated work week and work hours provisions. Nor can we conclude that this assignment to more than one school was contemplated by the

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<sup>3/</sup> Contrast Newark Bd. of Ed., P.E.R.C. No. 92-94, 18 NJPER 140 (¶23066 1992) (no severable compensation claim where cafeteria managers were assigned a fifth school but did not work longer hours, during duty-free time, or outside their job description); Woodbridge Tp. Bd. of Ed., P.E.R.C. No. 82-104, 8 NJPER 310 (¶13138 1982) (principal who lost administrative assistant but performed same duties as all other elementary school principals did not have his terms and conditions of employment changed).



principals' job description. Here, the Board eliminated a \$62,000 a year acting principal and added his duties to those of another principal earning his regular salary. The assignment of those additional duties qualitatively increased Pellegrino's responsibilities and so substantially changed the nature of his job responsibilities that it obligated the Board, after a demand by the Association, to entertain proposals that some financial accommodation be provided. The Board's refusal to do so violated subsections 5.4(a)(1) and (5).<sup>4/</sup>

ORDER

The Bloomfield Board of Education is ordered to:

A. Cease and desist from refusing to negotiate in good faith with the Bloomfield Principals Association over compensation for the assignment of a second school to elementary school principal Robert Pellegrino.

B. Take this action:

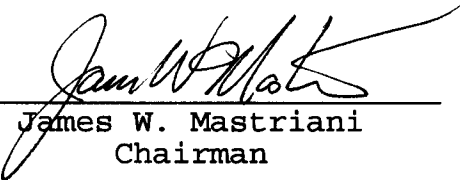
1. Negotiate upon demand with the Association over compensation for the assignment of a second school to elementary school principal Robert Pellegrino.

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<sup>4/</sup> We do not believe any useful purpose is served by ordering the posting of a notice as part of our Order.

2. Notify the Chairman of the Commission within twenty (20) days of receipt what steps the Respondent has taken to comply with this order.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Bertolino, Smith and Wenzler voted in favor of this decision. Commissioner Goetting voted against this decision. Commissioner Regan abstained from consideration.

DATED: April 29, 1993  
Trenton, New Jersey  
ISSUED: April 30, 1993

H.E. NO. 92-27

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

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BLOOMFIELD BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-91-24

BLOOMFIELD PRINCIPALS ASSOCIATION

Charging Party.

SYNOPSIS

A Hearing Examiner recommends that the Public Employment Relations Commission dismiss an unfair practice charge against the Bloomfield Board of Education alleging violations of N.J.S.A. 34:13A-5.3 (1), (3) and (5). The Hearing Examiner finds that the Board's refusal to negotiate over the effects of assigning a principal to supervise an additional school was within its managerial prerogative to abolish a position and redistribute its work. The principal was not required to perform work outside of his job classification and the assignment did not require an increase in his total work hours or number of days worked.

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.

H.E. NO. 92-27

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

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Charging Party.

Appearances:

For the Respondent,  
Schwartz, Pisano, Simon & Edelstein, attorneys  
(Nathanya G. Simon, of counsel)

For the Charging Party,  
Lake & Schwartz, attorneys  
(Robert W. Schwartz, of counsel)

HEARING EXAMINER'S REPORT AND  
RECOMMENDED DECISION

On July 27, 1990, the Bloomfield Principals Association ("Association") filed an unfair practice charge with the Public Employment Relations Commission ("Commission") alleging that the Bloomfield Board of Education ("Board") violated subsections 5.4(a)(1), (3) and (5) of the New Jersey Employer-Employee Relations

Act, N.J.S.A. 34:13A-1 et seq., ("Act")<sup>1/</sup> The Association alleges that the Board's assignment of Principal Robert Pellegrino as acting principal of an additional school constituted a unilateral increase in workload without negotiation.

On February 6, 1991, the Director of Unfair Practices issued a Complaint and Notice of Hearing. The Board's Answer of August 14, 1990 stated that it had the managerial prerogative to assign Pellegrino additional duties and that the issues in the charge were non-negotiable.<sup>2/</sup> I conducted a hearing on May 6, 1991 at which the parties examined witnesses and presented exhibits. The parties filed briefs by June 24, 1991 and reply briefs by July 9, 1991. Based upon the entire record in this matter I make the following:

#### FINDINGS OF FACT

1. Robert Pellegrino has been employed by the Board as an elementary school principal for 14 years, the last five of which he

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<sup>1/</sup> 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; (3) discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage 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.

