

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOARD OF EDUCATION OF THE CITY
OF WOODBURY,

Petitioner,

-and-

Docket No. SN-82-47

WOODBURY EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

In a scope of negotiations case, the Chairman of the Commission grants the request of the Board of Education of the City of Woodbury for a permanent restraint of arbitration of a grievance filed by the Woodbury Education Association. The Chairman finds that the subject matter of the grievance, the contents of a performance evaluation of a Woodbury teacher, is not a mandatorily negotiable term and condition of employment as determined by several decisions of the Commission and the courts.

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Appearances:

For the Petitioner, Cassetta, Brandon Associates
(Raymond A. Cassetta)

For the Respondent, Eugene Sharp, NJEA UniServ
Representative

DECISION AND ORDER

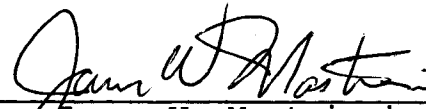
A Petition for Scope of Negotiations Determination was filed by the Board of Education of the City of Woodbury (the "Board") with the Public Employment Relations Commission on January 12, 1982 alleging that a dispute existed as to the negotiability of a grievance which the Woodbury Education Association (the "Association") wished to submit to binding arbitration in accordance with a collectively negotiated agreement between the parties covering the period July 1, 1978 to June 30, 1980. The grievance pertains to the evaluation of Kaye Cherry, a tenured classroom teacher employed by the Board. Both parties submitted letters setting forth their legal arguments, the last of which was received on March 25, 1982. In cases where the negotiability of a disputed subject has been previously determined by decisions of this Commission and/or the Courts, the Commission has delegated

to the undersigned the authority to issue a decision in its behalf.

Based upon the grievance documents which were submitted by the parties, it is apparent that the instant grievance seeks to challenge the contents of her performance evaluation. It has been well established that subjective comments placed upon a performance evaluation are matters pertaining to educational policy and are not proper subjects for arbitration. See In re Hazlet Township Teachers Association, App. Div. Docket No. A-2875-78 (3/27/80) reversing P.E.R.C. No. 79-57, 5 NJPER 113 (¶10066 1979); In re Teaneck Bd. of Ed., 161 N.J. Super. 75 (App. Div. 1978); Bd. of Ed. Bernards Township v. Bernards Township Ed. Assn, 79 N.J. 311 (1979). Accordingly, arbitration of the instant grievance must be restrained.

ORDER

The Board's request for a permanent restraint of arbitration is hereby granted.



James W. Mastriani
Chairman

DATED: Trenton, New Jersey
April 22, 1982