



STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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UNFAIR PRACTICE/REPRESENTATION
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March 2, 1988

Anne Rowbotham, Field Representative
NJEA UniServ Office 13
47 E. Main Street
Flemington, NJ 08822

Louis Farrell, Board President
Frenchtown Board of Education
902 Harrison Street
Frenchtown, New Jersey 08825

Re: Frenchtown B/E
-and-
Frenchtown EA
Docket No. CO-88-153

Ms. Rowbotham and Mr. Farrell:

This will confirm receipt of the Association's formal withdrawal in the above-captioned matter. The withdrawal was sent to the Commission prior to the issuance of our February 25, 1988 decision in D.U.P. 88-10. However, we did not receive it until March 1, 1988.

We also acknowledge that the Association did not amend its allegations in response to our January 2, 1988 letter.

Accordingly, we accept the volutary withdrawal of this matter and by this letter I am vacating decision D.U.P. 88-10.

Very truly yours,

Edmund Gerben
Director of Representation

D.U.P. NO. 88-10

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

In the Matter of

FRENCHTOWN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-88-153

FRENCHTOWN EDUCATION ASSOCIATION

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint where the sole allegation in the charge was that the Board communicated the minutes of previous negotiations sessions to the public at an open meeting. Relying on City of Camden, P.E.R.C. No. 82-103, 8 NJPER 309 (¶13137 1982), adopting H.E. No. 82-103, 8 NJPER 181 (¶13078 1982) and Proctor and Gamble Mfg. Co., 160 NLRB 334, 62 LRRM 1617 (1966), the Director determined that since nothing in the charge suggested that the communication was coercive or contained threats of reprisal, force or promises of benefits, it could not be considered an (a)(5) violation.

D.U.P. NO. 88-10

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PUBLIC EMPLOYMENT RELATIONS COMMISSION
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In the Matter of
FRENCHTOWN BOARD OF EDUCATION,
Respondent,

-and-

Docket No. CO-88-153

FRENCHTOWN EDUCATION ASSOCIATION
Charging Party.

Appearances:

For the Respondent,
Louis Farrell, Board President

For the Charging Party,
Anne E. Rowbotham, UniServ Rep.

REFUSAL TO ISSUE COMPLAINT

On December 11, 1987, the Frenchtown Education Association ("Association") filed an Unfair Practice Charge against the Frenchtown Board of Education ("Board"). The charge alleges violations of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), specifically subsections 5.4(a)(1), (3) and (5).^{1/} The sole factual allegation is that on

^{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

November 24, 1987, at a Board open public meeting, a Board member disclosed the minutes of a negotiations session attended by Board and Association representatives.^{2/}

In City of Camden, P.E.R.C. No. 82-103, 8 NJPER 309 (¶13137 1982), adopting H.E. 82-103, 8 NJPER 181 (¶13078 1982), the Commission adopted the NLRB standard on free speech rights in labor relations. Section 8(c) of the National Labor Relations Act states:

The expressing of any views, argument, or opinion, or dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this subchapter, if such expression contains no threat of reprisal or force or promise of benefit.

The New Jersey Employer-Employee Relations Act contains no similar position. However, in Galloway Tp. Bd. of Ed. v. Galloway Tp. Assn. of Educ'l Secys., 78 N.J. 1 (1978), the New Jersey Supreme Court stated that the New Jersey Employer-Employee Relations Act was modeled on the National Labor Relations Act and further reasoned

1/ Footnote Continued From Previous Page

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."

2/ Although not part of the charge, the Association argued at a conference with a Commission staff attorney that disclosure violated a negotiations agreement to maintain confidentiality during negotiations. However, since this allegation is not part of the charge, we will not rule upon its merits.

that "the absence of specific phraseology in a statute may...be attributable to a legislative determination that more general language is sufficient to include a particular matter within the purview of the statute without further elaboration". Id. at 15.

In Proctor and Gamble Mfg. Co., 160 NLRB 334, 62 LRRM 1617 (1966), the NLRB held:

As a matter of settled law, section 8(a)(5)^{3/} does not, on a per se basis, preclude an employer from communicating, in non-coercive terms, with employees during collective bargaining negotiations. The fact that an employer chooses to inform employees of the status of negotiations, or proposals previously made to the Union, or of its version of a breakdown in negotiations will not alone establish a failure to bargain in good faith. (emphasis supplied.)

See also NLRB v. Corning Glass Works, 204 F.2d 422 (1st Cir. 1953), 32 LRRM 2136; T.M. Cobb Co., 224 NLRB No. 104, 93 LRRM 1047 (1976); Safeway Trails Inc., 216 NLRB No. 171, 89 LRRM 1017 (1975); and PPG Industries Inc., 173 NLRB No. 61, 69 LRRM 1271 (1968).

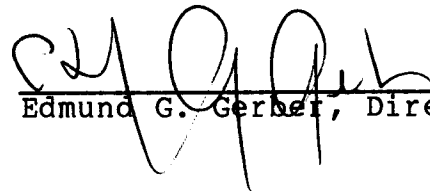
Here, the Association alleges only that the Board communicated the minutes of previous negotiations sessions to the public at an open meeting. Nothing in the charge suggests that the communication was coercive or contained threats of reprisal or force

^{3/} Subsection 8(a)(5) of the National Labor Relations Act is analogous to subsection 5.4(a)(5) of the New Jersey Employer-Employee Relations Act.

or promises of benefits.^{4/} The charge also failed to allege any facts which would support a finding that the Board violated subsection (a)(1) or (a)(3) of the Act.

Accordingly, we find that the Commission's complaint issuance standard has not been met and we decline to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: February 25, 1988
Trenton, New Jersey

^{4/} The Association claims that the release of this statement is a violation of N.J.S.A. 10:4-2(b)(8) of the Open Public Meeting Act. This provision refers only to the admittance of the public into a meeting and is not controlling here.