

D.U.P. NO. 90-11

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

In the Matter of

TOWNSHIP OF JACKSON,

Respondent,

-and-

Docket No. CO-90-220

JACKSON TOWNSHIP PBA LOCAL 168,

Charging Party.

SYNOPSIS

In a matter brought by the Jackson Township PBA Local 168 ("PBA"), the Director of Unfair Practices dismisses a charge in which it was claimed that the Township of Jackson violated a contract provision excluding the Director of Public Safety from participating in negotiations. Contract provisions which place restrictions on the composition of negotiations teams are illegal subjects of negotiations and therefore it was not an unfair practice for the Township to repudiate that provision.

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Appearances:

For the Respondent,  
Russo, Foster, Secare & Ford, Esqs.  
(Joseph L. Foster, of counsel)

For the Charging Party,  
Mark J. Blunda, Esq.

DECISION

On February 7, 1990, the Jackson Township P.B.A., Local 168 (PBA) filed an unfair practice charge alleging that the Township of Jackson ("Township") violated subsections (a)(1), (3) & (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). The PBA alleges that the Township repudiated a provision of the parties negotiated agreement. The provision states that the Director of Public Safety not be permitted to sit at the

negotiating table. The Township, however, insisted on his presence in negotiations.<sup>1/</sup>

The contract between the parties which expired by its terms on December 31, 1989 provides at Article 3, Section 1(a):

It is agreed that the bargaining agent for the Township shall consist of, the Governing Body of the Employer or their designee, excluding Director of Public Safety, Chief of Police and all Superior Officers within the Jackson Township Police Department.

The Township is now insisting that the Director of Public Safety participate in negotiations.

In Matawan Regional Board of Education, P.E.R.C. No. 80-153, 6 NJPER 325 (111161 1980), the Commission held that contract provisions which place certain restrictions on the composition of negotiating teams are illegal subjects for negotiation.

N.J.S.A. 34:13A-5.4(b)(2) states that it is an unfair practice for an employee organization to interfere with, restrain or coerce "a public employer in the selection of his representative for the purposes of negotiations or the adjustment of grievances." Inferentially this statutory provision establishes the principle that negotiations between employers and employee organizations cannot take place respecting the composition of the negotiating terms of either participant in the negotiations process. The Commission in In re North Brunswick Twp. Board of Education, P.E.R.C. No. 80-122, 6 NJPER 193

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<sup>1/</sup> The PBA also alleged that the Township unilaterally changed the terms and conditions of employment during negotiations by prohibiting the use of compensatory time and earned vacation time and instead insisted that police officers take pay for accumulated overtime, holidays and vacation. A Complaint and Notice of Hearing have been issued on this allegation and will not be dealt with in this decision.

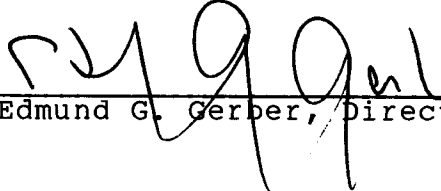
(¶11095 1980).] concluded that a board of education violated N.J.S.A. 34:13A-5.4(a)(1) and (a)(5) when it refused to negotiate with a negotiating team selected by the majority representative. The board in that case had contended in apposite part that it need not negotiate with a negotiating team that included members of the association which represented other units of the board's employees. The Commission concluded that the education association had not engaged in improper coalition negotiations and that the board could not under the circumstances of that case place restrictions on the composition or parameters of the association's negotiations team.

Matawan, 6 NJPER at 326.

Article 3, Section 1(a) is an illegal subject of negotiations. As such, the Township's refusal to comply with this contract provision is not an unfair practice.

Accordingly, I decline to issue a complaint as to that portion of the PBA charge relating to the Director of Public Safety participating in negotiations.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Edmund G. Gerber, Director

DATED: April 6, 1990  
Trenton, New Jersey