

D.U.P. NO. 95-25

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

In the Matter of

UNION COUNTY VOCATIONAL-TECHNICAL
BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-95-35

UNION COUNTY VOCATIONAL-TECHNICAL
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses a charge alleging that a public employer discriminated against a negotiations unit employee by denying an increment in 1994.

The Director found no facts suggesting that the employer engaged in conduct violating subsections 5.4(a)(3) and (1) of the Act.

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Appearances:

For the Respondent

Bivona Cohen Kunzman Coley Yospin Bernstein & DiFrancesco,
attorneys

(Judith Babinski, of counsel)

For the Charging Party

Balk, Oxfeld, Mandell & Cohen, attorneys

(Randi Doner, of counsel)

REFUSAL TO ISSUE COMPLAINT

On August 4, 1994, the Union County Vocational-Technical Education Association filed an unfair practice charge against the Union County Vocational-Technical Board of Education. The charge alleges that the Board discriminated against a unit employee, Rita Urbanski by removing her as a bus aide in 1993; denying her one hour off for a doctor's appointment in 1993; keeping her office at 55 degrees Fahrenheit until October 1993; reprimanding her for the removal of a fire extinguisher from her classroom in December, 1993; denying her opportunities to upgrade curriculum; denying her a requested field trip in May 1994 when other trips were permitted;

and denying her an increment for the 1993-94 school year because of her "union activity". These actions, allegedly violate 5.4(a)(3) and (1)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

On September 13, 1994, the Board filed a letter, together with supporting documents. It denies engaging in any unfair practice(s) and requests that the charge be dismissed.

On December 29, 1994, I issued a letter tentatively dismissing the charge. No responses were filed.

N.J.S.A. 34:13A-5.4(c) states that "no complaint shall issue based upon any unfair practice occurring more than six months prior to the filing of the charge unless the party aggrieved thereby was prevented from filing such charge."

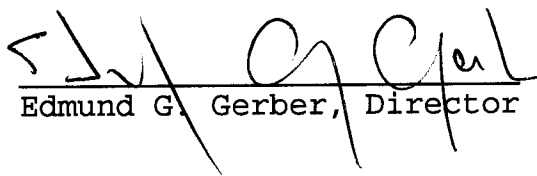
All allegations about events occurring in 1993 are dismissed because they are untimely filed.

The standard for determining whether adverse personnel actions violate subsections 5.4(a)(3) and (1) of the Act was stated in In re Bridgewater Tp., 95 N.J. 234 (1984). The Charging Party must demonstrate that activity protected by the Act was a substantial or motivating factor in the adverse action.

^{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. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act."

The Association has merely alleged that the denial of an increment was in retaliation for "union activity." No facts show that Ms. Urbanski engaged in any protected activity, that the Board knew of such activity, and was hostile to exercise of protected rights. No facts suggest that the Board unlawfully denied her permission to go on a field trip in May, 1994. Accordingly, I dismiss the entire charge.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: January 13, 1995
Trenton, New Jersey