

I.R. NO. 93-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Respondent,

-and-

Docket No. CO-92-419

RUTGERS COUNCIL OF AAUP CHAPTERS,

Charging Party.

SYNOPSIS

The Rutgers Council of AAUP Chapters sought to restrain a special committee, created by the President of the University to investigate the appointment of a new chairman to the Department of Molecular Biology and Biochemistry, from issuing its report. The Application was denied since the harm alleged was not irreparable. The report was not binding on the University nor did the committee have the power to take any action.

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Appearances:

For the Respondent
Frances Loren, attorney

For the Charging Party
Reinhardt & Schachter, attorneys
(Denise Reinhardt, of counsel)

INTERLOCUTORY DECISION

On June 30, 1992, Rutgers Council of AAUP Chapters filed an unfair practice charge against Rutgers, the State University alleging it violated of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4 et seq.; specifically subsection 5.4(a)(1), (3) and (5)^{1/} when on June 17, 1992, the President of 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 or any term or condition of employment to encourage or discourage 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."

University, Francis Lawrence, unilaterally and without prior negotiations with the AAUP, created a Special Review Committee to investigate the appointment of the new chairman of the Department of Molecular Biology and Biochemistry. Lawrence charged the Committee to "conduct a review of the issues, the manner in which the participants have conducted themselves, the appropriateness of their behavior, the reasons for the failure of the process and the truthfulness of the numerous allegations that university procedures and regulations were violated." Lawrence asked that this Committee recommend specific actions to resolve the dispute.

The AAUP argues that the creation of this Committee by-passed the grievance procedures in the collective negotiations agreement between the University and the Association. A Complaint and Notice of Hearing was issued on this matter on September 22, 1992 and was set for hearing on February 11, 1993.

On September 22, 1992, the AAUP filed an Application for Interim Relief. It was specifically alleged that the Committee was on the verge of issuing its report and the issuance of this report would cause irreparable harm for the AAUP and those mentioned critically in the report. The University argued that the creation of this Committee and the issuance of the report were part of the collegial process and non-negotiable.

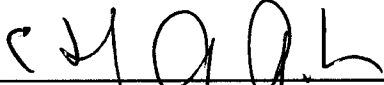
On October 1, 1992, I conducted a hearing on the executed Order to Show Cause. The parties had the opportunity to present evidence, submit briefs and argue orally. I denied the Application for Interim Relief on the record.

The standards that have been developed by the Commission for evaluating interim relief requests are similar to those applied by the Courts when addressing similar applications. The moving party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in a final Commission decision and that irreparable harm will occur if the requested relief is not granted. Further, in evaluating such requests for relief, the relative hardship to the parties in granting or denying the relief must be considered.^{2/}

Without addressing the underlying merits of the AAUP's argument that grievance procedures and contract provisions were being by-passed, it is apparent that the harm alleged is not irreparable. The report is not binding upon the University and the Committee has no power to take any personnel action.

The AAUP failed to met its heavy burden and this matter will go forward to the plenary hearing scheduled for February 11, 1993.

BY ORDER OF THE COMMISSION



Edmund G. Gerber
Commission Designee

DATED: October 9, 1992
Trenton, New Jersey

^{2/} Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).