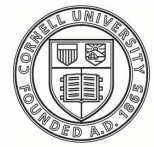

5-20-1980

State of New York Public Employment Relations Board Decisions from May 20, 1980

New York State Public Employment Relations Board

State of New York Public Employment Relations Board Decisions from May 20, 1980

Keywords

NY, NYS, New York State, PERB, Public Employment Relations Board, board decisions, labor disputes, labor relations

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

#2A-5/20/80

In the Matter of PLAINEDGE PUBLIC SCHOOLS, Respondent, -and- PLAINEDGE FEDERATION OF TEACHERS, Charging Party.	BOARD DECISION AND ORDER CASE NO. U-3914

RICHARD P. LONG, ESQ., for Respondent

HARTMAN AND LERNER (DAVID SCHLACHTER, ESQ., of Counsel), for Charging Party

This matter comes to us on the exceptions of Plainedge Public Schools, the respondent herein, to a hearing officer's decision that it violated §209-a.1(a) and (c) of the Taylor Law in that one of its building principals interfered with, restrained, coerced and discriminated against a representative of the Plainedge Federation of Teachers, charging party herein.

FACTS

On February 27, 1979, Lind, a building principal, met with his teachers to discuss a proposed policy concerning student promotion and retention which he had prepared. Following the meeting, he prepared a revised version of the proposed policy and, on March 1, 1979, he again met with his teachers to discuss it. In the past, Lind had often met with the teachers who taught in his building to discuss matters of educational policy even before preparing a draft proposal, and Weissman, charging party's secretary

and grievance chairman, felt that the procedure followed by Lind in this instance diminished staff input.

Respondent's board of education held a public meeting on the evening of March 1, 1979, at which it invited charging party to present its views on the relationship between administration and staff. Weissman was one of the representatives of the charging party who spoke at the meeting. Among other things, she criticized the pupil promotion and retention policy that was being developed by Lind and protested that it was being prepared without staff input. The following morning, Weissman received a note from Lind directing her to meet with him "to discuss the matter of your public statements at last night's meeting of the Board of Education." The note also advised her to invite charging party's building representative to accompany her.

On March 5, 1979, Weissman and charging party's building representative met with Lind, who asked her to tell him what transpired at the meeting of the board of education. When she told him that her comments had been made in her capacity as a representative of the charging party, he responded, "I only see you as Pauline Weissman, a teacher in my building." Weissman then told Lind what had transpired at the meeting, and he told her that it had been "improper and counter-productive" for her to discuss the proposed promotion and retention policy at the board of education meeting because it was still being formulated. He then told her that for his part this was the end of the matter. This precipitated the charge herein.

The hearing officer ruled that Lind's conduct was improper. She determined that Weissman had appeared before the board of education in her capacity as a representative of charging party and that her presentation to the board of education was a protected activity. She further determined that Lind's summons of Weissman to appear at his office accompanied by charging party's building representative would have a chilling effect upon the exercise of protected rights by unit employees. Accordingly, she recommended that respondent be ordered to "cease and desist from interfering with, restraining, coercing or discriminating against its employees in the exercise of their rights guaranteed in §202 of the Act."

EXCEPTIONS

Respondent makes three arguments in support of its exceptions. It contends that Weissman's presentation to the board of education was not protected even though she appeared as a representative of the charging party. In this connection, it asserts that the Taylor Law does not protect inaccurate statements and that Weissman spoke inaccurately when she told the board of education that the promotion and retention policy was being prepared without teacher input.

Respondent further contends that the meeting between Lind and Weissman was not coercive and did not interfere with Weissman's rights. According to respondent, the meeting merely afforded Lind an opportunity to exercise his own right of free speech.

Finally, respondent contends that the record does not support a determination that the meeting between Lind and Weissman was designed to interfere with the organizational rights of teachers employed by respondent.

