

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

In the Matter of

MAINLAND REGIONAL HIGH SCHOOL
BOARD OF EDUCATION,

Respondent,

-and-

DOCKET NO. CO-85-106

MAINLAND REGIONAL HIGH SCHOOL
ADMINISTRATORS ASSOCIATION,

Charging Party.

SYNOPSIS:

The Commission Designee declines to issue a complaint on an unfair practice charge alleging that the Mainland Board of Education violated subsections 5.4(a)(1), (3) and (5) when it failed to negotiate the impact of its decision to reassign the duties of an assistant principal on a leave of absence. The Board had the non-negotiable managerial prerogative to make such assignments and the impact of such assignments was also non-negotiable. Maywood Bd. of Ed. v. Maywood Ed. Assn., 168 N.J. Super 45 (1975).

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Appearances:

For the Respondent
Martin R. Pachman, Esq.

For the Charging Party
Philip E. Geiger, Labor Relations Consultant

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission on October 22, 1984, by the Mainland High School Administrators Association ("Association") against the Mainland Regional High School Board of Education ("Board") alleging that the Board 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)(1), (3) and (5). ^{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/} These subsections prohibits public employers, their representatives and 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 right guaranteed to them by this Act. (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."

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 Association alleges that the Board violated 5.4(a)(5) and (a)(1) derivatively when it failed to negotiate the impact of its decision to reassign the duties of the assistant principal when she was on a leave of absence. In Maywood Bd. of Ed. v. Maywood Ed. Assn., 168 N.J. Super 45 (1975), the Appellate Division held that an employer has no obligation to negotiate the impact of a decision which is made within its managerial prerogative. It is well established that boards of education have the non-negotiable managerial prerogative to assign

^{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

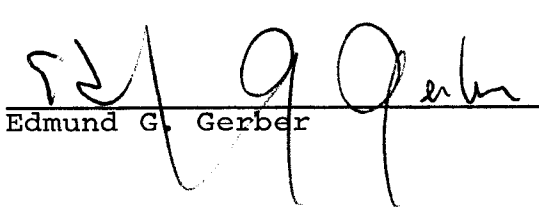
duties to their employees and therefore the impact of these assignments is also non-negotiable.

Concerning the Association's allegation that the Board discriminated against its unit members and violated 5.4(a)(3), the charge does not state a factual basis for the claim that the employees were discriminated against in retaliation for the exercise of protected activity on behalf of an employee organization, or for the exercise of any other protected activity under the Act. In the absence of such a factual basis, I am constrained from issuing a complaint on the 5.4 (a)(3) allegation.

The Association has been advised of the above deficiencies in its charge but has not provided any additional information in support of its allegations.

Accordingly, inasmuch as the Association has failed to substantiate its charge, I decline to issue a complaint.

BY ORDER OF THE COMMISSION DESIGNEE


Edmund G. Gerber

DATED: February 22, 1985
Trenton, New Jersey