

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEWARK BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-79-27

NEWARK TEACHERS' UNION, LOCAL
481, AFT, AFL-CIO,

Respondent.

SYNOPSIS

The Commission, in a decision on Motion for Reconsideration, denies the Board of Education's motion as well as its request for an evidentiary hearing and for oral argument.

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Appearances:

For the Petitioner, Cecil J. Banks, Esq, General Counsel
(Lois N. Kauder, Associate Counsel, of Counsel)

For the Respondent, Liss & Meisenbacher, Esqs.
(Mr. Raymond Meisenbacher, of Counsel)

DECISION ON MOTION FOR RECONSIDERATION

The Newark Board of Education, by motion filed January 29, 1979, seeks "reconsideration after evidentiary hearing and oral argument" of our decision and order of January 16, 1979. P.E.R.C. No. 79-38, 5 NJPER ____ (¶ ____ 1978).

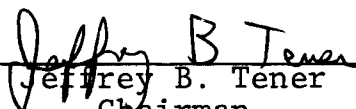
In support of its motion, the Board relies upon the affidavit of its Associate Counsel, which refers to factual allegations and case citations, which were contained in the Board's brief in support of its Petition for Scope of Negotiations Determination.

The wording of Board's motion indicates that it also seeks an evidentiary hearing and oral argument in connection with its request for reconsideration and the affidavit of counsel also requests an opportunity to present facts in support of the Board's position.

The Commission's rules governing procedure in Scope of Negotiations cases expressly refer to requests for evidentiary hearings and oral argument before the Commission. See respectively N.J.A.C. 19:13-3.6 and N.J.A.C. 19:13-3.8. The unambiguous language of these rules establish that the Board's request for these proceedings is both untimely and improper in form. Moreover, the rules provide that failure to make a timely and proper request for an evidentiary hearing shall constitute a waiver of any right thereto. Nothing in the affidavit submitted by the Board indicates why such requests were not made at the appropriate point in the proceedings.^{1/}

With respect to the motion for reconsideration, inasmuch as the matters referred to in the affidavit were all contained in the Board's brief, which was part of the record upon which our determination was based, said affidavit fails to set forth any grounds upon which to grant reconsideration.^{2/} Therefore, it is ORDERED that said motion is hereby denied, as are the requests for an evidentiary hearing and for oral argument.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Parcels, Hipp and Hartnett voted for this decision. None opposed. Commissioners Newbaker and Graves abstained.

DATED: Trenton, New Jersey
March 8, 1979

ISSUED: March 9, 1979

^{1/} N.J.A.C. 19:14-8.4 provides for the granting of such motion in the event of "extraordinary circumstances". Such motions need not be filed to exhaust administrative remedies.

^{2/} We note that scope determinations normally are made without evidentiary hearings or oral argument before the Commission and that the granting of requests for such hearings or argument is discretionary with us.