



3. The grievance was processed through the contractual procedure to arbitration before an arbitrator selected by the parties. On March 23, 1994, the arbitrator issued a decision supporting the District's action and denying the grievance. (Charge, ¶ 5).
4. On May 3, 1994, District Superintendent Joseph L. Crossen, sent a letter to all faculty members advising them of the outcome of the arbitration award and quoting portions regarding the alleged misconduct. (Charge, ¶ 7)
5. The Association maintains that by publishing the letter (Attachment B), the District "interfered with, restrained and coerced its employees in or because of their rights to grieve through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection", in violation of 14 Del.C. §4007(a)(1).

In its Answer, the District maintains that:

1. The misconduct of the grievant was established by the evidence at the arbitration hearing and is, therefore, not merely alleged as the Association maintains. (Answer ¶ 3).
2. The disputed letter was sent by the Superintendent to all faculty members. (Answer ¶ 7)
3. The letter was issued only after the arbitrator's decision was issued in an attempt to advise the faculty of the established facts surrounding the discipline.
4. The District asserts that the Petitioner's charge must be dismissed as failing to state a claim under the Act.

Because the District alleges no New Matter in its Answer, there is no basis for a Reply from the Association.

### OPINION

The demonstrations by the teachers, as evidenced by the media coverage (Exhibit A of the Complaint) and the student publication (Exhibit A of the Answer) evidence a belief by the faculty that the suspended teacher had been treated unfairly by the administration.

The Complaint contains no allegation that the content of the letter of May 3, 1994, from Superintendent Crossen is presented out of context or contains misrepresentations of fact to the detriment of the Association, the rights of the bargaining unit members or the bargaining relationship, generally.

The District's Response to the Complaint asserts the purpose of the Superintendent in sending the letter of May 3, 1994, was to advise the faculty of the facts, as determined by the arbitrator, and to advise the teachers of the District's position. In this regard, the letter speaks for itself.

To conclude that the pleadings establish reasonable or probable cause to believe that the unfair labor charge alleged has occurred would require a determination that the District is precluded from communicating directly with its organized employees concerning matters of mutual concern which also touch upon the collective bargaining relationship or that such communications are inherently suspect.

The pleadings do not warrant nor does the statute require such a broad and sweeping pronouncement.

### DECISION

Based upon the foregoing discussion, the District's request for dismissal of the charge for failure to state a claim under the Act is granted.

Dated: August 29, 1994

/s/ Charles D. Long, Jr.  
Executive Director, PERB