

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

JEAN CAMPBELL :
 :
 v. : Case No. PERA-C-01-373-W
 :
 AMBRIDGE AREA SHOOOL DISTRICT :

FINAL ORDER

On August 13, 2001, Jean Campbell (Complainant) filed a Charge of Unfair Practices with the Pennsylvania Labor Relations Board (Board). She alleged that she was a school nurse for twenty-five years with the Ambridge Area School District (Respondent). She alleged that her bid for a job as a guidance counselor was accepted, but then eight months later she was improperly replaced in May 2000. Complainant filed a grievance over her dismissal, but was not permitted to have the arbitration proceedings transcribed. The grievance and arbitration proceedings lasted through May 2001, and she alleges that throughout the proceedings the Respondent presented false testimony and evidence.¹

By letter dated November 5, 2001, the Secretary of the Board advised Complainant that no complaint would be issued on the charge. The Secretary noted that although Complainant failed to identify the subsection or clauses of the Public Employe Relations Act (PERA) allegedly violated, her Specification of Charges alleged facts which do not support a cause of action under PERA. Furthermore, the Secretary found that the charge was untimely, since there were no facts alleged to show that the charge was filed within four months of the act or occurrence alleged to constitute an unfair labor practice.

On November 26, 2001, Complainant filed with the Board a timely letter purporting to be a "formal exception" to the Secretary's decision declining to issue a complaint. The Complainant also requested an extension of time to file a brief in support of the exceptions. The Secretary granted Complainant's request for an extension of time, making Complainant's brief due December 26, 2001, however, no brief was filed.

Initially, we note that under Section 95.98 of the Board's Rules and Regulations a party filing exceptions must

- i) State the specific issues of procedure, fact or law, or other portion of the proposed decision to which each exception is taken.

* * *

- iv) State the grounds for each exception.

¹ Complainant filed a federal lawsuit regarding this matter in February 2001.

34 Pa. Code §95.98(a)(1). Generally, however, the Board will consider exceptions that do not conform to the Board's regulations if they are stated with sufficient specificity to permit meaningful review. AFSCME, Local 159, AFL-CIO v. City of Philadelphia, 20 PPER ¶20114 (Final Order, 1989). Exceptions not raised with sufficient specificity are waived. 34 Pa. Code §95.98(a)(3); Fraternal Order of Police, Conference of Pennsylvania Liquor Control Board Lodges v. Commonwealth of Pennsylvania, Pennsylvania State Police, 28 PPER ¶28203 (Final Order, 1997).

Complainant's November 26, 2001 letter of exception states, in relevant part:

Pursuant to our discussion on November 26, 2001, please accept this correspondence as formal exceptions to the PA Labor Relations Board's decision on November 5, 2001 to not issue a complaint on the above-captioned matter.

Specifically, this formal exception applies exclusively to the complaint against the Ambridge Area School District at PERA-C-010373-W (sic).

I am also requesting an extension of time for filing a brief in support of the exception. The forthcoming brief will outline more specifically the exact subsection(s) and clause(s) of Section 1201 of the Public Employee (sic) Relations Act (Act) believed to be violated.

This letter fails to identify with any specificity any exceptions to the Secretary's decision declining to issue a complaint. Accordingly, all exceptions have been waived, 34 Pa. Code 95.98(a)(3), and the Complainant's November 26, 2001 letter of exception is dismissed.

Moreover, the Secretary did not err in refusing to issue a complaint on the charge as filed. The Board has held that the failure to identify the subsection or clauses allegedly violated does not provide the required notice of the conduct alleged to constitute the unfair labor practice. Absent a timely amendment of the charge to identify the subsection and clauses of the act violated, dismissal of the charge is appropriate. West Whiteland Township Police Association v. West Whiteland Township, 32 PPER ¶32127 (Final Order, 2001). In the November 5, 2001 dismissal of the charge, the Secretary expressly advised the Complainant that any exceptions must specify the subsection and clause(s) allegedly violated. However, in the exceptions, the Complainant did not specify the subsection or clauses allegedly violated by Respondent. Because the Complainant here has failed to allege any subsection or clause of PERA alleged to have been violated, the Secretary's dismissal of the charge was not in error.

After a thorough review of the exceptions and all matters of record, the Board concludes that all exceptions have been waived. Accordingly, the Complainant's letter of exception of November 26, 2001 is dismissed, and the Secretary's decision declining to issue a complaint is sustained.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the exceptions are dismissed, and the Secretary's decision declining to issue a complaint is made absolute and final.

SEALED, DATED and MAILED pursuant to conference call meeting of the Pennsylvania Labor Relations Board, John Markle Jr., Chairman, L. Dennis Martire, Member, and Edward G. Feehan, Member, this sixteenth day of January, 2002. 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.