

D.U.P. NO. 94-32

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

In the Matter of

LENAPE VALLEY REGIONAL BOARD
OF EDUCATION,

Respondent,

-and-

Docket No. CO-92-358

LENAPE VALLEY REGIONAL SUPERVISORS'
ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint on an allegation that the Lanape Valley Regional Board of Education unilaterally reduced the work year of a unit position without negotiations. The Director finds that the Board has the prerogative to abolish positions and create new ones to meet organizational needs.

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Appearances:

For the Respondent,
Rand, Algeier, Tosti & Woodruff, attorneys
(Ellen S. Bass, of counsel)

For the Charging Party,
New Jersey Principals' & Supervisors' Association
(Wayne J. Oppito, attorney)

REFUSAL TO ISSUE COMPLAINT

On May 6, 1992, the Lenape Valley Regional Supervisors' Association filed an unfair practice charge against the Lenape Valley Regional Board of Education. The Association alleges that the Board of Education violated N.J.S.A. 34:13A-5.4(a)(1), (5) and (7)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A.

^{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

34:13A-1 et seq., by unilaterally changing the work year of a unit position without negotiations.

The parties' negotiated agreement provides salaries for supervisory positions with a 10-month work year (185 days per year) and a 10-month-plus-20-days work year (205 days per year). The supervisory duties of both titles are identical. The 205-days per year position is additionally responsible for long range planning and program development of a subject area.

In response to educational changes in the Board's industrial arts program, the Board decided to reorganize its supervisory staff. On April 13, 1992, the Board abolished the 205 day work year position of Subject Area Supervisor-Science and Technology and created a 185-day work year position of Subject Area Supervisor-Science and Industrial Arts. Mr. Goodman, the former Supervisor-Science and Technology, was placed in the newly created position of Supervisor-Science and Industrial Arts at the salary in the parties' negotiated agreement for a 185-days-per-year position.

The Association alleges that the Board abolished one title and replaced it with a new title with a shorter work year without negotiating these changes with the Association.

1/ Footnote Continued From Previous Page

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. (7) Violating any of the rules and regulations established by the commission."

Public employers have the managerial prerogative to abolish positions and create new ones, as well as to transfer, assign and reassign employees to meet operational and organizational needs. Ramapo-Indian Hills Ed. Assn. v. Ramapo-Indian Hills Reg. H.S. Dist. Bd. of Ed., 176 N.J. Super. 35 (App. Div. 1980). This prerogative is subject to the obligation to negotiate over any changes in severable terms and conditions of employment. Here, however, the parties had already negotiated a salary for the 185-day positions in the unit and memorialized that salary in their contract.

The Board's action of abolishing the 205-day work year position of Subject Area Supervisor-Science and Technology and creating a new 185-day work year title of Subject Area Supervisor - Science and Industrial Arts without negotiations was appropriate. Trenton Bd. of Ed., P.E.R.C. No. 88-16, 13 NJPER 714 (¶18266 1987). The Board also has the apparent contractual right to assign Mr. Goodman to the new title without negotiating with the Association. State of New Jersey (Human Services), P.E.R.C. No. 84-148, 10 NJPER 419 (¶15191 1984); City of Atlantic City, P.E.R.C. No. 85-89, 11 NJPER 140 (¶16061 1985). Thus, the reduction in Goodman's work year was the direct result of the Board's prerogative to abolish and create positions, rather than a reduction in the work year of a bargaining unit position as alleged by the Association. See Spotswood Bd. of Ed., P.E.R.C. No. 86-90, 12 NJPER 195 (¶17073 1986). The Association does not allege that Goodman is being paid a salary which is not in accordance with the parties' negotiated

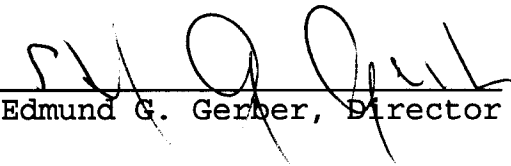
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salary guide. Given these circumstances, I do not find that the Board's actions rise to the level of an unfair practice.

Accordingly, I find that the Commission's complaint issuance standard has not been met, N.J.A.C. 19:14-2.1, and decline to issue a complaint on the allegations of this charge. N.J.A.C. 19:14-2.3. The charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: March 14, 1994
Trenton, New Jersey