



**STATE OF NEW JERSEY  
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**October 30, 2000**

**M E M O R A N D U M**

**TO:** Commissioners

**FROM:** Bob Anderson

**RE:** Supplemental Report on Developments in the Counsel's Office Since September 28, 2000

In *South River Ed. Ass'n v. South River Bd. of Ed.*, App. Div. Dkt. Nos. A-4288-98T3 and A-4350-98T3 (10/11/00) (copy attached), an Appellate Division panel remanded an arbitration award to an arbitrator for a supplemental opinion clarifying the remedy. The arbitrator issued an award finding:

1. The Board violated Articles VI, VII and XIII of the Collective Bargaining Agreement by unilaterally increasing student contact time for elementary school teachers without negotiating compensation.
2. The Board and the Association shall negotiate retroactive and prospective compensation for elementary school teachers, excluding fifth grade teachers, who were assigned additional student contact time.

The award was confirmed in a trial court proceeding, but on appeal the Association argued that the case should be remanded to the arbitrator to fix the amount of compensation for employees who worked extra time. The Board responded that the order to negotiate was clear and complete and that any remaining dispute could be the subject of another grievance and PERC-panel arbitration. The Court concluded that the matter should be remanded to the arbitrator, noting that referring the matter to PERC was not proper since no management prerogatives, public policy issues or legal arbitrability issues were at stake. The opinion does not explain why an order to negotiate was not a proper remedy.