

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

IN RE: MILFORD SCHOOL DISTRICT : Board Remand on
: Request for Review
LIMITED CONTRACT PERSONNEL : No. 94-11-109A

A Representation Petition was filed by the Milford Education Association, DSEA/NEA ("Association"), seeking to amend unrepresented "limited contract personnel" into the existing bargaining unit of professional employees. The Milford School District ("District") has approximately 155 limited contract positions including interscholastic and intramural athletic coaches, extracurricular club and activity advisors, departmental chairpersons and special program positions.

The issue before the Hearing Officer was whether the limited contract positions in the Milford School District were appropriate, based upon the statutory criteria set forth in 14 Del.C. §4010(d), for inclusion in the existing bargaining unit of certificated professional employees. In his decision dated February 26, 1996, the Hearing Officer determined that based upon the statutory criteria, the limited contract employees were not appropriate for inclusion in that unit .

The Association appealed that decision to the full Public Employment Relations Board ("Board") on March 4, 1996. The parties filed legal memorandum on appeal with the final brief being received on May 9, 1996.

At its May 28, 1996, meeting, the Board scheduled consideration of this Request for Review for Monday, June 24, 1996.

Present at the public meeting of June 24, 1996, was Teresa C. Fariss, Esquire (Young, Conaway, Stargatt & Taylor), representing the Association. Sitting for the Board were Acting Chairman Henry E. Kressman and Member John D. Daniello.

Following discussion, the Board was unable to reach consensus and moved to table the matter until its next meeting, by which time it was anticipated that the vacant third position on the Board would be filled.

On June 30, 1996, James F. Maher, Esquire was confirmed by the Delaware Senate as the third member of the Board.

The Board met on July 10, 1996, to again consider the Association's Request for Review. Sitting for the Board were Chairman Henry E. Kressman, Member John D. Daniello and Member James F. Maher, Esquire. At this time, PERB Executive Director Charles D. Long notified the Board that §4010(d) of the Public School Employment Relations Act had been modified by the General Assembly through the Epilogue language to the FY 97 Budget Act, which states:

Section 352. Amend Chapter 40, Title 14, Section 4010(d) by adding a new sentence which shall read:

"The Board shall include positions commonly referred to as positions for extra-pay-for-extra-responsibilities in the professional bargaining unit for the sole purpose of bargaining the salary for these positions and any other provisions mutually agreed to by the parties."

The Executive Director's decision to exclude limited contract employees was primarily based on consideration and comparison of their working conditions with those of the certificated professionals in the bargaining unit. The modification of the statute by the General Assembly significantly impacts this case and limits the factors which are relevant to a determination of appropriateness for a group of employees with a very limited scope of bargaining.

For this reason, by a 3 - 0 vote, this petition is remanded to the Hearing Officer for reconsideration of the appropriateness of the proposed modification of the unit, based upon the statutory changes.

IT IS SO ORDERED.

/s/Henry K. Kressman
Henry E. Kressman, Chairman

/s/John D. Daniello
John D. Daniello, Member

/s/James F. Maher
James F. Maher, Esquire, Member

Dated: July 10, 1996

