

P.E.R.C. NO. 91-80

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WILLINGBORO BOARD OF EDUCATION,

Charging Party,

-and-

Docket No. CE-91-5

WILLINGBORO EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission sustains the Director of Unfair Practices' refusal to issue a Complaint based on an unfair practice charge filed by the Willingboro Board of Education against the Willingboro Education Association. The charge alleged that the Association refused to submit a schedule of minor discipline as a counteroffer to the Board's proposal for such a schedule. The Commission agrees with the Director that N.J.S.A. 34:13A-24(b) does not require that both parties agree that the employer shall have the right to impose minor discipline or that there shall be a schedule. Nor does it require that a negotiations proposal for a schedule be met with a counterproposal for a schedule.

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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 AND ORDER

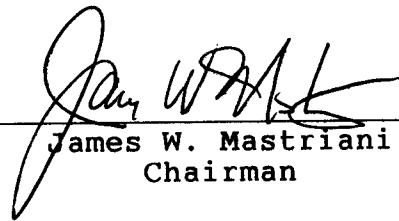
On March 15, 1991, the Willingboro Board of Education appealed D.U.P. No. 91-22, 17 NJPER ____ (¶____ 1991). In that decision, the Director of Unfair Practices refused to issue a Complaint based on the Board's unfair practice charge against the Willingboro Education Association. The Board alleged that the Association violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(b)(3) and (5),^{1/} by refusing to submit a schedule of minor discipline as a counteroffer to the Board's proposal for such a schedule.

^{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."

The Association has filed a statement opposing the appeal. It contends that since a Complaint issued on an amendment to the Board's charge, this appeal is interlocutory and should be rejected. It further contends that it fulfilled its negotiations obligation given the Board's concession that the parties discussed the subject of minor discipline.

N.J.S.A. 34:13A-24(b) authorizes negotiations over minor discipline which includes, but is not limited to, various forms of fines and suspensions. N.J.S.A. 34:13A-22. It also authorizes negotiations over schedules setting forth the acts and omissions for which minor discipline may be imposed and the attendant penalties. The statute does not require that both parties agree that the employer shall have the right to impose minor discipline or that there shall be a schedule. Nor does it require that a negotiations proposal for a schedule be met with a counterproposal for a schedule. Accordingly, we sustain the Director's determination.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Goetting, Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioners Bertolino and Regan abstained from consideration.

DATED: Trenton, New Jersey
March 28, 1991
ISSUED: March 28, 1991