

I.R. NO. 86-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
OLD BRIDGE TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-86-107

OLD BRIDGE EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

A Commission Designee of the Public Employment Relations Commission entered a temporary restraint against the Old Bridge Board of Education in a matter brought by the Old Bridge Education Association. The contract gives the Association access to mailboxes. The Board, however, prohibited the distribution of campaign literature through the mailboxes because this material might be visible to students. The order entered restrained the Board from prohibiting the use of mailboxes so long as material distributed is placed in envelopes so it could not be seen by students.

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Appearances:

For the Respondent
Wilentz, Goldman & Spitzer

For the Charging Party
Oxford, Cohen & Blunda
(Arnold S. Cohen)

INTERLOCUTORY DECISION

On October 31, 1985, the Old Bridge Education Association ("Association") filed an Unfair Practice charge with the Public Employment Relations Commission ("Commission") alleging that the Old Bridge Township Board of Education ("Board") violated Subsections 5.4(a)(1), (2), (3), (4) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:23A-1 et seq. ("Act").^{1/} The

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights (Footnote continued on next page)

argued, the Association's use of the mailboxes was not reasonable under the contract. This argument was based upon a Board policy that prohibits electioneering on school property.

The Association argued that it had a substantial likelihood of success in prevailing before the Commission on the facts it alleged above and, further, argued that the materials that were being distributed were addressed to the upcoming gubernatorial election and were time sensitive. It was argued that irreparable harm will result if Interim Relief is not granted. The election was scheduled for the following Tuesday.

It was maintained by the Board that the fliers the Association was placing into the mailboxes was election campaign material and this material was left potentially in plain view of students.

The Board's policy limiting electioneering is not part of the Collective Negotiations Agreement and, in fact, the parties contract provides, at Article 5, Paragraph B, that the Association has exclusive use of a bulletin board in each faculty lounge and the Board admits that election material may be posted on faculty bulletin boards.

When the contract here is read as a whole, there is no bar to electioneering at the school, rather the limitations under the contract requires that said electioneering take place outside the presence of students.

It is clear that the Board does not have a right to restrict the use of the mailboxes if the material so distributed is

Association alleges that the Board unilaterally altered the terms of the Collective Negotiations Contract between the parties when on or about October 29, 1985, the Board denied the Association access to its members through the school mailboxes. The agreement specifically provides at Article 5, Paragraph D that: "The Association shall have the right to reasonable use the school mailboxes."

The charge filed by the Association was accompanied by a request for an Order to Show Cause seeking the imposition of interim restraints pending the final disposition of this matter by the full Commission. The Order was signed and made returnable on Thursday, October 31, 1985 in Newark. At that time both parties were given an opportunity to proffer limited testimony, to introduce evidence and argue orally.

The Board's position at the hearing was that it did not violate the terms of the contract. The contract provision in question provides for the reasonable use of mailboxes and, it was

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guaranteed to them by this act; (2) Dominating or interfering with the formation, existence or administration of any employee organization; (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; (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."

not observable by students. Accordingly, I entered an order which restrains the Board from prohibiting the use of the teachers mailboxes so long as the material being distributed by the Association is placed in envelopes so it cannot be seen by students.



Edmund G. Gerber
Commission Designee

DATED: November 8, 1985
Trenton, New Jersey