

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

In the Matter of

STATE OF NEW JERSEY (CIVIL
SERVICE COMMISSION),

Respondent,

-and-

DOCKET NO. CO-85-72

COUNCIL OF NEW JERSEY STATE
COLLEGE LOCALS, AFT/AFL-CIO,

Charging Party.

SYNOPSIS

The Commission Designee declines to issue a complaint on an unfair practice charge alleging that the State of New Jersey, Civil Service Commission violated subsections 5.4(a)(5) and (7) of the Act when it unilaterally created twenty-six generic job titles for positions located at the State Colleges of the Department of Higher Education. The charge further alleged that the creation of these new titles would constitute an alteration of union job titles without prior negotiations in violation of the parties' agreement. The Commission Designee reasoned that the creation of the new generic job titles was equivalent to the establishment of job descriptions and that an employer has the managerial right to take such actions.

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Appearances:

For the Respondent
Melvin E. Mounts, D.A.G.

For the Charging Party
Dwyer & Canellis
(George W. Canellis, Of Counsel)

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission on September 28, 1984, by the Council of New Jersey State College Locals, AFT/AFL-CIO ("AFT") against the State of New Jersey Civil Service Commission ("Civil Service") alleging that Civil Service had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A.34:13A-1 et seq. ("Act"), specifically N.J.S.A. 34:13A-5.4(a)(5) and (7). ^{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

^{1/} N.J.S.A. 34:13A-5.4(a) prohibits public employers, their representatives and agents from: "(5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the Commission."

any unfair practice, and that it has the authority to issue a complaint 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 determined that the Commission's complaint issuance standards have not been met.

The AFT alleged in its charge that Civil Service was about to commit an unfair practice at its next regularly scheduled meeting. Specifically, the Civil Service Commission was scheduled to approve a regulation creating twenty-six generic titles for the positions located at the State Colleges of the Department of Higher Education. The contract between the State of New Jersey and the AFT provides that the faculty will not be transferred from one job title to another

^{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

without negotiations between the union and the state. According to the AFT, the Civil Service Commission expressed its approval of the proposed regulation in its agenda wherein it was stated: "a significant factor is that -- since examinations are not required -- the title specifications can be considerably boarder with respect to functional duties and responsibilities." The AFT further alleged that this regulation would constitute an alteration of union job titles without prior negotiations between the union and the state in violation of Article XVI of the agreement. ^{5/}

The Commission has consistently held that an employer has a non-negotiable right to establish job descriptions and to require employees to perform additional duties related to their normal duties. See Willingboro Bd. of Ed. and Employees Association of Willingboro, P.E.R.C. No. 85-74, ___ NJPER ___ (¶ 1984); In re Rutgers University, P.E.R.C. No. 84-45, 9 NJPER 663 (¶ 14287 1983); In re City of Camden, P.E.R.C. No. 83-116, 9 NJPER 163 (¶ 14077 1983). In re West Deptford Bd. of Ed., P.E.R.C. No. 80-96, 6 NJPER 56 (¶ 11030 1980).

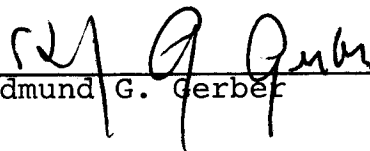
The creation of the new generic job titles by Civil Service is equivalent to the establishment of job descriptions, and an employer has the right to take such a unilateral action. Therefore, the charge does not state a factual basis for the claim that Civil Service

^{5/} In its charge the AFT alleged that irreparable harm would be suffered by its unit members if the proposed regulations were approved without prior negotiations since AFT unit members could be transferred into different job classifications which would not more accurately represent their employment responsibilities. The AFT applied for Interim Relief; however, this application was denied because the AFT failed to demonstrate that it had a substantial likelihood of success on the legal and factual allegations and that the harm alleged would be irreparable if the relief was not granted. In re State of New Jersey, I.R. No. 85-8, 10 NJPER ___ (¶ 1985).

violated 5.4(a)(5) in exercising its managerial right.

Accordingly, I decline to issue a complaint.

BY ORDER OF THE COMMISSION DESIGNEE


Edmund G. Gerber

DATED: February 27, 1985
Trenton, New Jersey