

P.E.R.C. NO. 89-82

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TRENTON BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-89-8

TRENTON EDUCATIONAL SECRETARIES ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains, in part, and declines to restrain, in part, binding arbitration of a grievance filed by the Trenton Educational Secretaries Association against the Trenton Board of Education. The grievance alleges that the Board violated the parties' collective negotiations agreement when it revised a secretary's evaluation. The Commission restrains arbitration to the extent the grievance challenges the content of the revised evaluation. It declines to restrain arbitration to the extent the grievance alleges that the Board did not comply with the evaluation procedures outlined in the parties' collective negotiations agreement.

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Appearances:

For the Petitioner, Lemuel H. Blackburn, Jr., Esq.  
(Gregory G. Johnson, of counsel)

For the Respondent, Selikoff & Cohen, Esqs.  
(Steven R. Cohen, of counsel)

DECISION AND ORDER

On August 5, 1988, the Trenton Board of Education ("Board") filed a Petition for Scope of Negotiations Determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Trenton Educational Secretaries Association ("Association"). The grievance alleges that the Board violated the parties' collective negotiations agreement when it revised a secretary's evaluation.

On October 6, 1988, Commission designee Edmund G. Gerber conducted an interim relief proceeding. The parties submitted briefs and exhibits and argued orally. The next day the designee restrained arbitration over part of the grievance, but not over another part. I.R. No. 89-6, 14 NJPER 665 (¶19281 1988). His order stated:

To the extent that the grievance alleges that the revision of the evaluation substantively alters the evaluation, the grievance is non-negotiable and non-arbitrable. Accordingly, the Association is restrained from proceeding with the arbitration on this issue pending a decision of the full Commission.

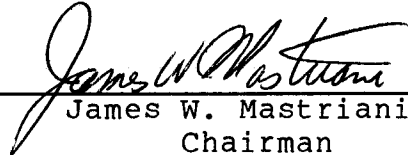
To the extent that the grievance alleges that the Board did not comply with the evaluation procedures as outlined in the parties' collective negotiations agreement, the issue is mandatorily negotiable and arbitrable. Accordingly, the arbitration is not restrained and may go forward on this issue.

We have reviewed the record. The designee's findings of fact are accurate. We incorporate them. The designee's discussion of the applicable law is similarly accurate. We incorporate that as well.<sup>1/</sup>

ORDER

The request for a restraint of binding arbitration is granted to the extent the grievance challenges the content of the revised evaluation. The request for a restraint of arbitration is otherwise denied.

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioners Bertolino and Reid abstained.

DATED: Trenton, New Jersey  
January 9, 1989  
ISSUED: January 10, 1989

1/ This grievance does not raise a claim of out-of-title work. Cf. Hamilton Tp. Bd. of Ed., P.E.R.C. No. 87-18, 12 NJPER 737 (11/27/86), aff'd App. Div. Dkt. No. A-1551-86T8 (12/18/87), certif. den. 111 N.J. 600 (1988).