

D.U.P. NO. 80-23

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

In the Matter of

HIGH POINT REGIONAL HIGH SCHOOL
BOARD OF EDUCATION,

Respondent,

-and-

DOCKET NO. CO-80-227

HIGH POINT EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an Unfair Practice Charge alleging that the employer violated the Commission's rules. The Charging Party did not designate which rule was violated by the employer; nor, under the circumstances alleged, could the Director ascertain which rule may have been violated.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on January 31, 1980 by the High Point Education Association (the "Charging Party") against the High Point Regional High School Board of Education (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"), sepcifically, N.J.S.A. 34:13A-5.4(a)(7). ^{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 any unfair practice, and that it has the authority

^{1/} This subsection prohibits employers, their representatives or agents from: "(7) Violating any of the rules and regulations established by the commission."

to issue a complaint stating the unfair practice charge. ^{2/} 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. ^{3/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{4/}

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

The Charge alleges that the school psychologist should have been offered the same percentage salary increase as other school administrators for 1979-1980 and 1980-1981. The Charge, however, also acknowledges that a collective negotiations agreement has already been negotiated with the Charging Party. It is not alleged that the salary offer violates the contract. Rather, it is alleged that the above treatment of the school psychologist

^{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 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

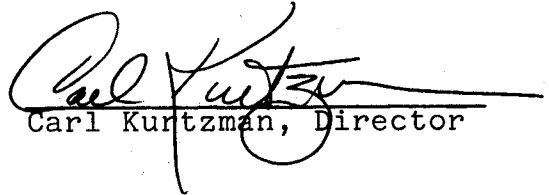
^{4/} N.J.A.C. 19:14-2.3

violates the rules of the Commission.

Charging Party has not cited the Commission rule which it claims has been violated. The Commission has stated that unless a Charging Party claiming a violation of § (a)(7) specifies the rule alleged to have been violated, a complaint may not issue. See In re Madison Tp. Bd. of Ed., E. D. No. 76-8 (1975). Further, the undersigned cannot ascertain which rule may have been violated given the factual pattern described above.

Accordingly, for the above reasons, the undersigned declines to issue a complaint herein.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: April 9, 1980
Trenton, New Jersey