

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

CAESAR RODNEY EDUCATION)	
ASSOCIATION, DSEA/NEA)	
)	
Petitioner,)	Board Decision on Review
)	
and)	<u>ULP No. 96-01-165</u>
)	
)	
CAESAR RODNEY SCHOOL DISTRICT,)	
BOARD OF EDUCATION)	
)	
Respondent,)	

BOARD DECISION ON REVIEW OF

INTERIM DECISION ON JURISDICTION

On September 9, 1998, the Executive Director issued an interim decision finding jurisdiction by the PERB over this matter. On September 16, 1998, the Caesar Rodney School District Board of Education appealed arguing that: (1) the PERB lacks jurisdiction over the matter because resolution would require the interpretation of the Collective Bargaining Agreement between the parties; and (2) the Association waived its right to file an Unfair Labor Practice Charge when it failed to file for arbitration. Both arguments are without merit.

First, the PERB has the exclusive authority to resolve unfair labor practice charges. The parties to this dispute are bound by a valid collective bargaining agreement. The applicable contract language setting forth the procedure for processing a grievance is clear and unambiguous on its face. Thus, it is within the jurisdiction of the PERB to determine whether the District's refusal to schedule a Level III meeting constitutes a unilateral change in the grievance procedure, which a mandatory subject of bargaining.

Secondly, while the District has admitted it refused to participate in a Level III meeting, it argues that the PERB has no jurisdiction since the Association failed to appeal to arbitration. This argument is disingenuous. There is nothing in the record to support this defense.

Wherefore, the September 9, 1998 decision of the Executive Director is affirmed.

/s/Henry E. Kressman
HENRY E. KRESSMAN, CHAIRMAN

/s/John D. Daniello
JOHN D. DANIELLO, MEMBER

/s/James F. Maher
JAMES F. MAHER, ESQUIRE, MEMBER

Dated: 6 November 1998