DISCUSSION

Having reviewed the record and considered the arguments of the parties, we affirm the findings of fact and conclusions of law of the hearing officer. We conclude that Weissman's presentation to the board of education on March 1, 1979 was protected by the Taylor Law. The presentation was made at the invitation of the board of education and dealt with relations between administration and staff, the subject of the meeting. Weissman's statement that a promotion and retention policy had been developed without staff input was an exaggeration. There had been substantial staff involvement even though the extent of staff involvement in the formulation of this policy was somewhat less than it had been in the formulation of other policies in the past. However, this exaggeration did not deprive Weissman of the protection to which she was otherwise entitled for her statement at the meeting of the board of education. Her statement was protected because it was made on behalf of an employee organization at a meeting of respondent's board of education. The employer knew that she was representing the employee organization as it had invited the organization to the meeting. An employee engaged in a protected activity does not lose that protection merely because he makes inaccurate statements that disturb the employer. The employee retains his protection unless his statements are shown to indicate an "intent to falsify or maliciously injure the respondent." Walls Mfg. Co. v. NLRB, 321 F.2d 753, 53 LRRM 2428 (D.C. Cir., 1963), cert. den., 375 US 923, 54 LRRM 2576 (1963). There is no such showing here. The courts have also held that an employee loses his protection if he engages in disloyal conduct. By that,

the courts have meant conduct that is designed to hurt the employer's business activities, such as the disparagement of the quality of its product or services, NLRB v. Local 1229, 346 US 464 (1963); NLRB v. Red Top, Inc., 455 F.2d 721 (8th Cir, 1972). The facts in the instant case involve no such disloyalty.

We also agree with the hearing officer that the meeting between Lind and Weissman constituted an interference with her rights. While Lind was entitled to respond to Weissman's statement, he chose the wrong manner in which to do so. He summoned her to his office and directed his response to her under hostile circumstances which, given the supervisory relationship between Lind and Weissman, must be deemed to be coercive. We adopt the conclusion of the hearing officer that Lind's summons to Weissman to appear at his office accompanied by the building representative of the charging party had a chilling effect upon the organizational rights of unit employees. Moreover, improper motivation should be imputed to Lind because he should have realized that his summons to and meeting with Weissman would discourage other unit employees from exercising rights protected by the Taylor Law. Accordingly, we conclude that Lind's directive and meeting violated §209-a.1(a) of the Taylor Law. However, the record contains no evidence of discrimination. Thus, there is no violation of §209-a.1(c), and we hereby reverse the decision of the hearing officer in this respect.

NOW, THEREFORE, WE ORDER Plainedge Public Schools to cease and desist from interfering with, restraining and coercing employees in the exercise of their rights guaranteed under §202 of the Taylor Law.

DATED: Albany, New York
May 19, 1980

Harold R. Newman

Harold R. Newman, Chairman

Ida Klaus

Ida Klaus, Member

David C. Randles

David C. Randles, Member

6296

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

#2B-5/20/80

In the Matter of	:	BOARD DECISION
BUS DRIVERS' ASSOCIATION OF MOUNT MARKHAM	:	AND
	:	ORDER
upon the Charge of Violation of Section 210.1 of the Civil Service Law.	:	CASE NO. D-0188

PETER P. PARAVATI, ESQ., for Respondent

COSENTINO & SNYDER, ESQS. (DONALD J. SNYDER, ESQ., OF COUNSEL), for Charging Party

On March 6, 1980, the chief legal officer (charging party) of the Bridgewater-Leonardsville-West Winfield Central School District (District) filed a charge alleging that the respondent herein had violated Civil Service Law (CSL) §210.1 in that it caused, instigated, encouraged, condoned, and engaged in a strike against the District on February 14, 1980.

The respondent did not file an answer, thus admitting all allegations of the charge, on the understanding that the charging party would recommend, and this Board would accept, a penalty of forfeiture of respondent's deduction privileges for a period of three months. The charging party has so recommended.

On the basis of the unanswered charge, we find that the respondent violated CSL §210.1 in that it engaged in a strike as charged. We also take note that this is the first strike by respondent. Accordingly, we determine that the recommended penalty is a reasonable one.

NOW, THEREFORE, WE ORDER that respondent's right to the deduction of dues pursuant to §208 of the Taylor Law and to agency shop fee deductions, if any, be suspended for a period of three (3) months commencing on the first practicable date. Thereafter, no dues or agency shop fees shall be deducted by the District from the salaries of the employees in the unit represented by the respondent until the respondent affirms that it no longer asserts the right to strike against any government as required by the provisions of CSL §210.3(g).

