

P.E.R.C. NO. 83-103

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH PLAINFIELD BOARD OF  
EDUCATION,

Petitioner,

-and-

Docket No. SN-83-37

NORTH PLAINFIELD EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

The Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission and to well-established case law, holds that a proposal of the North Plainfield Education Association concerning complaints against teachers by persons outside the negotiations unit is not mandatorily negotiable.

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Appearances:

For the Petitioner, Cassetta, Brandon & Taylor  
(Daniel J. Brandon, Consultant)

For the Respondent, John A. Thornton, Jr., UniServ  
Representative, New Jersey Education Association

DECISION AND ORDER

On November 12, 1982, the North Plainfield Board of Education ("Board") filed a joint Petition for Scope of Negotiations Determination on behalf of itself and the North Plainfield Education Association ("Association") with the Public Employment Relations Commission. The Board asserts that a proposal which the Association presented during successor contract negotiations was not mandatorily negotiable. Both parties filed briefs, the last of which was received on December 21, 1982.

The proposal reads as follows:

- A. Any complaint regarding a teacher made to any member of the administration or Board of Education which does or may influence evaluation or employment of a teacher shall be channeled as follows:
  - #1. The complainant shall meet with teacher in order to attempt to resolve the matter informally.

- #2. If the complainant is not satisfied, he/ she shall meet with the appropriate administrator in the presence of the teacher.
- #3. If the complaint remains unresolved, the complainant shall meet with the Superintendent or his designee in the presence of the teacher.
- #4. In the event that the complaint is unresolved and requires an appearance before the Board, the complainant and teacher shall meet in closed session before the Board.

At steps #2 - #4 an individual may be accompanied by a representative.

- B. Each of the above meetings shall afford each constituent full opportunity to present information, show cause, or make recommendations for solution. Full participation is the goal for the resolution of complaints.
- C. Nothing contained herein shall deny the ability of the Board to conduct a hearing in accordance with N.J.S.A. 18A.1/

The Board contends that the complaint procedure sets forth the procedure to be followed by anyone with a complaint about a negotiations unit member. This complaint procedure would, according to the Board, bind students, other employees, and citizens of the community and deter them from complaining about negotiations unit members. In addition, the Board argues that this complaint procedure interferes with evaluations of unit members.

The Association's position is that the proposal is procedural in nature and is therefore within the scope of negotiations.

1/ Section C of the proposal is not in dispute.

Pursuant to N.J.S.A. 34:13A-6(f), the full Commission has delegated authority to me to resolve this matter. Applying well-settled caselaw, I find the Association's proposal, as written, not mandatorily negotiable.

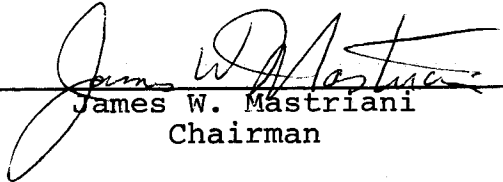
While procedural aspects of an employee evaluation are a matter of fundamental concern to the employee and are mandatorily negotiable, see, e.g., Bethlehem Twp. Ed. Ass'n v. Bethlehem Twp. School Board, 91 N.J. 38 (1982), the instant proposal binds third parties, be they students, parents, or other non-unit members of the community, to the complaint procedure. In In re Board of Trustees of Middlesex Community College, P.E.R.C. No. 78-13, 4 NJPER 47 (¶4023 1978), the Commission determined that proposals relating to the ability of students to present and prosecute a grievance against faculty members were not mandatorily negotiable. The rationale expressed in Middlesex is applicable here inasmuch as the provision in dispute would bind non-unit individuals to participate in the specified complaint procedures.

Accordingly, I find the instant proposal to be a non-mandatory subject of negotiation.

ORDER

The proposal of the North Plainfield Education Association concerning complaints against teachers is not mandatorily negotiable.

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

DATED: Trenton, New Jersey  
February 9, 1983