COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

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| COLLIER TOWNSHIP | : | |
| | : | |
| v. | : | Case No. PERA-C-10-187-W |
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| TEAMSTERS LOCAL 249 | : | |

**FINAL ORDER**

Collier Township (Township) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on June 25, 2010. The Township's exceptions challenge a June 7, 2010 decision of the Secretary of the Board declining to issue a complaint and dismissing the Township's Charge of Unfair Practices filed against Teamsters Local 249 (Union).

The Township alleged in its Charge that the Union refused to provide medical questionnaires that the Township had requested be completed by the bargaining unit members as part of negotiations for a successor collective bargaining agreement. The Township asserted that the Union's refusal to provide the requested information was a violation of its duty to bargain under Section 1201(b)(3) of the Public Employe Relations Act (PERA). The Secretary declined to issue a complaint and dismissed the Charge, stating that the Township failed to state a cause of action under Section 1201(b)(3) because there was no indication that the requested information was readily available to the Union.

In determining whether to issue a complaint, the Board assumes that all facts alleged are true. Issuance of a complaint on a charge of unfair practices is not a matter of right, but is within the sound discretion of the Board. Pennsylvania Social Services Union, Local 668 v. PLRB, 481 Pa. 81, 392 A.2d 256 (1978). A complaint will not be issued if the facts alleged in the charge could not support a cause of action for an unfair practice as defined by PERA. Homer Center Education Association v. Homer Center School District, 30 PPER ¶ 30024 (Final Order, 1998).

In its exceptions, the Township alleges that the requested information is readily available to the Union and is necessary for the Township's formulation of a counterproposal regarding health insurance. An employer or an employe bargaining representative violates its duty to bargain in good faith by refusing to provide information that is relevant to its bargaining counterpart's formulation of a collective bargaining proposal, where the information is readily available to the party from whom it is requested. See Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania Department of Corrections, 34 PPER 52 (Final Order, 2003); PSSU Local #668 SEIU AFL-CIO v. Chester County Court of Common Pleas, 33 PPER ¶ 33159 (Proposed Decision and Order, 2002). Although an employer or employe bargaining representative is obligated to reduce the requested information to writing in order to satisfy its bargaining obligation, Commonwealth of Pennsylvania v. PLRB, 527 A.2d 1097 (Pa. Cmwlth. 1987), a party will not violate its duty to bargain if the requested information does not exist in any form. See Department of Corrections, supra (citing PLRB v. Commonwealth of Pennsylvania, 9 PPER ¶ 9267 (Nisi Decision and Order, 1978), 10 PPER ¶ 10120 (Final Order, 1979)).

A review of the allegations in the Township's Charge reveals no claim that the medical information requested by the Township is in the Union's possession in any form. Further, only the bargaining unit members may provide answers to the questions on the medical questionnaire and they are not obligated to provide this information to the Union. Therefore, the Township has failed to allege sufficient facts to demonstrate that the requested information is readily available to the Union or that the Union possesses this information in any form. Commonwealth of Pennsylvania, supra; Department of Corrections, supra. Accordingly, the Secretary did not err in declining to issue a complaint and dismissing the Charge.

After a thorough review of the exceptions, brief and all matters of record, the Board shall dismiss the exceptions and affirm the Secretary's decision declining to issue a complaint.

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 filed by Collier Township are dismissed and the Secretary's June 7, 2010 decision not to issue a complaint be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Anne E. Covey, Member and James M. Darby, Member, this seventeenth day of August, 2010. 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.