

D.U.P. NO. 97-33

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

In the Matter of

OAKCREST-ABSEGAMI TEACHERS  
ASSOCIATION,

Respondent,

-and-

Docket No. CI-97-43

SPURGEON BUTLER,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge brought by Spurgeon Butler, an individual. Butler alleged that the Oakcrest-Absegami Teachers Association committed an unfair practice when it distributed a memo to its membership that was critical of Butler for his filing of an earlier unfair practice charge against the Association. However, the distribution of this memo did not constitute an unfair practice.

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Appearances:

For the Charging Party,  
Spurgeon Butler, pro se

REFUSAL TO ISSUE COMPLAINT

On December 24, 1996, Spurgeon Butler, an individual, filed an unfair practice charge against the Oakcrest-Absegami Teachers Association alleging that the Association committed an unfair practice within the meaning of N.J.S.A. 34:13A-5.4(b)(5)<sup>1/</sup> when on December 20, 1996, Association Vice-President Margaret Guenther, distributed a memo to members of the Association which was "knowingly false", was in retaliation for Butler's filing an earlier unfair practice charge against the Association president, and was in violation of both the collective negotiations agreement and a labor-management protocol. Butler attached the memo to his charge.

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<sup>1/</sup> This subsection prohibits employee organizations, their representatives or agents from: "(5) Violating any of the rules and regulations established by the commission."

The memo states:

I feel it is necessary to inform you of a situation that I and the OATA Executive Board were informed of on December 17, 1996.

Because your President, John Medica, has publicly represented and defended Absegami personnel in complaints of harassment etc. against Spurgeon Butler, Assistant Principal/Supervisor of the Special Education Department, and because John Medica, at the urging of Absegami OATA Members, wrote a letter to the Board of Education about these issues as they pertain to Mr. Butler, Spurgeon Butler has filed an Unfair Labor Practice charge with P.E.R.C. against John Medica, your President. (Is this another form of harassment or union bashing?)

I believe that the charges filed with P.E.R.C. have no merit because they are filled with half-truths and/or hearsay. The charges to P.E.R.C. take things out of context and are purposely misleading. Worst of all, one of the charges includes comments made by an OATA officer in a private conversation with an OATA member, which were "taken back" to Mr. Butler by that OATA member and used in this complaint --- again out of context!

The OATA, its officers, and the way we run our business is of NO concern to Mr. Butler or to anyone who is not a member of the OATA.

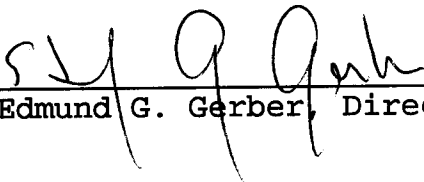
At this time of very low morale at Absegami High School, the officers of the OATA need your support! Let's support one another!!

Butler's allegations, even if true, do not constitute an unfair practice. Employee organizations, in fulfilling their obligation to represent employees, have the right to express critical opinions. Black Horse Pike Bd. of Ed., P.E.R.C. No. 82-19, 7 NJPER 502 (¶12222 1981); Middletown Tp. Bd. of Ed. and Middletown Tp. Ed. Assn., P.E.R.C. No. 96-45, 22 NJPER 31 (¶27016 1995), app. and cross-app. pending App. Div. Dkt. No. A-2999-95T1.

As is evident from the memo, Butler had previously filed an unfair practice charge against the Association after the Association represented employees who had disputes with Butler. The Association's conduct in distributing the memo is protected by the Act. Black Horse Pike Bd. of Ed.

Based upon all of the foregoing, the Commission's complaint issuance standard has not been met and I refuse to issue a complaint on the allegations of this charge.<sup>2/</sup> The charge is dismissed.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Edmund G. Gerber, Director

DATED: January 31, 1997  
Trenton, New Jersey

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<sup>2/</sup> N.J.A.C. 19:14-2.3.