

D.U.P. NO. 90-14

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

In the Matter of

NEW JERSEY EDUCATION ASSOCIATION,

Respondent,

-and-

Docket No. CO-90-201

HOBOKEN TEACHERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practice refuses to issue a Complaint on allegations that the New Jersey Education Association assisted a dissent group within the Hoboken Teachers Association. The Director finds that the issue of who controls the majority representative is an internal union matter and such disputes do not violate the Act.

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Appearances:

For the Respondent  
Zazzali, Zazzali, Fagella & Nowak, attorneys  
(James R. Zazzali, of counsel)

For the Charging Party  
Vincent Germinario, President

REFUSAL TO ISSUE A COMPLAINT

On January 11, 1990, the Hoboken Teachers Association, ("Charging Party") filed an unfair practice charge with the Public Employment Relations Commission ("Commission") alleging that the New Jersey Education Association ("N.J.E.A.") violated subsection 5.4(b)(1)<sup>1/</sup> of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), when it assisted a group within the Association, known as the Executive Committee of the Hoboken Teachers Association, in asserting its claim as the Hoboken Teachers Association's officially designated governing authority.

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<sup>1/</sup> This subsection prohibits employee organizations, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act."

N.J.S.A. 34:13A-5.4(c) provides that the Commission shall have the power to prevent anyone from engaging in any unfair practice, and that it has the authority to issue a complaint stating the unfair practice charged.<sup>2/</sup> The Commission has delegated its authority to issue complaints to me and has established a standard upon which an unfair practice complaint may be issued. The standard provides that a complaint shall issue if it appears that the charging party's allegations, if true, may constitute unfair practices within the meaning of the Act.<sup>3/</sup> If this standard has not been met, I decline to issue a complaint.<sup>4/</sup>

On March 30, 1990, we wrote to the parties indicating that we were inclined to dismiss the unfair practice charge since, as a matter of law, the allegations set forth in the charge did not meet the Commission's complaint issuance standard. We provided the parties with an opportunity to respond. The Charging Party submitted a timely response.

For the reasons stated below, we find that the Commission's complaint issuance standard has not been met in this case.

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<sup>2/</sup> N.J.S.A. 34:13A-5.4(c) provides: "The Commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice...Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice charged and including a notice of hearing containing the date and place of hearing before the Commission or any designated agent thereof..."

<sup>3/</sup> N.J.A.C. 19:14-2.1.

<sup>4/</sup> N.J.A.C. 19:14-2.3

In Hoboken Bd. of Ed., P.E.R.C. No. 90-53, 16 NJPER 27 (¶21013 1989), (Hoboken I) motion for reconsideration denied, P.E.R.C. No. 90-72, 16 NJPER 140 (¶21055 1990) (Hoboken II), the Commission concluded that sufficient reasons existed for the Hoboken Board of Education ("Board") to believe that a group within the Hoboken Teachers Association called the Executive Committee of the Hoboken Teachers Association, rather than the charging party in that case, was the officially designated representative of the Association for purposes of collective negotiations.

The Charging Party here alleges that the N.J.E.A. assisted a dissident group to successfully gain control of the Hoboken Teachers Association, thereby deposing certain officers, among whom were the president, treasurer and secretary.<sup>5/</sup> Thus, the issue of the identity of individuals who control and speak on behalf of the majority representative concerns an intra-union dispute about the management of the Association.

The Commission has declined to intercede in matters involving the internal affairs of unions. In City of Jersey City, P.E.R.C. No. 83-32, 8 NJPER 563 (¶13260 1982) [app. disp. App. Div. Dkt. No. A-768-82T1 (7/22/83)], the Commission stated that "...labor organizations are essentially private associations..." and noted that the Act's conferral of unfair practice jurisdiction does not empower it to resolve intra-union disputes.

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<sup>5/</sup> It appears that the dissident group referred to in this charge is the Executive Committee of the Hoboken Teachers Association, as indicated by certain allegations and findings of fact in Hoboken I.

In Hoboken I, which involved the same contending groups within the Association as here, the Commission specifically stated:

We are reluctant to intercede in what is predominantly an intra-union dispute...We do so here only to the extent necessary to determine whether the Board violated the Act when it rescinded its ratification of the memorandum of agreement. Id. at 28.

Consequently, we find the above-captioned unfair practice charge to primarily involve the internal affairs of the Association and, accordingly, refuse to issue a Complaint. The unfair practice charge is dismissed.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: May 14, 1990  
Trenton, New Jersey