DATED: May 19, 1980
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

#2C-5/20/80

In the Matter of CITY OF RYE, Respondent, -and- JOSEPH BANAHAN, Charging Party.	BOARD DECISION AND ORDER CASE NO. U-3983

LEAF, DEULL & DROGIN, P.C. (IRA DROGIN, ESQ., of Counsel), for Respondent

JACK B. SOLERWITZ, ESQ., for Charging Party

This matter comes to us on the exceptions of Joseph Banahan to a hearing officer's decision dismissing his charge that the City of Rye improperly demoted him and refused to compensate him for overtime work because he engaged in protected activities on behalf of the Rye Police Association. The hearing officer's reason for dismissing the charge was that Banahan failed to prosecute the charge.

Banahan had sought and received several adjournments of hearing dates before the hearing that was set for October 25, 1979. On that day, his attorney arrived an hour-and-a-half late for the hearing and immediately requested a further adjournment because he had other matters to attend to. The hearing officer denied the request and began the hearing. Banahan's attorney then made a motion that witnesses be sequestered. In support of this motion, he argued,

> "I think it's most improper to permit people who are going to testify in this case to be privy to the testimony of other people. I think that's so basic a point that it doesn't need any elucidation.

The attorney for the City of Rye consented to the exclusion of some of the witnesses. He objected, however, to the sequestering of the police chief, who was subpoenaed as a witness by Banahan, indicating that he would have to consult with him from time to time in the course of presenting the City's case. At this point, the hearing officer directed that the parties discuss the motion off the record before he would rule on it.[1] In the midst of the discussion, Banahan, his attorney and witnesses all left. The hearing officer spent five minutes looking for them but he could not find them. He then waited ten minutes longer and when they did not return, he dismissed the charge.

In support of the exceptions, Banahan's attorney states that the hearing officer committed prejudicial error in that he did not permit Banahan's objections and exceptions to be placed on the record. He argues that §204.7(h) of this Board's Rules of Procedure requires all motions, rulings, and objections to rulings

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1 It is the policy of this Board that extensive arguments on motions be conducted off the record in order to minimize stenographic costs. The hearing officer is instructed to summarize the off-the-record discussions when the record is reopened and the parties are invited to confirm or deny the accuracy of his summary.

to be included in the record.[2] Banahan's motion was included in the record, as was his stated reason for the motion. While no ruling on the motion nor any objection to any such ruling is included in the record, the reason for this is that Banahan and his attorney left before any ruling could be made. We find no basis in the record before us to support the allegations made in the exceptions. Accordingly, we affirm the decision of the hearing officer dismissing the charge for Banahan's failure to prosecute.

NOW, THEREFORE, WE ORDER that the charge herein be, and it hereby is, DISMISSED.

DATED: Albany, New York
May 20, 1980

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

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2 Banahan also alleges, in an affidavit accompanying his exceptions, that before the hearing opened there were off-the-record discussions between the City's attorney and the hearing officer that were prejudicial to the charging party. In his response to the exceptions, the City's attorney denies that the discussions occurred. The allegation made by Banahan is a serious one, but it does not excuse his failure to prosecute his charge. It should have occasioned an objection, on the record, to the hearing officer's conduct of the proceeding. Section 204.7(h) of our Rules provides that such an objection shall be deemed waived unless made at the hearing. Moreover, if there were circumstances which prevented Banahan from doing so, it would have been reasonable for him to complain to this Board or the Director of Public Employment Practices and Representation at the earliest opportunity and not to wait until the hearing officer issued a decision and he filed exceptions thereto.