<sup>2/</sup> The Board requested that the August 14, 1990 Answer submitted for an exploratory conference on this matter also constitute its post-complaint Answer.

has served as principal of the Fairview School (T14, T15).<sup>3/</sup> During the 1989-90 school year, principals were in charge of one school each and none were assigned full time to more than one building<sup>4/</sup> (T15, T16, T76). Pellegrino's assignment for 1989-90 was as principal of the Fairview School and his job description (J-1)<sup>5/</sup> which contemplates supervision of a single school, is representative of his duties at Fairview (T19, T20, T97).

2. The Board's April 2, 1990 minutes contain both reduction in force and non-renewal lists (R-1). Those lists were prepared prior to the public vote on the school budget, in case the budget was defeated (T82, T83). Richard Peterson, acting principal of Forest Glen School, is listed under a separate heading entitled "Acting position which will not be in effect for 1990-91". Also included in that listing is a column for "reason", and the statement "Because of our budgetary constraints" (R-1).<sup>6/</sup> Elimination of

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3/ T refers to the hearing transcript dated May 6, 1991.

4/ Pellegrino was assigned to the Forest Glen School for two months in 1989-90 when its principal was terminally ill. He did not evaluate staff during that period and received no additional compensation (T39, T40). No principal has been assigned to cover two schools for a full school year and assignment of one principal to two schools is unusual (T93, T94).

5/ Exhibits are designated as follows: Joint exhibits are "J", the Association's exhibits are "CP" and the Board's exhibits are "R".

6/ Although the Board abolished the title "Acting Principal of Forest Glen School", its intent was to abolish Peterson's full-time, separate position of acting principal of Forest Glen, rather than to abolish the acting principal title entirely (T101, T102).

the position was at the recommendation of Superintendent Anthony Scardaville, who believed that it would result in significant cost savings to the Board and the taxpayers (T105, T106). Peterson's position of full-time acting principal of Forest Glen was cut and the cut was publicized prior to the budget vote to make the budget more palatable to the voters before the election (T83).<sup>7/</sup> The budget was passed by the voters (T84). The Association sent a letter to Scardaville on April 10, 1990 expressing its opposition to the elimination of the Forest Glen principal position and raising the issue of county approval (R-4).

3. Sometime in June, 1990, prior to the end of the school year, Superintendent Anthony Scardaville told Pellegrino that he would be assigned as acting principal<sup>8/</sup> of the Forest Glen School for the 1990-91 school year, while continuing to serve as principal of Fairview<sup>9/</sup> (T21). Scardaville explained the acting principal

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<sup>7/</sup> Other cost saving measures taken by the Board were elimination of an assistant superintendent and approximately ten teachers, adoption of a policy pegging teacher assignment to student enrollment, specific board approval of classes with enrollment that fell below a specified minimum and an increase in some teachers' class size (T84, T85, T86).

<sup>8/</sup> The board resolution designated Pellegrino as "principal in charge" of Forest Glen (T99).

<sup>9/</sup> Pellegrino also testified that Scardaville told him about the assignment after June 31, 1990 (T16) but I credit his later testimony, which is consistent with a letter from the Association president requesting negotiations over the assignment which was dated June 27, 1990. (CP-1)

assignment and told Pellegrino that he had to be present at Forest Glen for a minimum of five hours a week, he would be responsible for both Forest Glen and Fairview and that there would be no reduction in his duties at Fairview (T21, T22)<sup>10/</sup>. Scardaville also told Pellegrino that there would not be any additional compensation for his duties at Forest Glen (T22). Pellegrino was not told why Rick Peterson, the acting principal at Forest Glen, was not being reappointed to that position (T22).

4. Scardaville sent Peterson a letter dated March 18, 1990 (R-3) indicating that Peterson would return to his previous assignment as teacher of the handicapped effective July 1, 1990 and that his employment category would be discussed at the March 19, 1990 board meeting (T12). Scardaville met with Peterson after the letter was sent and told him that the principal's position was being eliminated because of budgetary constraints and cost savings (T112, T113).

5. Pellegrino was appointed as principal in charge of Forest Glen by Board resolution at its June 25, 1990 meeting (R-2, T86, T87). Scardaville met with Pellegrino before the end of the school year to discuss his role as acting principal of Forest Glen for the 1990-91 school year (T121, T122). His responsibilities were detailed in an August letter from Scardaville and included staff evaluation, faculty meetings, parent contact and back to school

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<sup>10/</sup> The only possible reduction in Pellegrino's duties reflected in the record is that he served on one Board committee for the 1990-91 school year while his colleagues served on two or three (T52).



nights (R-8). In that letter Pellegrino was also advised that he was required to spend a minimum of one hour daily at Forest Glen (R-8).

