D.U.P. NO. 98-9

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

In the Matter of

MOUNTAIN LAKES BOARD OF EDUCATION,

Respondent,

-and- Docket No. CO-96-397

MOUNTAIN LAKES EDUCATION ASSOCIATION,

Charging Party.

The Director of Unfair Practices dismisses an allegation raised by the Association concerning the Board's unilateral change of health insurance carriers. The selection of an insurance carrier is a managerial prerogative.

The Director issues a complaint and notice of hearing on the remaining allegations in the charge. The Association alleges that the Board refused to provide information to the Association regarding the new health insurance plan. Additionally, the Association alleges that the new health insurance plan unilaterally selected by the Board provides reduced benefits to Association unit members.

Deferral of the change in the level of benefits allegation is not appropriate because the contractual grievance procedure does not end in final and binding arbitration. Rather, it provides for advisory arbitration. The Board would not consent to binding arbitration for a grievance about this issue.

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Appearances:

For the Respondent,
Rand, Algeier, Tosti & Woodruff, attorneys
(Robert M. Tosti, of counsel)

For the Charging Party,
Klausner & Hunter, attorneys
(Stephen B. Hunter, of counsel)

DECISION

On June 12, 1996, the Mountain Lakes Education Association filed an unfair labor practice charge alleging that the Mountain Lakes Board of Education violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1) and (5)[1/] through actions it has taken concerning health

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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. (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."

insurance coverage for Association-represented employees of the Board. First, on April 15, 1996, the Board announced that effective July 1, 1996, it was unilaterally changing health insurance carriers from the State Health Benefits Plan ("SHBP") to the North Jersey School Health Insurance Fund ("JIF") administered by Insurance Design Associates ("IDA"). The Association further alleges that by changing carriers, the Board reduced the level of health benefits provided to unit members, and unilaterally did so without negotiations with the Association. Finally, as expressed in count 2 of the charge, the Association alleges that despite their demand that the Board provide specific, detailed, written information regarding all aspects of the coverages to be provided through the JIF, the Board has refused to supply the Association with the details and documents describing the new health insurance plan.

The Board denies violating the Act asserting that the level of benefits provided by the JIF is equal to or better than those provided by the SHBP, and that it has provided information received from the JIF to the Association.

An employer has the right to select which carrier will provide the agreed upon level of health insurance benefits, so long as a change in carriers has no appreciable affect on the level of benefits provided. Bor. of Metuchen, P.E.R.C. No. 84-91, 10 NJPER 127 (¶15065 1984); City of Newark, P.E.R.C. No. 82-5, 7 NJPER 439 (¶12195 1981); Bor. of Paramus, P.E.R.C. No. 86-17, 11 NJPER 502 (¶16178 1985). Accordingly, an allegation in a charge asserting

that an employer changed insurance carriers without negotiating with a majority representative will be dismissed. Tp. of Irvington, D.U.P. No. 94-31, 20 NJPER 144 (¶25069 1994).

Additionally, an employer is obligated to provide specific documents and information about any change in a health insurance plan. The refusal to provide this information is violative of the Act. See Lakewood Bd. of Ed., P.E.R.C. No. 97-44, 22 NJPER 397 (¶27215 1996).2/

I dismiss the allegation in the charge asserting that the Board changed health insurance carriers without negotiating with the Association.

However, I will not dismiss the other allegations in the charge because they raise issues which, if true, could constitute unfair practices. Employers are prohibited from refusing to negotiate with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit. The parties' collective bargaining agreement does not provide for binding arbitration of grievances, therefore the alleged change in the level of benefits cannot be deferred to arbitration. Stafford Tp. Bd. of Ed., P.E.R.C. No. 90-17, 15 NJPER 527 (¶20217 1989). Additionally, the Board's alleged refusal to provide information to the Association about the

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2/ The failure to supply information is normally not appropriate for deferral to arbitration. See generally, NLRB v. ACME Industrial Co., 385 U.S. 432, 64 LRRM 2069 (1967).

new health insurance plan could be an unfair practice. Therefore, I will issue a complaint and notice of hearing concerning these allegations.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES

Edmund G. Gerber, Director

DATED: August 26, 1997
Trenton, New Jersey