#2D-5/20/80

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Application of the	:	
TOWN OF RYE	:	DOCKET NO. S-0055
for a determination pursuant to Section 212 of the Civil Service Law.	:	BOARD ORDER
	:	

At a meeting of the Public Employment Relations Board held on the 20th day of May, 1980, and after consideration of the application of the Town of Rye made pursuant to Section 212 of the Civil Service Law for a determination that its Resolution of February 20, 1968 establishing a Town of Rye Public Employment Relations Board, as last amended by a resolution of the Town Board of the Town of Rye adopted on February 26, 1980, is substantially equivalent to the provisions and procedures set forth in Article 14 of the Civil Service Law with respect to the State and to the Rules of Procedure of the Public Employment Relations Board it is

ORDERED, that said application be and the same hereby is approved upon the determination of the Board that the Resolution aforementioned, as amended, is substantially equivalent to the provisions and procedures set forth in Article 14 of the Civil Service Law with respect to the State and to the Rules of Procedure of the Public Employment Relations Board.

DATED: Albany, New York
May 19, 1980

Harold R. Newman
HAROLD R. NEWMAN, Chairman

Ida Klaus
IDA KLAUS, Member

David C. Randles
DAVID C. RANDLES, Member

#2E-5/20/80

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	
WESTCHESTER COUNTY MEDICAL CENTER and WESTCHESTER COUNTY,	:	
Respondents,	:	BOARD DECISION AND ORDER
-and-	:	
COMMITTEE OF INTERNS AND RESIDENTS,	:	CASE NO. U-3953
Charging Party.	:	

SAMUEL S. YASGUR, ESQ. (PETER J. HOLMES, ESQ., of Counsel) for Respondent

IRWIN GELLER, ESQ., for Charging Party

This matter comes to us on the exceptions of the Committee of Interns and Residents (hereinafter CIR), the charging party herein, to a hearing officer's decision dismissing its charge.

CIR and Westchester County were parties to a two year agreement covering employees represented by CIR at the Westchester County Medical Center. The agreement contains a wage reopener in the second year. The charge as originally filed, alleged that, in the reopened negotiations the County refused to negotiate in good faith by wanting to open the negotiations to matters other than wages and by refusing to negotiate wages until the charging party had concluded negotiations and reached agreement with the New York City Health and Hospitals Corporation. As the result of mediative efforts by the hearing officer at a pre-hearing conference, two negotiating sessions were held in addition to the four that were held prior to the charge being filed. CIR then

amended its charge to allege further, in substance, that in the later negotiations the County engaged in surface bargaining.

The hearing officer's decision summarizes the parties' positions at each negotiating session and concludes that the County engaged in good faith negotiations, listening, considering and responding to CIR's demands and offering counterproposals and justification therefor.

Among CIR's exceptions to the hearing officer's decision is one relating to the County's position that it would not negotiate with CIR under the wage reopener until CIR reached agreement with the New York City Health and Hospitals Corporation on behalf of the employees of that corporation represented by CIR. The record shows that while at prior sessions the County had asked that its negotiations with CIR await the outcome of CIR's negotiations with the New York City Health and Hospitals Corporation, the County's negotiator stated, on March 20, 1979, that the County would not negotiate with CIR until CIR reached agreement with the New York City Health and Hospitals Corporation. This was a substantial change in position by the County.

There is an important difference between the County's making a negotiation proposal to CIR to await the outcome of CIR's negotiations with the New York City Health and Hospitals Corporation and announcing the position that it would not negotiate with the CIR pending the outcome of those negotiations. By announcing the position on March 20, 1979, that it would not negotiate until the outcome of CIR's negotiations with the New York City Health and Hospitals Corporation, the County refused to negotiate in good faith. However, in the negotiating sessions that followed, the County abandoned that position and did, as the

record shows and as found by the hearing officer, engage in negotiations which resulted in an agreement. Thus the County wiped out any effects of its prior conduct and remedial action by this Board does not therefore appear necessary.

All but one of CIR's other numerous exceptions claim prejudicial error by the hearing officer. The record does not support these claims, although in some instances an error as to insignificant detail may have been made.[1]

CIR's final exception is an accusation that the hearing officer was biased. This is based upon the claimed errors in the hearing officer's decision and upon the decision in another matter (Case No. C-1751) made by the Director of Public Employment Practices and Representation. The hearing officer's decision

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1 Two of CIR's exceptions are summarized below. They are illustrative of the claims of prejudicial error which we reject.