6. Association President Eugenia Pfeiffer sent a letter to Scardaville in June, 1990 asking him to clarify Pellegrino's duties and responsibilities at Forest Glen. The letter also contained a request for negotiations over the assignment (CP-1). Scardaville responded that Pellegrino's assignment to two schools was within the guidelines of the parties' contract and was not precluded by the principals' job description (R-7)<sup>11/</sup> (T60, T124, T125). There were no negotiations conducted over Pellegrino's assignment to Forest Glen (T61). Scardaville was aware of Pellegrino's request for additional compensation but did not recommend it because he felt that Pellegrino's duties were generally within his job description (T128, T146). Scardaville stated that additional compensation was never recommended for principals who performed extra duties (T123, T124, T137). According to Scardaville, Pellegrino was sent to Forest Glen under an emergent situation, to cover one year and to help the district save money, which was accomplished by eliminating Peterson's position (T155).

7. When Scardaville told Pellegrino that he would be acting principal at Forest Glen, Pellegrino was unsure that the

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<sup>11/</sup> The Board and the Association are parties to a collective negotiations agreement covering July 1, 1988 to June 30, 1991 (J-1).

assignment would be temporary and for only one year (T50, T51). Although Scardaville told Pellegrino that he had received a waiver from the County Superintendent to keep Forest Glen open for one year (T21, T50, T51), Pellegrino was not aware that the County Superintendent had ordered the building closed after that year (T50).<sup>12/</sup>

8. Scardaville sent a letter to the County Superintendent dated June 14, 1990 requesting that he approve elimination of Forest Glen's acting principal position, Pellegrino's appointment as principal of record and Peterson's position as lead teacher (R-5, T115, T116). The County Superintendent had granted a one year extension to keep Forest Glen open for the 1990-91 school year but required that someone be in charge. Peterson's appointment as lead teacher was a crucial factor in granting the waiver to keep Forest Glen open the additional year (R-6). Scardaville was required to send the County Superintendent a schedule of when the acting principal was going to be in the building (T107, T108). Scardaville then met with Pellegrino and told him that he would have to be at Forest Glen one hour a day (T107, T108). The Board knew that Forest Glen would be open for a limited time period and was aware that the County Superintendent's waiver to keep Forest Glen open was for only

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<sup>12/</sup> Pfeiffer was also aware that the County Superintendent had approved the shared principal plan and that the county had granted a one year waiver to keep Forest Glen open. However, Pfeiffer was not certain that she knew that Pellegrino's assignment at Forest Glen would be for one year (T62, T63).

one year (T90, T91, T101). Forest Glen was closed for the 1991-92 school year and its programs, students and staff were moved to other buildings (T91, T92).

9. Pellegrino functioned as acting principal of Forest Glen and was paid on the principal's salary guide, but was not given additional compensation for the assignment. (T99). While assigned to Forest Glen for the 1990-91 school year, Pellegrino was in charge of approximately 46 special education students ranging in age from 5 to 21 (T21, T22, T41, T136) as well as 6 classroom teachers, a speech teacher, a nurse, a music teacher, 2 physical education teachers and eight child study team members (T21, T22, T136). The program Pellegrino supervised at Forest Glen was the same one as the previous acting principal had supervised (T55, T56). Pellegrino was responsible for evaluating both professional and support staff employees (T26, T27). He conducted teacher observations at Forest Glen, which included pre- and post-observation conferences (T27, T28). Pellegrino also met with teachers at Forest Glen, handled mail, processed reports, discussed program and staffing concerns, settled disagreements among staff members, visited students, attended special olympics programs, signed purchase orders and monitored spending of funds (T29, T31).

10. Other duties Pellegrino performed at Forest Glen included submission of state reports, conducting faculty meetings, submission of English as a second language reports, conducting back to school nights, and attending extra-curricular programs (T32, T33, T34). Pellegrino also performed those identical duties at Fairview.

11. While assigned to Forest Glen, Pellegrino continued as principal of Fairview School. Fairview houses approximately 330 students and 25 staff members (T23). Pellegrino is responsible for evaluating Fairview teachers<sup>13/</sup> and support staff members (T24, T27). Pellegrino also formulated Fairview's budget (T30).<sup>14/</sup>

12. Although Scardaville told Pellegrino that he was expected to be at Forest Glen five hours a week for the 1990-91 school year, the unique requirements of Forest Glen caused Pellegrino to usually exceed five hours a week there (T28, CP-2). Pellegrino designated Tuesday mornings and Thursday afternoons as his on-site time at Forest Glen (T29). However, when there were problems at Forest Glen, Pellegrino went there to resolve them (T34). These included any incidents related to student busing, because the teacher in charge of busing at Forest Glen reported to Pellegrino, who had the ultimate responsibility for any problems that arose (T38, T39, T54). Pellegrino spent seven to ten hours a week on Forest Glen-related duties, which were in addition to his duties at Fairview. The dual-school assignment entailed more work than assignment to one school (T94). Pellegrino's overall work assignment has increased, he often used his lunch time to meet with staff members, he left work later than in the past and he brought

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13/ Tenured teachers are evaluated once a year and non-tenured teachers are evaluated three times a year (T25).

