

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

In the Matter of

STATE OF NEW JERSEY
(MONTCLAIR STATE COLLEGE),

Respondent,

-and-

DOCKET NO. CI-81-73

ALAN P. MARLIS,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an unfair practice charge filed by an adjunct faculty member of Montclair State College alleging that the College refused to provide him with additional remuneration for an increased workload. The gravamen of the unfair practice charge was that the College's actions were in violation of N.J.S.A. 34:13A-5.4(a)(3), which prohibits an employer from discriminating against individuals due to their exercise of rights guaranteed by the Act. However, the Charging Party did not allege that the College's actions were motivated by a desire to discourage him in the exercise of activities on behalf of an employee organization or in the filing of a grievance.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on March 19, 1981 by Alan Philip Marlis (the "Charging Party") against Montclair State College (the "College") alleging that the College was engaging in unfair practices within the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), specifically, N.J.S.A. 34:13A-5.4(a)(1) and (3). ^{1/}

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

^{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 of any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this Act."

authority to issue a complaint stating the unfair practice charge. ^{2/}
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. ^{3/} The Commission rules provide that the undersigned may decline to issue a complaint. ^{4/}

For the reasons stated below the undersigned has determined that the Commission's complaint issuance standards have not been met.

Charging Party is an adjunct faculty member of the College. The Charging Party states that he was "unfairly forced from agreed upon employment due to computer error," which scheduled him to teach three times per week rather than twice a week, and that he was unfairly treated by the College, which refused to provide him with additional remuneration based upon his increased workload. ^{5/} Charging Party does not assert that he was discriminated against in retaliation for any activities on behalf of an employee organization or because he filed a grievance, or for the exercise

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

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

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

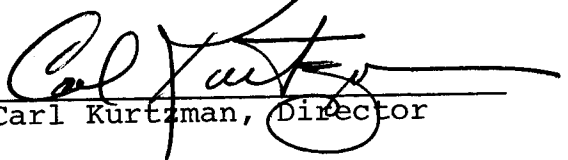
^{5/} Charging Party has not stated that he is represented for the purpose of collective negotiations by an employee representative.

of other activity protected by the Act. See N.J.S.A. 34:13A-5.3. Accordingly, the unfair treatment alleged in the Charge has no relationship to the protections afforded employees under the Act and is not a violation of § (a)(3), or § (a)(1) derivatively.

Subsequent to the filing of the instant Unfair Practice Charge, the Charging Party was informed by letter dated July 17, 1981, that the Charge could not be processed further unless it was amended to include factual allegations which relate to the exercise of protected rights. The Charge has not been so amended.

Accordingly, for the above reasons, the undersigned hereby declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: August 18, 1981
Trenton, New Jersey