1. CIR asserts that the hearing officer committed prejudicial error in finding that, at the February 14, 1979 negotiating session, the County's position was that the house staff at Westchester County Hospital were being adequately paid in comparison with the staff of other County hospitals. CIR correctly points out that the record shows that the County referred only to the other hospitals, not other County hospitals. This error is not, in our view, prejudicial.

2. CIR asserts that the hearing officer committed prejudicial error in finding that the County proposed, at the January 12, 1979 negotiating session, to hold off negotiations until house staffs in the New York City area settled. CIR claims that the record shows that the County did not propose to hold off negotiations until house staffs in the New York City area settled, but only until house staffs employed by the New York City Health and Hospitals Corporation and voluntary hospitals settled. Our examination of the record shows this finding of the hearing officer to be supported by it. However, even if the facts were as claimed by CIR, we would not find that the hearing officer committed prejudicial error.

in the instant proceeding was based upon the record of a hearing in which only one witness testified. That witness testified on behalf of CIR and her testimony was fully credited. Having reviewed the record of the hearing, we conclude not only that the ultimate conclusions of the hearing officer are correct, but that the record could not support the decision sought by CIR. CIR's claim of bias, is, therefore, rejected.[2]

DATED: Albany, New York
May 20, 1980

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

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2 In view of the basis upon which CIR's claim of bias is rejected, there is no need to discuss the decision of the Director of Public Employment Practices and Representation in Case No. C-1751, State of New York (SUNY), 12 PERB ¶4027 (1979).

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

#2F-5/20/80

In the Matter of :

SOUTH HUNTINGTON UNION FREE SCHOOL DISTRICT, :

Employer, :

- and - :

LOCAL 144, DIVISION 100, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, :

Petitioner. :

BOARD DECISION AND ORDER

CASE NO. C-2027

On February 4, 1980, Local 144, Division 100, Service Employees International Union, AFL-CIO (petitioner), filed, in accordance with the Rules of Procedure of the Public Employment Relations Board, a timely petition for certification as the exclusive negotiating representative of certain employees employed by the South Huntington Union Free School District.

The parties executed a Consent Agreement wherein they stipulated that the negotiating unit would be as follows:

Included: All teacher aides, reading aides, cafeteria aides, general organization store aides, general organization treasurer aides, learning disability aides, math aides, library aides, comprehensive kindergarten aides, english second language aides, guidance aides.

Excluded: Cafeteria office aides, superintendent's office clerical aides, business office clerical aides, all other central office aides and all other employees.

Pursuant to the Consent Agreement and in order for the petitioner to demonstrate its majority status, a secret ballot election was held on May 2, 1980. The results of the election

indicate that a majority of eligible voters in the stipulated unit do not desire to be represented by the petitioner.[1/]

THEREFORE, IT IS ORDERED that the petition be, and it hereby is, DISMISSED.

Dated: Albany, New York
May 19, 1980

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

1/ Of the 68 ballots cast, 21 were for and 47 against representation by the petitioner. There were no challenged ballots.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	
PIONEER CENTRAL SCHOOL DISTRICT,	:	#3A-5/20/80
Employer,	:	
-and-	:	Case No. C-2003
PIONEER AUXILIARY ASSOCIATION, NYSUT, AFT, AFL-CIO,	:	
Petitioner.	:	

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that Pioneer Auxiliary Association, NYSUT, AFT, AFL-CIO

has been designated and selected by a majority of the employees of the above named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All non-instructional employees.

Excluded: Superintendent of building and grounds, cafeteria manager, head custodians, cook manager, cook supervisor, typist-secretaries, Supervisor of transportation, head mechanic, clerical employees working at the Central office of the District and CETA personnel.

Further, IT IS ORDERED that the above named public employer shall negotiate collectively with Pioneer Auxiliary Association, NYSUT, AFT, AFL-CIO

and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Signed on the 19th day of May , 1980
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

6309

PERB 58.3

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	
CAZENOVIA CENTRAL SCHOOL DISTRICT,	:	#3B-5/20/80
Employer,	:	
-and-	:	Case No. C-2034
CAZENOVIA CUSTODIAL UNION, NYSUT, AFT/AFL-CIO,	:	
Petitioner.	:	

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the Cazenovia Custodial Union, NYSUT/AFT/AFL-CIO

has been designated and selected by a majority of the employees of the above named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All Custodial Employees including such titles as cleaner, custodian, groundskeeper, maintenance mechanic and similar titles.

