

D.U.P. NO. 91-16

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

In the Matter of

JACKSON TOWNSHIP BOARD
OF EDUCATION,

Respondent,

-and-

Docket No. CI-90-64

IRA SWEET,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge filed by an employee of the Jackson Township Board of Education. The charge alleged that the Board "did not honor" a written agreement reached in another charge case, docket no. CI-89-47.

The Director determined that none of the charging party's rights were implicated by the Board's alleged acts and that the employee lost standing to assert any disputed rights.

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Appearances:

For the Respondent

Russo, Foster, Secare & Ford, attorneys
(Joseph L. Foster, of counsel)

For the Charging Party

Ira Sweet, pro se

REFUSAL TO ISSUE COMPLAINT

On March 14, 1990, Ira Sweet ("charging party") filed an unfair practice charge alleging that the Jackson Township Board of Education ("Board") violated subsections 5.4(a)(1), (3) and (7)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). Charging party alleged that the Board unlawfully

^{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. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. (7) Violating any of the rules and regulations established by the commission."

deprived him of facilities at the school, discredited and harassed him and "did not honor" an agreement reached in a previous unfair practice charge, Docket No. CI-89-47.

On June 7, 1990, charging party filed a letter claiming that contrary to the terms of a settlement agreement, the Board "never requested in good faith an extra telephone extension." He also asserted that his office was relocated to the high school and he has a telephone.

On February 8, 1989, the parties signed a memorandum of agreement at an exploratory conference concerning unfair practice charge Docket No. CI-89-47. The agreement provided in part that "the building principal...shall request in good faith an extra phone extension for the child study team office."

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 charged.^{2/} The Commission has delegated its authority to issue complaints to me and has established a standard upon which an unfair practice complaint may

^{2/} 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 charged and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof...."

be issued. The 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.^{3/} The Commission's rules provide that I may decline to issue a complaint.^{4/}

On June 28, 1990, we issued a letter tentatively dismissing the unfair practice charge. On July 9, 1990, Sweet responded asserting again that the Board failed to comply with the settlement agreement reached at our office.

The charging party has alleged no facts suggesting how the Board's acts have interfered in his exercised of rights protected by N.J.S.A. 34:13-5.3. Although the parties resolved an earlier unfair practice charge by signing a memorandum of agreement, none of charging party's rights under the Act were implicated by the Board's alleged decision not to honor the memorandum. Accordingly, we do not believe that the Board's alleged refusal to supply or request an extra phone extension violates the Act.

Sweet has been relocated to an office in another building and he now has a telephone extension. It would serve no purpose to install a new phone in his current office. Assuming that his rights were implicated at the time the agreement was signed, he no longer has standing to assert those rights or the rights of employees who may have taken his place.

^{3/} N.J.A.C. 19:14-2.1.

^{4/} N.J.A.C. 19:14-2.3.

Based upon the foregoing, I do not believe that the Commission's complaint issuance standard has been met and the charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: December 20, 1990
Trenton, New Jersey