

D.U.P. NO. 95-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

JAMESBURG BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-94-380

JAMESBURG EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a Complaint where the Jamesburg Board of Education alleged an unfair practice was committed when the Board of Education declined to provide the name of someone who complained that the president of the association was dumping their private garbage in the Board's dumpster. The duty to provide information in grievance litigation extends only to the terms and conditions of employment. Since no discipline was imposed upon the association president, there was no obligation on the Board's part to supply the information.

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Appearances:

For the Respondent
Schwartz, Simon, Edelstein, Celso & Kessler, attorneys
(Mark A. Tabakin, of counsel)

For the Charging Party
Klausner, Hunter & Seid, attorneys
(Stephen Klausner, of counsel)

REFUSAL TO ISSUE COMPLAINT

On June 15, 1994, the Jamesburg Education Association filed an unfair practice charge against the Jamesburg Board of Education alleging that the Board engaged in an unfair practice within the meaning of N.J.S.A. 34:13A-5.4(a)(1) and (5)^{1/} when on May 11, 1994, Judith Sochoka, the Association President, received an oral

^{1/} 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. (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."

reprimand from Adam E. Drapczuk, the Superintendent of Schools. Drapczuk told Sochoka of an anonymous memorandum which accuses Sochoka of disposing of personal trash in a school dumpster. Sochoka denied the allegation and requested a copy of the memo in order to rebut it. Drapczuk refused. The charge alleges the reprimand was embodied in a memo dated the following day. The memo itself states that it was prepared because Sochoka requested that the Superintendent give her a written summary of the conversation. The Association filed a grievance challenging the reprimand. It thereafter requested "all information in the Board's file containing the names(s) of accuser(s), copies of memos or letters with allegations, dates and time of the alleged incident so that the Association could properly represent Sochoka in the processing of the grievance. The Board, claiming confidentiality, refused to supply this information and the Association claims the refusal to supply this information constituted an unfair practice.

The Association also filed an Order to Show Cause which was executed and argued on September 14, 1994. A hearing was conducted and Application was denied on the record.

The Association requested this information so that it may fully investigate the validity of the reprimand. It argues that the refusal to supply information to a union when necessary for contract administration is an unfair practice. Shrewsbury Bd. of Ed., P.E.R.C. No. 81-119, 7 NJPER 235 (¶12105 1981); N.J. Transit Bus Operations, 15 NJPER 340 (¶20150 1989).

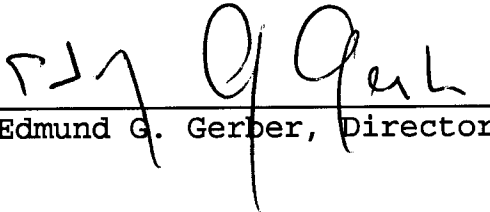
The Board argues, however, that the duty to supply information in grievance litigation extends only to information concerning terms and condition of employment. Citing Shrewsbury Bd. of Ed. and N.J. Dept. of Higher Education, I.R. No. 87-3, 12 NJPER 664, 666 (¶17251 1986). Here, it argues that the duty to supply information turns upon the imposition of discipline, yet no discipline was imposed upon Sochoka. When the Superintendent told Sochoka of the anonymous allegation and Sochoka denied the allegation, the matter ended. The Board supplied a signed and sworn affidavit of the Superintendent at the interim relief hearing. The affidavit states that at no time was Sochoka reprimanded or otherwise disciplined in connection with the reported trash dumping.

The grievance contends that Sochoka was improperly disciplined. Without commenting on the merits of the grievance, I do not believe the identity of the informant is relevant under these circumstances. It is the Board's position that there was no discipline. It does not take the position that Sochoka improperly dumped personal garbage.

"The duty to supply information turns upon the circumstances of a particular case." Shrewsbury citing NLRB v. Truitt Mfg Co., 351 U.S. 149, 153. Here, the Board has no obligation to supply the requested information. The charge fails to allege an unfair practice.

Accordingly, the charge fails to meet the Commission's complaint issuance standard and the charge is dismissed. N.J.A.C. 19:14-2.1.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: November 7, 1994
Trenton, New Jersey