

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

In the Matter of

EDISON BOARD OF EDUCATION,

Respondent,

-and-

DOCKET NO. CI-84-71

ALECIA MILLER,

Charging Party.

SYNOPSIS

The Commission Designee declines to issue a complaint on an unfair practice charge citing violations of subsections 5.4(a)(3) and (4) of the Act because the charging party failed to allege either: (1) a nexus between the actions complained of and the exercise of rights prohibited by the Act; or (2) discrimination in response to the signing or filing of an affidavit, petition or complaint or the giving of testimony under the Act.

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Appearances:

For the Respondent
Charles A. Boyle, Superintendent

For the Charging Party
James H. Rollyson, Esq.

REFUSAL TO ISSUE COMPLAINT

On March 27, 1984, Alecia Miller filed an Unfair Practice Charge with the Public Employment Relations Commission ("Commission") alleging that the Edison Board of Education ("Board") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relation Act, N.J.S.A. 34:13A-1 et seq. ("Act"), specifically N.J.S.A. 34:13A-5.4(a)(3) and (4). ^{1/}

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

^{1/} N.J.S.A. 34:13A-5.4(a) prohibits public employers, their representatives and agents from: "(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. (4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this Act."

stating the unfair practice charge. ^{2/} 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 allegations of the Charging Party, if true, may constitute an unfair practice within the meaning of the Act and that formal proceedings should be instituted in order to afford the parties an opportunity to litigate relevant legal and factual issues. ^{3/} The Commission's rules provide that I may decline to issue a complaint. ^{4/}

For the reasons stated below, I have concluded that the Commission's complaint issuance standard has not been met.

Concerning the 5.4(a)(3) claim, I cannot perceive any nexus between the facts alleged and the exercise of any rights protected under the New Jersey Employer-Employee Relations Act.

Similarly, concerning the 5.4(a)(4) claim, there are no allegations of discrimination against the Charging Party because she signed or filed an affidavit, petition or complaint or gave testimony under the Act.

On November 14, 1984, I advised the Charging Party that in the absence of a positional statement explaining the legal theory upon

^{2/} 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..."


^{3/} N.J.A.C. 19:14-2.1

^{4/} N.J.A.C. 19:14-2.3

which an unfair practice charge is asserted or the filing of an amended unfair practice charge, I would be constrained to decline to issue a complaint.

Accordingly, for the reasons stated above and there being no further proffers from the Charging Party, I decline to issue a complaint.

BY ORDER OF THE COMMISSION DESIGNEE


Edmund G. Gerber

DATED: January 4, 1985
Trenton, New Jersey