

D.U.P. NO. 2004-1

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

In the Matter of

COUNTY OF ATLANTIC,

Respondent,

-and-

Docket No. CO-2003-184

CWA LOCAL 1040

Charging Party.

**SYNOPSIS**

The Director of Unfair Practices dismisses an unfair practice charge filed by CWA Local 1040 against Atlantic County, alleging the County unilaterally changed a term or condition of employment without negotiations when it implemented time clocks for some of Local 1040's unit members. The Director finds that employers have a managerial prerogative to implement timekeeping procedures and therefore, the County was not required to negotiate over the institution of time clocks.

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Appearances:

For the Respondent:

James Ferguson, Acting County Counsel

For the Charging Party:

Carolyn C. Wade, Local 1040 President

**REFUSAL TO ISSUE COMPLAINT**

On January 23, 2003, CWA Local 1040 (CWA) filed an unfair practice charge against the County of Atlantic (County), alleging that the County violated 5.4a(5)<sup>1/</sup> of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq, when it installed time clocks at certain work locations and began requiring employees to punch in and out at the start and end of

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<sup>1/</sup> This provision prohibits public employers, their representatives or 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."

each work period. Local 1040 asserts that the County failed to notify it of the implementation of time clocks, failed to articulate a business reason for directing employees to use the clocks, and refused to negotiate with Local 1040 over the new time clock requirement.

The County denies that it violated the Act. It claims it had the managerial prerogative to implement the use of time clocks and cites several cases in support of its position.

The Commission has authority to issue a complaint where it appears that the Charging Party's allegations, if true, may constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the complaint issuance standard has not been met, I may decline to issue a complaint. N.J.A.C. 19:14-2.3. I find the following facts.

By memorandum to employees dated January 2, 2003, the County implemented the use of time clocks at certain work locations in Northfield, specifically, at the Shoreview Building, Meadowview Nursing Home and the Transportation Units, effective January 12, 2003.<sup>2/</sup> The new procedure requires employees to use a time clock to record the start and end of their shifts and lunch periods.

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<sup>2/</sup> The charge inaccurately refers to notice to the employees as being sent January 2, 2002. For purposes of this decision, we have assumed the timeliness of the charge.

According to the County, time clocks were instituted in response to recommendations from the federal Department of Labor who had investigated alleged violations under the Fair Labor Standards Act (FLSA). The County was advised to strengthen its procedures regarding accurate time reporting to ensure compliance with the FLSA.

### **ANALYSIS**

The Courts and Commission have consistently held that a public employer has a managerial prerogative to implement time keeping procedures, including time clocks, to monitor employee work time. Galloway Tp. Bd. of Ed. v. Galloway Tp. Ed. Ass'n, 135 N.J. Super 269, 1 NJPER 33 (Chan. Div. 1975), aff'd 142 N.J. Super 44 (App. Div. 1976); South Hackensack Bd. Of Ed., P.E.R.C. No. 98-70, 23 NJPER 14 (¶20990 1997); State Operated School District of the City of Paterson, P.E.R.C. No. 97-107, 23 NJPER 202 (¶28097 1997); Borough of Butler, P.E.R.C. No. 94-51, 19 NJPER 587 (¶24281 1993); Bayonne Bd. of Ed., P.E.R.C. No. 88-132, 14 NJPER 429 (¶19174 1988); Bergen Cty. Utilities Auth., H.E. No. 84-22, 9 NJPER 640 (14274 1983), aff'd P.E.R.C. No. 84-52, 9 NJPER 678 (¶14296 1983); Tp. of Pennsauken, P.E.R.C. No. 80-51, 5 NJPER 486 (¶10248 1979).

Accordingly, I find that the County has acted within its managerial prerogative in implementing the use of time clocks for its employees. The County has no obligation to negotiate with

Local 1040 regarding the institution of these time clocks. North Bergen Bd. of Ed., P.E.R.C. No. 92-5, 17 NJPER 378 (¶22177 1991).

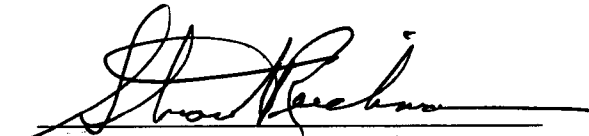
Also, nothing in the Act requires a public employer to notify the majority representative before implementing a managerial policy.<sup>3/</sup> Neither is the County required to demonstrate a legitimate business justification before revising its timekeeping procedures.

Based upon the foregoing, I find that the allegations of the charge do not meet the Commission's Complaint issuance standard, and I decline to issue a Complaint.<sup>4/</sup>

**ORDER**

The unfair practice charge is dismissed.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Stuart Reichman, Director

DATED: July 24, 2003  
Trenton, New Jersey

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<sup>3/</sup> Whether the employer is contractually obligated to notify the union is not an issue before us.

<sup>4/</sup> N.J.A.C. 19:14-2.3