14/ Pellegrino did not have to formulate a 1991-92 budget for Forest Glen because the status of the school was uncertain (T49).

work home as a result of the dual assignment (T37, T38, T47). Pellegrino's duties at Forest Glen also interfered with some programs at Fairview that had to be deferred (T37).<sup>15/</sup>

Pellegrino's accessibility to staff, students and parents at both buildings was diminished as a result of the dual assignment (T37).

13. Before Pellegrino was assigned to Forest Glen, Rick Peterson was both acting principal and a classroom teacher at Forest Glen for the 1988-89 and 1989-90 school years (T17, T18, T104, T105). Peterson was assigned to Forest Glen full-time, was paid as a full-time principal in 1989-90 and worked under the elementary principal's job description<sup>16/</sup> (T23, T105). After Pellegrino was assigned to Forest Glen, Peterson was designated as "teacher in charge". Peterson was expected to handle routine matters when Pellegrino was not present and to call Pellegrino in emergencies (T88, T89). That designation did not include the responsibility for supervising or evaluating Forest Glen staff (T56). After Pellegrino's appointment as principal in charge of Forest Glen, Scardaville both orally and in writing informed Peterson of his duties as teacher-in-charge of Forest Glen, which included overseeing student busses (R-9, T126)

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<sup>15/</sup> Those programs included peer coaching and career education (T37).

<sup>16/</sup> The Board does not have a separate job description for "acting principal" (T105).

14. Pellegrino's work hours<sup>17/</sup> and total number of work days did not change as a result of the Forest Glen assignment and he did not have to work an additional five hours at Fairview to compensate for the five hours he was assigned to Forest Glen, although the work at Fairview still had to be covered (T40, T47, T48, T125). His duties remained consistent with the elementary school principals' job description (T125, T126). According to Scardaville, principals and administrators are expected to work beyond the school day and to take work home (T123)

15. According to Director of Personnel Judy Graef, the principals' contract does not compensate Association members according to the number of staff or students supervised, the number of reports filed, attendance at faculty meetings, school events, district committee meetings or budget preparation (T77). Graef is unaware of any principal being compensated for additional duties related to a full-time principal's position (T79).<sup>18/</sup>

#### ANALYSIS

The Association alleges that the Board violated subsections 5.4 (a) (1), (3) and (5) of the Act by assigning Pellegrino as

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17/ Although Pellegrino testified that he left work later than usual after the dual-school assignment, there was no required extension of his work day.

18/ Extra compensation for members of other bargaining units is governed by various contracts and is given for such duties as curriculum development or summer school (T81 T82).

principal of an additional school without negotiations over the effects of the assignment. The Association does not dispute the Board's right to assign Pellegrino to two schools.

Although certain effects of a reassignment may be negotiable under particular circumstances, an employer does not incur a negotiations obligation if the additional assignment is the result of a managerial determination to reorganize its workforce or to decline to fill a position. Newark Bd. of Ed., P.E.R.C. No. 92-94, 18 NJPER 140 (¶23066 1992); Long Branch Bd. of Ed., P.E.R.C. No. 91-91, 17 NJPER 243 (¶22110 1991); Caldwell-West Caldwell Bd. of Ed., P.E.R.C. No. 87-137, 13 NJPER 360 (¶18148 1987), recon. den. P.E.R.C. No. 87-163, 13 NJPER 589 (¶18220 1987); Fair Lawn Board of Education, P.E.R.C. No. 87-135, 13 NJPER 356 (¶18146 1987); Old Bridge Bd. of Ed., P.E.R.C. No. 86-113, 12 NJPER 360 (¶17136 1986), aff'd App. Div. Dkt. No. A-4429-85T6 (3/25/87), cert. den. 108 N.J. 665 (1987). The Board abolished the position of acting principal assigned solely to Forest Glen because of budgetary constraints. The Board minutes reflect that the position was eliminated prior to the vote on the school budget, to make that budget more palatable to the district's voters. I find that the position of acting principal assigned full-time to the Forest Glen school was eliminated by the Board for budgetary reasons and that the Board had the non-negotiable right to leave that position unfilled and to redistribute its work.

