

D.U.P. NO. 81-21

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

In the Matter of

EAST ORAGNE BOARD OF
EDUCATION,

Respondent,

-and-

DOCKET NO. CI-81-68

ROSEMARY B. BITTINGS,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an individual's Unfair Practice Charge since the Charging Party did not designate the portions of the Employee-Employer Relations Act which are allegedly being violated.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on March 9, 1981, by Rosemary B. Bittings (the "Charging Party") against the East Orange Board of Education (the "Respondent") alleging that the Respondent was engaging in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act").

N.J.S.A. 34:13A-5.4(c) sets forth in pertinent part 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 charge. ^{1/} The Commission

^{1/} 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 and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof ... "

has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. This standard provides that a complaint shall issue if it appears that the allegations of the charging party, if true, may constitute an unfair practice within the meaning of the Act. ^{2/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{3/}

For the reasons stated below the undersigned has determined that the Commission's complaint issuance standards have not been met.

The Commission's rules state that an unfair practice charge shall contain inter alia:

A clear and concise statement of the facts constituting the alleged unfair practice, including, where known, the time and place of occurrence of the particular acts alleged and the names of respondent's agents or other representatives by whom committed and a statement of the portion or portions of the Act alleged to have been violated.

Accordingly, it is incumbent upon the Charging Party to allege the specific portion(s) of N.J.S.A. 34:13A-5.4(a) and/or (b), which form the basis of the alleged statutory violation. The undersigned has determined that in the absence of such allegations, a complaint may not issue. ^{5/}

^{2/} N.J.A.C. 19:14-2.1

^{3/} N.J.A.C. 19:14-2.3

^{4/} N.J.A.C. 19:14-1.3

^{5/} See In re Newark Housing Authority, D.U.P. No. 80-16, 6 NJPER 193 (¶ 11069 1980); In re Union Cty. Welfare Bd., D.U.P. No. 80-8, 5 NJPER 473 (¶ 10238 1979); and In re North Warren Reg. Bd. of Ed., D.U.P. No. 78-7, 4 NJPER 55 (¶ 4026 1977).

Subsequent to the filing of the Unfair Practice Charge, by letter dated March 19, 1981, the undersigned informed the Charging Party that the Charge could not be processed further unless it was amended, pursuant to N.J.A.C. 19:14-1.5, to include the portion(s) of the act alleged to have been violated. The undersigned has not received a reply to the March 19, 1981 letter, nor has the Charge been amended, as requested.

Accordingly, as the Charge does not contain specific portions of the Act alleged to have been violated by the Respondent the undersigned declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: May 20, 1981
Trenton, New Jersey