

Jurisdictional Questions

The Board dismisses unfair labor practice charges for lack of jurisdiction if a charge is filed by an individual without standing to file a charge under the applicable labor relations act. For instance, the Municipal Employee Relations Act excludes “individuals . . . employed on a probationary basis” from the definition of “municipal employee” covered by the Act.¹ Under the unfair labor practice provisions of the Act, unfair labor practices may only be committed against employee organizations, employers or employees within the meaning of the Act.² Only “an employee, employee organization or employer” have standing to file unfair labor practice charges under the Act.³ Thus, a probationary employee is not considered an employee within the meaning of the Act, and does not have standing to file an unfair labor practice charge under the Act.⁴ Similarly, the exclusion of temporary employees from the definition of “employees” under the State Employees Labor Relations Act results in temporary employees having no standing to file unfair labor practice charges under the Act.⁵

The Board in a recent decision dismissed an unfair labor practice charge for lack of jurisdiction where authorization for Board jurisdiction is not specifically provided by statute. The Board dismissed a charge filed by representatives of school employers alleging refusal to bargain in good faith by the representatives of school employees concerning negotiation of public school employee health benefits where the applicable statute does not specify that unfair labor practice charges will be

¹ 21 V.S.A. §1722(12)(C).

² 21 V.S.A. §1726. Gray, et al v. IBEW Local 300 and Town of Ludlow, 19 VLRB 143, 144 (1996). Powers v. City of Winooski, 28 VLRB 387, 388 (2006).

³ Id. Section 35.1, Labor Relations Board Rules of Practice.

⁴ Gray, 19 VLRB at 144. Powers, 28 VLRB at 388.

⁵ 3 V.S.A. §§311(a)(11), 902(5)(a), 961. Section 16.1, Labor Relation Board Rules of Practice. Emerson v. Vermont Department of Forests, Parks and Recreation, 20 VLRB 41 (1997).

administered by the Board and does not incorporate unfair labor practice provisions of any other statute.⁶

⁶ Vermont School Boards Association and Representatives of School Employers on the Commission on Public School Employee Health Benefits v. Vermont-NEA, AFSCME and Representatives of School Employees on the Commission on Public School Employee Health Benefits, 35 VLRB 203 (2019).