The Association contends that the Board had an obligation to negotiate over the effect of assigning Pellegrino an additional school to supervise. These negotiations may include increased compensation for the additional duties he assumed. When an increase in work results from a decision to abolish a position, without a required increase in hours or required loss of break time, then a claim for additional compensation for the increased work does not rise to the level of a negotiations obligation. Newark;  
Caldwell-West Caldwell; Fair Lawn; Old Bridge.

There is no allegation that Pellegrino performed duties outside of his job classification of principal. Montville Tp. Bd. of Ed. and Ed. Assoc., P.E.R.C. No. 86-18, 12 NJPER 372 (¶17143 1986); Woodbridge Bd. of Ed., P.E.R.C. No. 82-104, 8 NJPER 310 (¶13138 1982). In Woodbridge, the Commission held that the parties' collective negotiations agreement treated all principals equally and made no distinctions in compensation or other terms and conditions of employment based on the number of students in each school. The affected principal's workload increased because he worked longer hours and performed tasks formerly assigned to an administrative assistant whose position was not filled. The Commission found that the Board did not require the principal to do anything more than it expected all other principals to do under the parties'



contract. Woodbridge, 8 NJPER at 310-311.<sup>19/</sup> Although Pellegrino's job description contemplates supervision of one school, the parties do not dispute that his duties at Forest Glen fell squarely within that description.

Although Pellegrino stated that the Forest Glen assignment increased his level of work and resulted in his bringing work home, his total work hours and number of work days did not increase. Newark; Caldwell-West Caldwell; Montville; Old Bridge. He was not required to make up the five hours or more he spent weekly administering Forest Glen by documenting five or more additional hours weekly at Fairview. Although Pellegrino's duties as principal were more demanding as a result of his assignment to two schools and he could devote less time to each of them than he would have preferred, this alone is not sufficient to create a negotiations obligation in the face of the Board's managerial decision to abolish the full-time principal position at Forest Glen. Long Branch.<sup>20/</sup>

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<sup>19/</sup> Compare Hamilton Tp. Bd. of Ed., P.E.R.C. No. 87-18, 12 NJPER 737 (¶17276 1986), which addressed assignment to a job outside of an employee's job description. In Hamilton, the Association requested negotiations over additional compensation for an industrial arts curriculum assistant assigned to teach one period of woodshop per day. The Commission found that teaching was not a part of or incidental to the curriculum assistant's job duties as defined in his job description.

<sup>20/</sup> Compare the following cases relied upon by the Association which address additional hours worked by teachers beyond a school day. Mount Laurel Bd. of Ed., P.E.R.C. No. 83-8, 8 NJPER 435 (¶13204 1982), Carteret Bd. of Ed., P.E.R.C. No. 80-30, 5 NJPER 397 (¶10205 1979).

Under these circumstances, I find that the Board was not obligated to negotiate over the effect of Pellegrino's assignment as principal of an additional school.<sup>21/</sup>

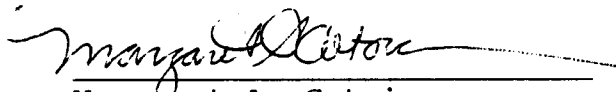
The Association has also alleged that the Board's actions violated subsection (a) (3) of the Act. However, there are no facts in the record to support an (a)(3) violation.

CONCLUSION

The Bloomfield Board of Education did not violate N.J.S.A. 34:13A-5.4 (a)(1), (3) or (5) by refusing to negotiate over the assignment of Robert Pellegrino as principal of an additional school.

RECOMMENDATION

I recommend that the Commission ORDER that the complaint be dismissed.



Margaret A. Cotoia  
Hearing Examiner

Dated: April 29, 1992  
Trenton, New Jersey

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<sup>21/</sup> Clearly, Pellegrino's work increased as a result of the assignment as principal of two schools, and the assignment impeded his ability to supervise both programs as thoroughly as he would have liked. However, this increase in duties is distinguishable from assignment of additional work hours, and standing alone does not constitute a negotiable work increase.

Under these circumstances, I find that the Board was not obligated to negotiate over the effect of Pellegrino's assignment as principal of an additional school.<sup>21/</sup>


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#### CONCLUSION

The Bloomfield Board of Education did not violate N.J.S.A. 34:13A-5.4 (a)(1), (3) or (5) by refusing to negotiate over the assignment of Robert Pellegrino as principal of an additional school.

#### RECOMMENDATION

I recommend that the Commission ORDER that the complaint be dismissed.

  
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