

D.U.P. NO. 87-1

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

In the Matter of

DUNELLEN BOARD OF EDUCATION,

Respondent,

-and-

DOCKET NO. CO-86-349

DUNELLEN EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Director refuses to issue a complaint on a charge filed by the Dunellen Education Association, which alleges that the Board refused to negotiate the distribution of residual TQEA monies for the 1985-86 school year.

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Appearances:

For the Respondent  
James P. Cardaneo, Board Secretary

For the Charging Party  
Ruhlman, Butrym & Friedman, Esqs.  
(Richard A. Friedman, of counsel)

REFUSAL TO ISSUE COMPLAINT

On June 20, 1986, the Dunellen Education Association ("Association") filed an unfair practice charge alleging that the Dunellen Board of Education ("Board") violated subsections 5.4(a)(1) and (5)<sup>1/</sup> of the New Jersey Employer-Employee Relations Act,

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<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; (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."

N.J.S.A. 34:13A-1 et seq. ("Act"). The Association alleges that the Board refused to negotiate for the 1985-86 school year, the disbursement of funds it received as a result of the implementation of the Teacher Quality Employment Act, N.J.S.A. 18A:29-5 et seq. ("TQEA").

N.J.S.A. 34:13A-5.4(c) states 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 me and has established a standard upon which an unfair practice complaint may be issued. The Commission's rules further provide that when this standard has not been met I may decline to issue a complaint.<sup>3/</sup>

On September 9, 1985, the Legislature enacted the TQEA to establish a minimum salary for teaching staff members and to provide funding for salaries. The TQEA established a minimum salary of \$18,500 for all full-time teaching staff. It provides that, "Any

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<sup>2/</sup> N.J.S.A. 34:13A-5.4(c) states: "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...."

<sup>3/</sup> N.J.A.C. 19:14-2.3.

funds appropriated for salaries that will be replaced by State aid shall not be transferred to or used for any purpose other than the payment of teaching staff member salaries." N.J.S.A. 18A-5.10. It also provides that, "Nothing in the Act [TQEA] shall be construed to require the reopening of any signed contract in effect for the 1985-86 school year."<sup>4/</sup> N.J.S.A. 18A:29-5.11.

The Association alleges that the Board has an obligation to negotiate the distribution of the breakage or residual monies that it received as a result of the implementation of the TQEA. In Roselle Park Board of Education, D.U.P. No. 86-22, 12 NJPER \_\_\_\_ (¶ \_\_\_\_ 1986) ("Roselle Park"), I refused to issue a complaint on a charge filed by the Roselle Park Education Association, which raised the identical issue. In Roselle Park, it was stated that:

After careful consideration,...I determine that the Legislature's specific direction that nothing shall require the reopening of a signed contract in effect for 1985-86, preempts the employer's duty to negotiate concerning those affected terms and conditions of employment. Thus, I find that the Roselle Park Board of Education is not obligated to discuss with the Association distribution of the residual monies received from the State for the 1985-86 school year. This determination is based on the express language of the statute which speaks only to the 1985-86 school year. Accordingly, nothing in this decision should be construed to comment on distribution of residual monies for any years beyond 1985-86. [citations omitted]

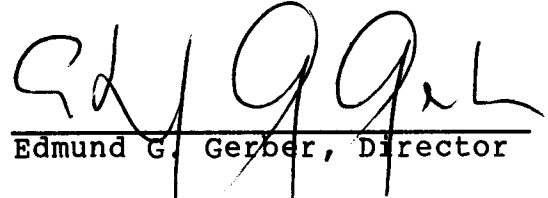
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<sup>4/</sup> The parties contract expires on June 30, 1986.

See also State of New Jersey v. State Supervisory Employees Association, 78 N.J. 54 (1978); In re Clark Board of Education and Clark Education Association, D.U.P. No. 86-16, 12 NJPER \_\_\_\_ (¶\_\_\_\_ 1986).

Accordingly, I decline to issue a complaint.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: July 10, 1986  
Trenton, New Jersey