

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,)

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

Charging Parties,)

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.)

REVIEW OF THE DECISION OF THE EXECUTIVE DIRECTOR

On February 24, 1986, the Lake Forest Educational Association ("Association") and Lynda Rae Gannon ("Gannon"), the Charging Parties herein, filed a petition before the Public Employment Relations Board ("Board") alleging that the Respondent, Sara Williams, as a representative of the Board of Education of the Lake Forest School District ("District"), had committed an unfair labor practice within the meaning of §4007(a)(1) of the Public Employment Relations Act 14 Del. C. §4001, et seq. ("Act"). More specifically, the Charging Parties complained that the Respondent, in her capacity as a member of the Board, had acquired a copy of a grievance filed by Charging Party Gannon and had disseminated the same in an attempt to interfere with their right "to file and pursue a grievance, a concerted activity... and constituted a violation of 14

Del. C. §4007(a)(1)". The Respondent denied the allegations of the petition and subsequently, thru her attorney, moved to dismiss the Charging Parties' petition on March 24, 1986, alleging that the Board was without jurisdiction to hear the same and because it failed to state a claim upon which relief could be granted under the Act.

The Executive Director asked for and received statement from the parties relative to the Board's jurisdiction to hear the petition. On May 12, 1986, based upon the record then before him, the Executive Director held that the Respondent's actions, even if proven, did not constitute actions of a designated representative of a public school employee. (See page 5 of the decision of the Executive Director herein dated May 12, 1986) He went on to conclude as a matter of law that the Board lacked jurisdiction over the charge and dismissed the complaint as a result. (See pages 4 - 6 of the decision)

In relevant part, §4007(a)(1) states that:

...it shall be an unfair labor practice for a public school employer or its designated representative to do any of the following:

(1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter....

The Charging Parties have alleged that the Respondent, in her capacity as a member of the Board, engaged in conduct prohibited by the statute. That is a controversy which is within the jurisdiction of the Board to decide. Jurisdiction may be defined as the authority of a decision-making entity to decide a particular case. State v. True, Me. Supr., 330 A.2d 787 (1975); and Black's Law Dictionary 991 (Rev. 4th Ed. 1968). Stated differently, jurisdiction is concerned not with the right of a plaintiff to recover on his cause of action, but only with his right to have his cause of action heard and determined. Martino v. Transportation Workers Union, Pa. Super., 447 A.2d 292 (1982). While it

is true that as the Executive Director intimated at pages 4 - 5 of the decision, the petition does not specifically allege a principal/agent relationship existed, or that her actions were later ratified and/or condoned by the School Board, it does allege that she acted in her capacity as a member of the School Board. It is therefore implicit that she was either acting as a public school employer or its designated representative. This is not to say that the allegations are anything more than that. Such a determination would amount to a decision on the merits.

Rule 5.1(a) of the Rules and Regulations of the Public Employment Relations Board states:

...The Board recognizes that the primary purpose of pleadings is the formation of issues. Consequently, all rules pertaining to pleadings will be liberally construed toward effecting that end....

The initial pleadings and statements of position by the parties have crystalized the issues to be resolved, both as to matters of fact and law. At this stage of the proceedings that is enough.

The decision below represents a decision on the merits, not one concerning the Board's authority to hear the charge as postulated. Assumptions were made on the basis that the Board lacked jurisdiction without the benefit of a complete record. It may be that after the parties have had an opportunity to more fully develop the facts, the charge will be dismissed for the reasons stated in the decision of the Executive Director. However, it should not have been tied to a lack of authority to hear the claim, or done on the record as it presently exists.

The charge is remanded to the Executive Director to take whatever steps are necessary to develop a record from which it can be determined whether an unfair labor practice was committed.

PUBLIC EMPLOYMENT RELATIONS
BOARD

BY: *Arthur Van Wart*
ARTHUR VAN WART
Chairman

Charles H. Toliver, IV
CHARLES H. TOLIVER, IV
Member

Dated: May 30, 1986