

I.R. NO. 94-5

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-94-103

UNION TOWNSHIP EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Union Township Education Association sought an interim restraint against the Union Township Board of Education alleging that during the course of negotiations for a successor agreement and without any discussion or negotiation, the Township adopted specific disciplinary policies concerning violations of the dress code, lateness and absence. At the time of the Application, no one had yet had any salary deducted from their pay for violation of these policies. Given the minimal impact these policies have on the negotiations, the Commission Designee held that an interim order would not be appropriate.

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Appearances:

For the Respondent  
Apruzzese, McDermott, Mastro & Murphy, attorneys.  
(James L. Plosia, Jr., of counsel)

For the Charging Party  
Balk, Oxfeld, Mandell & Cohen, attorneys  
(Gail Oxfeld, of counsel)

INTERLOCUTORY DECISION

On October 1, 1993, the Union Township Education Association filed an unfair practice charge accompanied by an Application for Interim Relief with the Public Employment Relations Commission alleging that the Union Township Board of Education committed an unfair practice within the meaning of N.J.S.A. 34:13A-5.4 et seq.; specifically, subsection 5.4 (a) (1) and (5) when during the course of negotiations for a successor agreement and without any discussion or negotiation, adopted specific disciplinary policies concerning violations of the dress code, lateness and absence. An Order to Show Cause was executed and made returnable for October 14, 1993 at which time the parties argued orally and submitted evidence and briefs.

The Association and the Board are parties to a collective negotiation agreement which expired on August 31, 1993. The parties are in negotiations for a successor agreement.

It is undisputed that the Board unilaterally implemented a dress code policy. That policy provides that for the first three violations of the dress code, conferences are to be held between the offending staff member and the appropriate administrator. For the fourth and fifth occurrence, and any occurrence thereafter, during a school year, the employee must leave the building and cannot return until their attire complies with the dress code. The Board will deduct 1/7th of the employee's pay for each period the employee is not available to work.

The Board also adopted a policy concerning staff lateness. The policy provides that when a staff member is late for a third time during one school year, the teacher will be docked for that lateness in increments of 1/7th of a day's pay for each late or missed class period. It is noted that as of the date of the hearing, no teacher has suffered a loss of pay due to the implementation of these policies. No facts in this matter are in dispute.


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.<sup>1/</sup>

Here, the Association has failed to show how any harm it might suffer is irreparable. The Association relies on those cases which hold that an employer must maintain the status quo of all terms and conditions of employment during negotiations. e.g., Tp. of Little Egg Harbor; State of New Jersey & CWA, I.R. No. 82-2, 7 NJPER 532 (¶12234 1981). Although the parties are engaged in collective negotiations, no one has yet to have any salary deducted from their pay for violating of these policies. Given the minimal impact these policies have on the overall negotiations unit, I do not believe the employers conduct impermissibly chilled negotiations to the point where the imposition of an extraordinary remedy is required.

Accordingly, the Application for Interim Relief is denied.

BY ORDER OF THE COMMISSION

  
Edmund G. Gerber  
Commission Designee

DATED: October 26, 1993  
Trenton, New Jersey

<sup>1/</sup> 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).