

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTHVALE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-80-21

NORTHVALE TEACHERS ASSOCIATION,

Respondent.

SYNOPSIS

The Chairman of the Commission, in a scope of negotiations proceeding, orders the Northvale Teachers Association to refrain from arbitrating or seeking to arbitrate the decision of the Board of Education to assign certain physical education teachers to certain extracurricular coaching duties for the 1978-79 school year. The Chairman concluded, consistent with prior Commission decisions, that boards of education have the unfettered right to assign teachers to extracurricular activities, subject only to review before the Commissioner of Education, and ultimately the Courts if the judicial process is subsequently invoked.

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Appearances:

For the Petitioner, Michael J. Ferro, Jr., P.C.

For the Respondent, Goldberg & Simon, Esqs.  
(Mr. Gerald M. Goldberg, of Counsel)

DECISION AND ORDER

On September 24, 1979 a Petition for Scope of Negotiations Determination was filed with the Public Employment Relations Commission by the Northvale Board of Education (the "Board") alleging a dispute with the Northvale Teachers Association (the "Association") as to the negotiability/arbitrability of the Board's decision to assign two (2) teachers to perform certain extracurricular coaching duties. On August 31, 1979 the Association agreed that it would not proceed with arbitration until the Commission had issued a decision concerning the negotiability of the matter in dispute.

During the course of the 1978-79 school year, two physical education teachers employed by the Board were assigned extracurricular coaching duties in addition to their normal work schedules. The Association filed a grievance thereafter alleging

that these assignments constituted a unilateral change in terms and conditions of employment affecting teachers within the district in violation of the parties' contract. The Association maintains that these extracurricular duties were not reasonably or equitably assigned, i.e. that two teachers were assigned the bulk of the athletic extracurricular assignments, while other similarly qualified teachers were not assigned any such duties. The Association concludes that it may arbitrate the issue of whether teachers were assigned extracurricular duties in a reasonable and equitable manner. The Board asserts that the right to assign teachers to extracurricular activities is predominantly an educational policy matter, and consistent with prior Commission decisions, is neither mandatorily negotiable nor arbitrable.

Both parties filed briefs in support of their respective positions, the last of which was received on November 13, 1979.

Pursuant to N.J.S.A. 34:13A-5.4(f), the Commission has delegated to its Chairman the authority to issue scope of negotiations decisions when the negotiability of the issue in dispute has been previously determined by the Commission. Recently the Commission issued three decisions which cover the topic raised herein, In re Bd of Ed, Mainland Reg. H.S. District, P.E.R.C. No. 80-8, 5 NJPER 301 (¶10162 1979) appeal pending App. Div. Docket No. A-4566-78 and In re Ramapo-Indian Hills H.S. District Bd of Ed, P.E.R.C. No. 80-9, 5 NJPER 302 (¶10163), appeal pending App. Div. Docket No. A-4613-78 and In re Montvale Board of Education, P.E.R.C. No. 80-63, 5 NJPER \_\_\_\_ (¶ 1979). The Commission

acknowledged the clash between the status of work hours as a term and condition of employment and the right of a board to assign extracurricular duties. However after a comprehensive reexamination,<sup>1/</sup> it was concluded that to make the right of assignment meaningful must require that the necessary hours to perform those duties be worked, so that in this context negotiations are limited. This is in accord with the Supreme Court's decision in Burlington County College Faculty Assn v. Bd of Trustees, 64 N.J. 10 (1973) in which it held that while the school calendar is not negotiable, resultant changes in terms and conditions of employment are negotiable "though the negotiations are to be conducted in light of the calendar." 64 N.J. at 12. Similarly, while negotiations are required regarding compensation and changes in workload, the negotiations must be conducted in light of the necessity of the assigned teacher being present at the hours the activities are scheduled.

The Association cites a Commissioner of Education decision, Clinton F. Smith et al. v. Board of Education of the Borough of Paramus, et al., 1968 S.L.D. 62, aff'd State Board of Education without opinion, February 5, 1969 in support of its contention that "the assignment of extracurricular duties must be carried out in a reasonable and equitable manner respecting, and based upon the proposition, that all teachers of equal qualification are to share in these [extracurricular] duties." (Association's

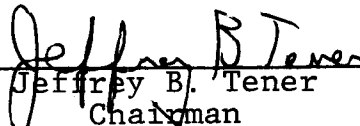
<sup>1/</sup> See e.g. In re Rutherford Board of Education, P.E.R.C. No. 77-22, 3 NJPER 37 (1976).

brief at p. 5). Worded another way, however, the Association is seeking a determination, contrary to the aforementioned Commission decisions, that the assignment of extracurricular duties is mandatorily negotiable and disputes concerning same are arbitrable, whenever it is alleged that the assignments are not equitably distributed. This does not affect our conclusion that such assignments are not themselves mandatorily negotiable. We have consistently determined that boards of education have the unfettered right to assign teachers to extracurricular activities, subject only to review before the Commissioner of Education, and ultimately the Courts if the judicial process is subsequently invoked. By citing the aforementioned Clinton Smith decision, supra, the Association appears to recognize that allegations relating to the inequitable distribution of extracurricular activities are appropriately raised before the Commissioner of Education.

ORDER

In light of the above, the Northvale Teachers Association IS HEREBY ORDERED to refrain from arbitrating or seeking to arbitrate the decision of the Northvale Board of Education to assign certain physical education teachers certain extracurricular coaching duties for the 1978-79 school year.

BY ORDER OF THE COMMISSION

  
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Jeffrey B. Tener  
Chairman

DATED: Trenton, New Jersey  
December 13, 1979