

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

LAKE FOREST EDUCATION ASSOCIATION :
R.D. #3, Box 830A :
Felton, DE. 19943, :

and :

LYNDA RAE GANNON :
P.O. Box D :
Felton, DE. 19943, :
Charging Parties, :

U.L.P. No. 86-02-007

v. :

SARA WILLIAMS, a member of the :
Board of Education of the Lake :
Forest School District, :
R.D. #1, Box 46 :
Felton, DE. 19943 :

Respondent. :

An unfair labor practice charge was filed on February 24, 1986, by the Lake Forest Education Association, hereinafter Association or Charging Party, and Lynda Rae Gannon, hereinafter Charging Party Gannon, a teacher in the Lake Forest School District, against Sara Williams, a member of the Board of Education of the Lake Forest School District, hereinafter Respondent Williams. The charge alleged that Respondent Williams and Roger Williams, as her agent, wrongfully conducted themselves in such a manner as to interfere with, restrain or coerce Charging Party Gannon in violation of section 4007(a)(1) of the Public School Employment Relations Act. The alleged wrongful conduct included distributing copies of a grievance filed by Charging

Party Gannon in the local grocery store and five and dime, as well as to several newspapers and also placing copies in mailboxes and newspaper boxes within the District. Respondent Williams requested and was granted an extension of time in which to file her answer, which she did on her own behalf, on March 13, 1986. Neither the Association nor Charging Party Gannon elected to file a Response. On March 24, 1986, a Motion to Dismiss was filed on behalf of the Respondent on the grounds that the Public Employment Relations Board lacks jurisdiction and that the complaint fails to state a claim upon which relief can be granted. On March 26, 1986, the Executive Director of the Public Employment Relations Board requested each party to submit a written statement setting forth the basis for its position concerning the question of jurisdiction. Each party complied with this request.

POSITIONS OF THE PARTIES

CHARGING PARTIES:

Charging parties maintain that the jurisdictional question depends upon whether or not Ms. Williams was a "designated representative" of the public school employer pursuant to 14 Del.C. section 4007(a), as alleged. In support of jurisdiction it is argued that it is not possible for a school board member to be other than a 'designated representative' while he or she remains a member of the school board. Accordingly, membership alone automatically confers upon individual school board members the status of designated

representative for all school related activity in which they choose to participate.

RESPONDENT:

In support of her position that the Public Employment Relations Board lacks jurisdiction in this matter, Respondent Williams argues that:

1. At the time the unfair labor practice charge was filed, she was no longer a member of the school Board; and
2. The allegations of the complaint, even if true, can hardly be said to have been done under the direction of the public school employer or as its designated representative.

ISSUE

Whether or not the actions attributed in the complaint to Respondent Williams, if true, were undertaken by her as a designated representative of the public school employer, as required by section 4007(a) of the Act?

OPINION

The fact that Respondent Williams was not a member of the Lake Forest School District Board of Education on February 24, 1986, (the date on which the unfair labor practice was filed) is irrelevant to

the question of the Public Employment Relations Board's jurisdiction to rule in this matter. Membership during the time period in which the complained of actions are alleged to have occurred is controlling.

The dispositive question concerning jurisdiction is whether or not Respondent Williams can be considered to have acted, if at all, as a designated representative of the public school employer. To answer this question, we refer to section 4007(a) of the Act, which states:

It is an unfair labor practice for a public school employer or its designated representative to do any of the following...

Not every person or entity has the statutory capacity to commit an unfair labor practice. Section 4007(a) expressly and specifically limits such capacity to public employers or their designated representatives. While 14 Del.C. section 4002(m) defines the term public employer, there is no definition in the Act of the term "designated representative". A representative is one that represents or stands in the place of another. Websters New Collegiate Dictionary. It strains credulity to believe that the activities alleged in the complaint, even if true, were undertaken by Respondent Williams on behalf of the board of education. More importantly, there is no allegation by the Charging Parties that the school board either designated or authorized Respondent Williams to act on its behalf in so far as the allegations contained in the complaint are concerned. To the contrary, Charging Parties' only argument is that Respondent Williams necessarily acted as a designated representative

of the public school employer simply because she was a member of the school board during the relevant period of time. This position fails to recognize that individual school board members can and do periodically participate in school related matters without either the prior knowledge or authorization of the board and without the power to bind it.

The record in this matter provides no basis for determining that the actions attributed to Respondent Williams, even if true, were other than those of an individual board member and not of a designated representative of the public school employer.

As a matter of law, school board membership alone is not sufficient to automatically confer upon individual school board members the status of designated representative for every school related activity in which they choose to participate.

CONCLUSIONS OF LAW

1. The Lake Forest Education Association (DSEA, NEA) is an Employee Organization within the meaning of section 4002(g) of the Act.
2. The Lake Forest Education Association is the exclusive bargaining representative of the school district's certificated professional employees within the meaning of section 4002(j) of the Act.
3. Respondent Williams is not a designated representative of the Lake Forest Board of Education within the meaning of section 4007

(a) of the Act.

4. For the reasons stated above, the complaint is dismissed for lack of jurisdiction.

Charles D. Long, Jr.

CHARLES D. LONG, JR.
Executive Director
Delaware Public Employment Relations Bd.

Deborah L. Murray-Sheppard

DEBORAH L. MURRAY-SHEPPARD
Principal Assistant
Delaware Public Employment Relations Bd.

DATED: May 12, 1986