

D.U.P. NO. 91-22

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

In the Matter of

WILLINGBORO BOARD OF EDUCATION,

Charging Party,

-and-

Docket No. CE-91-5

WILLINGBORO EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Director of Unfair Practices dismisses a portion of a charge brought by the Willingboro Board of Education against the Willingboro Education Association. The Board alleged that the Association violated the Act by refusing to negotiate over the issue of minor discipline as defined by N.J.S.A. 34:13A-24 and by refusing to respond to the Board's negotiation proposal for a schedule of discipline or to submit its own schedule as a counter proposal. The Director found that the Association had not refused to negotiate over the subject of minor discipline, but rather only refused to submit a specific schedule of discipline as a counter offer in response to the Board's proposal. He concluded that pursuant to N.J.S.A. 34:13A-24 that did not constitute an unfair practice.

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Appearances:

For the Charging Party
James P. Granello, attorney

For the Respondent
Zazzali, Zazzali, Fagella & Nowak, attorneys
(Richard A. Friedman, of counsel)

DECISION

On October 22, 1990, the Willingboro Board of Education ("Board") filed an unfair practice charge against the Willingboro Education Association ("Association") alleging violations of N.J.S.A. 34:13A-5.4(b)(3) and (5).^{1/} Specifically, the Board alleges that the Association violated the Act by refusing to negotiate over the issue of minor discipline as defined by N.J.S.A.

^{1/} These subsections prohibit employee organizations, their representatives or agents from: "(3) Refusing to negotiate in good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit. (5) Violating any of the rules and regulations established by the commission."

34:13A-24 and by refusing to respond to the Board's negotiation proposal for a schedule of discipline or to submit its own schedule as a counter proposal.^{2/}

On January 7, 1991, a Commission staff agent conducted an exploratory conference with the parties. At that conference, the Board acknowledged that the Association has not refused to negotiate on the subject of minor discipline, but rather has only refused to submit a specific schedule of discipline as a counter offer in response to the Board's proposal.

N.J.S.A. 34:13A-24(b) states:

The scope of such negotiations shall include a schedule setting forth the acts and omissions for which minor discipline may be imposed, and also the penalty to be imposed for any act or omission warranting imposition of minor discipline.

This provision simply states that the general subject of a schedule of discipline is within the scope of negotiations, not that a schedule must be included in an agreement in order to fulfill the negotiations obligation. The Board acknowledges that the Association has discussed the general subject of minor discipline.

Accordingly, I find that the Board has alleged no facts which, if true, would constitute an unfair practice. Thus, as to

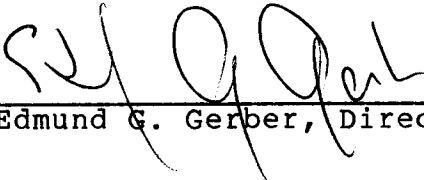
^{2/} On December 7, 1990, the Board amended its charge to include allegations that the Association committed an unfair practice by issuing a "report" which contained statements the Board contends "demonstrates a continuing pattern of conduct of bad faith bargaining." The allegations of the amendment, if true, may constitute an unfair practice and a complaint and notice of hearing will issue on those allegations.

D.U.P. NO. 91-22

3.

the original charge, the complaint issuance standard has not been met and that portion of the charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: March 4, 1991
Trenton, New Jersey