

I.R. NO. 94-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

DELRAN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-94-194

DELRAN EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

A Commission Designee orders the Delran Board of Education to negotiate in good faith with the Delran Education Association. The Association brought this action to compel negotiations with the Board. The Board declined to negotiate. The Board submitted a request to the School Ethics Committee for a determination as whether seven of its nine members may negotiate and vote upon a collective negotiations agreement without violating the State's Ethics Law and is awaiting that determination.

The Designee held that the Commission will not dictate who will negotiate for the Board but he noted that two members of the Board do not have pending conflict of interest petitions. The Board's refusal to negotiate violates 5.3 of the Act which states that "the designated representative of the employer shall meet at reasonable times and negotiate in good faith."

I.R. NO. 94-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

DELRAN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-94-194

DELRAN EDUCATION ASSOCIATION,

Charging Party.

Appearances:

For the Respondent,
John T. Barbour, attorney

For the Charging Party,
Selikoff & Cohen, attorneys
(Steven R. Cohen, of counsel)

INTERLOCUTORY DECISION

On December 22, 1993, the Delran Education Association filed an unfair practice charge and request for an Order to Show Cause against the Delran Board of Education alleging that the Board violated N.J.S.A. 34:13A-1 et seq.

Since March 15, 1993, the Board has refused to negotiate with the Association. It is undisputed that the Association is the majority representative of these employees. However, "the Board has failed and continues to fail and refuse to meet and negotiate with the representative of the Association concerning a successor agreement between the parties pending receipt of an advisory opinion from the School Ethics Commission regarding the extent to which certain Board members may participate in the negotiations process."

The Board does not dispute these allegations. Rather, it contends that it has submitted a request to the School Ethics Commission to give its opinion on whether seven of the nine members of the School Board may negotiate and vote upon a collective negotiations agreement without violating the State Ethics Law. Specifically, two of the nine members of the Board have immediate family who are employed by the Board. Four Board members are teachers in other school districts and are also members of Association affiliates with the NJEA. One Board member is similarly an employee of another school district and another NJEA affiliate.

The Board points to a decision by the School Ethics Commission regarding Pinelands Regional School Board, Docket No. CO2-D-CO4-B in which an advisory opinion found that it was inappropriate for a Board member to participate in negotiations for a collective negotiations agreement where that board member's wife was an employee of the school district.

The Association contends that it is a per se unfair practice for any public employer to issue a blanket refusal to negotiate and cites Township of Monroe, P.E.R.C. No. 87-52, 12 NJPER 845 (¶17325 1986) and also cites NLRB V. Katz, 369 U.S. 736, 50 LRRM 2177 (1962).

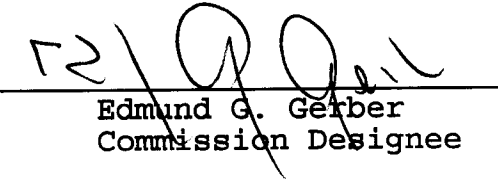
The standards that have been developed by the Commission for evaluating interim relief requests are similar to those applied by the Courts when addressing similar applications. The moving party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in a final Commission decision and that irreparable harm will occur if the requested

relief is not granted. Further, in evaluating such requests for relief, the relative hardship to the parties in granting or denying the relief must be considered.^{1/}

This Commission will not dictate who must negotiate for the Board, although it is noted that two members of the Board do not have pending conflict of interest petitions. However, the law is clear. 5.3 of the Act provides "the designated representative of the employer shall meet at reasonable times and negotiate in good faith." It is without question that it is an unfair practice to refuse to negotiate for some nine months. The most fundamental right granted by the Act is the right of a majority representative to negotiate on behalf of its membership. Here, the Board's blanket refusal to negotiate so stifles the labor relations process that the harm which flows therefrom is irreparable.

Accordingly, it is hereby ORDERED that the Board, consistent with its own concerns about any individual members conflict of interest, designate a representative to negotiate in good faith with the Delran Education Association.

BY ORDER OF THE COMMISSION


Edmund G. Gerber
Commission Designee

DATED: January 21, 1994
Trenton, New Jersey

^{1/} Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).