

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

CAPE HENLOPEN ED. ASSN.	:	
	:	Fact-Finding
	:	
AND	:	Review of Executive Director's
	:	Decision
	:	
	:	
CAPE HENLOPEN SCH. DIST.	:	

BAKCGROUND

The parties are Cape Henlopen Education Association (“CHEA”) and the Cape Henlopen School District (“CHSD”). The parties’ negotiations had stalemated over the issue of certain arbitration procedures. Fact-finding was initiated under Title 14 Del. C. Ch. 40, the Public School Employment Relations Act. Fact-finder Mollie H. Bowers issued findings and a recommendation on March 25, 2000. After meeting with the parties, the Executive Director on April 17, 2000 concluded that the parties were unable to resolve their labor dispute at that time with a voluntarily reached agreement. Accordingly, he released the fact-finder’s findings and recommendations under the provisions of 14 Del. C. Sect. 4015, (h) and (i). On April 24, 2000, CHEA requested review by the PERB of this decision.

ISSUE

Is the Executive Director’s publication of the findings reviewable? If so, was the Executive Director correct in publishing the findings and recommendation? If he was incorrect what shall be the remedy?

DECISION

This Board finds that the Executive Director's action is reviewable. Since the PERB has delegated Chapter 40's statutory responsibility to the Executive Director, it should assure that this authority is exercised properly, free of arbitrariness, capriciousness or bad faith.

Because mediation is a confidential process under Sect. 4002(1) of the PSERA, there is no record to review. When the Executive Director met with the parties on April 14, 2000, his role was that of a mediator or referee. He decided that he was unable to facilitate voluntary resolution of the last open issue. Under those circumstances, he felt he was required to execute the requirements of Sect. 4015(h).

The Executive Director was in the best position to evaluate the parties and their positions. His conclusion was reasonable and consistent with our law and rules. We find no basis to disturb that judgment.

The determination of the Executive Director is affirmed.

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

/s/ James F. Maher
JAMES F. MAHER, Member

DATED: May 30, 2000