VERMONT LABOR RELATIONS BOARD

TERRENCE SANVILLE	)	
	)	
v.	)	
	)	DOCKET NO. 03-32
STATE OF VERMONT	)	
DEPARTMENT OF CORRECTIONS	)	

MEMORANDUM AND ORDER

The issue before the Labor Relations Board is whether to issue an unfair labor practice complaint. On July 14, 2003, Terrence Sanville, a correctional officer with the State of Vermont Department of Corrections ("Employer"), filed an unfair labor practice charge with the Labor Relations Board. Sanville contends that the Employer committed an unfair labor practice in violation of Section 961(1) and (4) of the State Employees Labor Relations Act, 3 V.S.A. §901 *et seq.*, by denying him leave to attend meetings of the Vermont State Employees' Association ("VSEA") Communications Committee of which he is a member. Sanville contends that his right to engage in union activities was interfered with, and that he was discriminated against for filing complaints.

In response to the unfair labor practice charge, the Employer contends among other things that the issue before the Board is an issue of contract interpretation that should have been brought as a grievance, not an unfair labor practice charge. Time off for employees to participate in VSEA activities is covered at length in Article 3 of the collective bargaining agreement between the State and the VSEA for the Corrections Unit. Article 3, Section 3, entitled "VSEA TIME OFF", provides that "(s)ubject to the efficient conduct of State business, which shall prevail in any instance of conflict, permission for reasonable time off during normal working hours without loss of pay and without charge to accrued benefits shall not be unreasonably upheld." Included among

the provisions listing VSEA meetings for which "time off shall be granted" is that "(m)embers of VSEA standing committees will be permitted to attend ten meetings per year".

Sanville contends that his rights are being interfered with, and he is being discriminated against, because as a third shift employee he is receiving less leave time than first shift employees due to VSEA meetings occurring during first shift and not being held during third shift. He further contends that he is being discriminated against in the allocation of leave for VSEA activities because leave is largely determined based on seniority. This contention is apparently based on there being more senior employees on first and second shifts, thus resulting in more senior employees receiving more time off for VSEA activities.

The Board has discretion whether to issue an unfair labor complaint and hold a hearing on an unfair labor practice charge. 3 V.S.A. §965(a). In exercising its discretion, the Board will not issue a complaint unless the charging party sets forth sufficient factual allegations for the Board to conclude that the charged party may have committed an unfair labor practice. Burke Board of School Directors v. Caledonia North Education Association, 17 VLRB 187 (1994).

We exercise our discretion in this case to decline to issue an unfair labor practice complaint. It is clear that what is involved here is an employee's dissatisfaction with the negotiated provisions of the collective bargaining agreement concerning time off work due to VSEA activities and how those provisions are being interpreted. This dissatisfaction does not translate into a valid unfair labor practice charge against the Employer. If an employee believes contract provisions are being interpreted incorrectly,

the remedy is to file a grievance through the contract's grievance procedure. If an employee believes the provisions as negotiated are unfair, the recourse is to attempt through the VSEA to have the provisions changed through negotiations. An employee does not have a remedy through invoking the statutory unfair labor practice process.

Based on the foregoing reasons, we decline to issue an unfair labor practice complaint in this matter and it is ordered that the unfair labor practice charge filed by Terrence Sanville in this matter is dismissed.

Dated this ____ day of October, 2003, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

_____
Richard W. Park, Chairperson

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Carroll P. Comstock

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John J. Zampieri

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Edward R. Zuccaro