COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

CONRAD J. ZENO	:	
	:	
v.	:	
	:	Case No. PERA-C-99-153-W
NORTH ALLEGHENY SCHOOL BUS	:	
DRIVERS ASSOCIATION	:	

FINAL ORDER

On April 6, 1999, a charge of unfair practices was filed by Conrad J. Zeno (Complainant) against the North Allegheny School Bus Drivers Association (Association) in which it was alleged that the Association violated Section 1201(b)(3) of the Public Employe Relations Act (Act). In support of the charge Complainant alleged that on April 21, 1998, he was issued a traffic citation while operating a school bus for the North Allegheny School District. After issuance of the citation Complainant alleged that an arrangement was made between Complainant and the Association for the Association to bear certain costs associated with Complainant's challenge to the citation. Complainant essentially claims the unfair practice arose when the Association allegedly failed to comply with the arrangement for legal costs associated with defending the citation.

Following review of the charge of unfair practices the Secretary determined on May 18, 1999, that a complaint would not issue. The Secretary determined that under Ziccardi v. Commonwealth of Pennsylvania, Department of General Services, et al., 500 Pa. 326, 456 A.2d 979 (1982) Complainant did not state a cause of action in the nature of unfair practices which would fall within the jurisdiction of the Pennsylvania Labor Relations Board (Board). The Secretary further determined that the Complainant did not set forth facts occurring within four months of the filing of the charge and therefore the charge of unfair practices was untimely filed.

Thereafter, Complainant filed timely exceptions to the Secretary's determination not to issue a complaint. On May 27, 1999, the Association filed a response to the exceptions urging the Board to affirm the Secretary's determination that a complaint should not issue.

After review of the exceptions and supporting documentation the Board shall affirm the decision of the Secretary declining to issue a complaint. Initially, for purposes of issuance of a complaint, the factual allegations in the charge of unfair practices are accepted as accurate. PSSU Local 668 v. PLRB, 481 Pa. 81, 392 A.2d 256 (1978). The Board's review of this charge of unfair practices as amended in the exceptions discloses three reasons why a complaint cannot issue.

First, the Secretary properly determined that the allegations set forth in the charge as amended in the exceptions do not state a cause of action before the Board under the rule of Ziccardi. In Ziccardi the Supreme Court determined that claims arising out of contracts between employes and unions which represent employes in bargaining units are contractual in nature and actionable in a court of appropriate jurisdiction under the contract and not through the filing of unfair practice charges which address statutory issues.

Second, Complainant's charge of unfair practices alleges violation of Section 1201(b)(3) of the Act which provides that it is an unfair practice for a collective bargaining representative to refuse to bargain with the public employer of public employes in an appropriate unit. Accordingly, standing to raise violation of Section 1201 resides in the

public employer, the entity to whom the obligation is owed, and not to individual public employes who may be members of a collective bargaining unit. Accordingly, Complainant lacks standing to bring charges against the Association under Section 1201(b)(3). PLRB v. AFSCME, 9 PPER ¶ 9088 (Final Order, 1978).

Third, Complainant has not set forth allegations of fact which would support the timeliness of the charge of unfair practices. The charge was filed April 6, 1999. Under Section 1505 of the Act, charges of unfair practices must be filed within four months of their alleged occurrence. Attached to the exceptions was a letter from an attorney from the law firm which represented the Association and was contracted to represent Complainant in contesting the citation in which the events which give rise to the charge of unfair practices are summarized. This letter references a series of events between May-June, 1998. Review of the charge of unfair practices and the exceptions and supporting documentation discloses no events which would have occurred within four months of the filing of the charge of unfair practices on April 6, 1999. Accordingly, assuming the accuracy of Complainant's submissions under PSSU, supra, we must find the Secretary's determination that the charge of unfair practices is untimely filed was correct.

After a thorough review of the charge of unfair practices as supported in the exceptions and supporting documentation and all matters of record, the Board shall affirm the decision of the Secretary dismissing the charge of unfair practices.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions be and the same are dismissed and the Secretary's decision not to issue a complaint be and the same is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania, pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, John Markle Jr., Chairman, and Members L. Dennis Martire and Edward G. Feehan, this twenty-seventh day of July, 1999. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.