

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

In the Matter of

MONMOUTH COUNTY BOARD OF
SOCIAL SERVICES,

Respondent,

-and-

DOCKET NO. CI-79-58

KATHERINE CAMPENELLA, et al.,

Charging Parties.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an Unfair Practice Charge asserted by several individuals alleging that the Board did not negotiate in good faith. The individuals, however, conceded that they were represented by a majority representative for negotiations purposes and were covered by collective negotiations agreements. The Director observes that these admissions indicate that the Board had engaged in negotiations with the majority representative concerning the individual's terms and conditions of employment.

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Appearances:

For the Respondent
Raymond B. DeRidder, attorney

For the Charging Parties
Dawes, Gross & Youssef, attorneys
(Joseph D. Youssef of counsel)

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on June 11, 1979 and amended on July 16, 1979 by Katherine Campenella, et al. ("Charging Parties") against the Monmouth County Board of Social Services (the "Board") alleging that the Board was engaging in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act").

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 stating the unfair practice charge. ^{1/} The Commission has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. This 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. ^{2/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{3/}

Specifically, the Charge states that as a result of the merger of the Monmouth Family Center and the Monmouth County Board of Social Services, the Charging Parties have been forced to perform duties and provide services beyond their legal authority and outside the scope of their job description. Further as a direct and proximate result of the merger, the Charging Parties are receiving less pay and fewer benefits than state employees

1/ 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 that specific unfair practice and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof ... "

2/ N.J.A.C. 19:14-2.1

3/ N.J.A.C. 19:14-2.3

who work with the Charging Parties and who perform the same functions. All of these actions by the Board are alleged to be in violation of N.J.S.A. 34:13A-5.4(a)(5). ^{4/}

For the reasons stated below the undersigned has determined that the Commission's complaint issuance standards have not been met.

The Charge does not allege that the Board has refused to negotiate with the majority representative of these employees concerning their salaries, fringe benefits and workload, ^{5/} or their disparate treatment in relation to the state employees who work with the Charging Parties and perform the same functions. Moreover, collective negotiations agreements between the Monmouth County Welfare Board and the Communications Workers of America, AFL-CIO ^{6/} for the years 1977-78 and 1979-81, were submitted

^{4/} This subsection prohibits 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." (emphasis added)

^{5/} Fringe benefits, salaries and workload are mandatory subjects for collective negotiations. In re Piscataway Bd. of Ed., P.E.R.C. No. 91, 1 NJPER 49 (1975); In re College of Med. & Dent., P.E.R.C. No. 77-35, 3 NJPER 70 (1977); In re Byram Bd. of Ed., P.E.R.C. No. 76-27, 2 NJPER 143 (1976). However, reorganization of the Board's internal structure and changes in the assignments of duties are managerial prerogatives beyond the scope of mandatory negotiations. In re City of Trenton, P.E.R.C. No. 76-10, 1 NJPER 58 (1975)

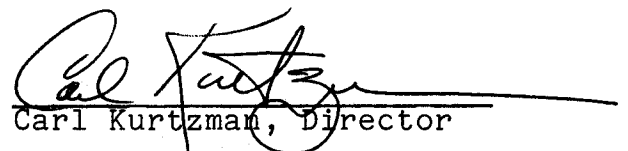
^{6/} Under the recognition clauses of these agreements, CWA is the representative of all employees employed by the Board, excluding managerial executives and supervisors within the meaning of the Act.

along with the Charge. These contracts, which the Charging Parties agree cover them, contain provisions relating to the salaries, fringe benefits and workload of the Board's employees, and clearly confirm that the Board has negotiated with the majority representative of its employees. Thus, Charging Parties, in effect, admit that the Board has complied with its obligations under § 5.4(a)(5) to negotiate with the majority representative over the above cited terms and conditions of employment. Accordingly, the allegations of the Charge, if true, could not logically constitute a violation of § 5.4(a)(5).

Subsequent to the filing of the instant Unfair Practice Charge, by letter dated January 30, 1980, the undersigned informed the Charging Parties that the Charge, as currently stated, could not be processed further since it appeared to the undersigned that the allegations of the Charge, if true, would not constitute a violation of § 5.4(a)(5). The undersigned, therefore, provided the Charging Parties an additional opportunity to amend the Charge to allege facts which may constitute a violation of the Act. The undersigned has not received a reply to the January 30, 1980 letter, nor has the Charge been amended as requested.

Accordingly, as the Charging Party has not amended the Charge to allege facts which may constitute a violation of the Act, the undersigned declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: March 17, 1980
Trenton, New Jersey