

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

JERSEY CITY BOARD OF EDUCATION,

Respondent,

-and-

DOCKET NO. CO-82-196

JERSEY CITY EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to a claim by the Charging Party that the employer has refused to implement an arbitration award. The Director notes that the appropriate mechanism to achieve compliance with the arbitrator's award is through the filing of an action with superior court pursuant to N.J.S.A. 2A:24-7.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on February 8, 1982, by the Jersey City Education Association (the "Charging Party") against the Jersey City Board of Education (the "Board"), alleging that the Board was engaging in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), specifically N.J.S.A. 34:13-A-5.4(a)(1), (2), (4), (5), (6) and (7). <sup>1/</sup>

<sup>1/</sup> These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act; (2) Dominating or interfering with the formation, existence or administration of any employee organization; (4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this Act; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative; (6) Refusing to reduce a negotiated agreement to writing and to sign such agreement; (7) Violating any of the rules and regulations established by the Commission."

The Charging Party states that as late as November 1981, the Board assured the Charging Party that it would implement an arbitration award issued on April 10, 1981. According to the Charging Party, the Board, since November, has refused to implement the award. The Charging Party alleges that these latest actions are violations of the Act.

N.J.S.A. 34:13A-5.4(c) sets forth in pertinent part that the Commission shall have the power to prevent anyone from engaging in any unfair practice, and that it has the authority to issue a complaint stating the unfair practice charge. <sup>2/</sup> The Commission has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. This standard provides that a complaint shall issue if it appears that the allegations of the charging party, if true, may constitute an unfair practice within the meaning of the Act. <sup>3/</sup> The Commission's rules provide that the undersigned may decline to issue a complaint. <sup>4/</sup>

For the reasons below, it appears to the undersigned that the Commission's complaint issuance standard has not been met with respect to the instant charge.

<sup>2/</sup> N.J.S.A. 34:13A-5.4(c) provides: "The commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice....Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof...."

<sup>3/</sup> N.J.A.C. 19:14-2.1

<sup>4/</sup> N.J.A.C. 19:14-2.3

Although the charging party alleges violations of six different sections of the Act, the gravamen of this charge is the Board's failure to implement the terms of an arbitration award.

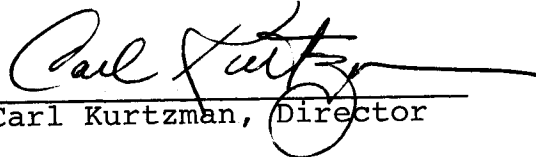
The Commission's policy with respect to matters submitted through grievance/arbitration provisions of collective negotiations agreements is to decline to issue a complaint in favor of complete deference to the arbitration forum. The Commission has held that complete deference incorporates the statutory mechanisms for achieving compliance with an arbitrator's award. In re State of N.J. (Stockton State College), P.E.R.C. No. 77-31, 3 NJPER 62 (1077). In this regard, N.J.S.A. 2A-24-7 provides:

A party to the arbitration may, within three months after the award is delivered to him, unless the party shall extend time in writing, commence a summary action in the court aforesaid for the confirmation of the award or for its vacation, modification or correction. Such confirmation shall be granted unless the award is vacated, modified or corrected.

Consistent with the above policy, in In re Matawan Reg. Bd. of Ed., P.E.R.C. No. 77-61, 3 NJPER 163 (1977) the Commission dismissed a complaint based upon a charge alleging that the Board committed unfair practices by refusing to comply with an arbitration award. The Commission stated that the matter "should more appropriately be brought as a proceeding to confirm and enforce an arbitrator's award pursuant to N.J.S.A. 2A:24-1 et seq., specifically N.J.S.A. 2A:24-7." Accord: In re State of N.J. (Stockton State College), P.E.R.C. No. 77-31, 3 NJPER 62 (1977).

Accordingly, the instant matter raises issues that are identical to those raised in Matawan, supra, and should more appropriately be brought as a proceeding to confirm and enforce an arbitrator's award. Therefore, the undersigned declines to issue a complaint herein.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
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Carl Kurtzman, Director

DATED: March 12, 1982  
Trenton, New Jersey