Excluded: All other employees.

Further, IT IS ORDERED that the above named public employer shall negotiate collectively with the Cazenovia Custodian Union, NYSUT/AFT/AFL-CIO

and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Signed on the 19th day of May , 1980
Albany, New York

Harold R. Newman, Chairman

Ida Klaus, Member

David C. Randles, Member

6310

PERB 58.3

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	#3C-5/20/80
SELDEN FIRE DISTRICT,	:	
Employer,	:	Case No. C-2025
-and-	:	
LOCAL 144, DIVISION 100, SERVICE EMPLOYEES INTERNATIONAL UNION,	:	
Petitioner.	:	

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that Local 144, Division 100, Service Employees International Union

has been designated and selected by a majority of the employees of the above named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: Head Custodian; part-time and full-time Custodians; full-time Mechanic; part-time Dispatcher.

Excluded: All other employees.

Further, IT IS ORDERED that the above named public employer shall negotiate collectively with Local 144, Division 100, Service Employees International Union

and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Signed on the 19th day of May , 1980
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

6311

PERB 58.3

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

BOARD OF EDUCATION OF THE HEMPSTEAD UNION FREE SCHOOL DISTRICT,
Employer,

- and -

HEMPSTEAD SCHOOLS CIVIL SERVICE ASSOCIATION,
Petitioner,

- and -

HEMPSTEAD CLERICAL UNIT, NASSAU EDUCATIONAL CHAPTER, CSEA, LOCAL 1000, AFSCME, AFL-CIO,
Intervenor.

#3D-5/20/80

Case No. C-1969

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected,

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that Hempstead Schools Civil Service Association

has been designated and selected by a majority of the employees of the above named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included:

See Attachment "A"

Excluded:

Further, IT IS ORDERED that the above named public employer shall negotiate collectively with Hempstead Schools Civil Service Association

and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee orgamization in the determination of, and administration of, grievances.

Signed on the 19th day of May , 1980
Albany, N.Y.

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

6312

PERB 58.3

Attachment "A"

The Unit is described as the District's non-teaching employees other than custodial, maintenance and educational assistant employees.

The specific titles are:

Typist-Clerk
Clerk
Duplicating Maching Operator
Senior Typist-Clerk
Audio-Visual Specialist
Audio-Visual Technician
Stenographic Secretary
Senior Clerk
Corridor Monitor
Registered Nurse
Stenographer
Account Clerk
Senior Stenographer
Library Assistant
Senior Account Clerk
Senior Library Clerk
Computer Operator (NCR 500)
Telephone Operator

Excluded from the Unit are Custodial/Maintenance Personnel, Educational Assistants, Lunch Monitors, Principal Clerk, Principal Account Clerk, Superintendent's Secretary, Secretary to the Assistant Superintendent for Curriculum and Instruction, Secretary to the Assistant Superintendent for Business and Secretary to the Director of Personnel (Administrative & Professional Staff).

Pursuant to and by virtue of the authority vested in the Public Employment Relations Board under Article 14 of the Civil Service Law, I, Harold R. Newman, Chairman of the Public Employment Relations Board, acting on behalf of such Board, hereby amend NYCRR Title 4, Chapter VII, as follows. Any parts of the Rules of the Board not explicitly mentioned herein remain in effect as previously promulgated. These amendments shall take effect on June 30, 1980.

Section 200.5 is hereby amended as follows:

§200.5 Party. The term "party", as used herein, shall mean any person, organization or public employer filing a charge, petition or applicatior filed under this Act or these Rules; or any other person, organization or public employer whose timely motion to intervene in a proceeding has been granted.

Section 201.3(g) is hereby amended as follows:

§201.3(g) No petition may be filed for a unit which includes job titles that were within a unit for which [a petition was filed, processed to completion and no employee organization was certified] , during the preceding twelve-month period, [following disposition of that representation proceeding.] a petition was filed and processed to completion.

Section 201.4(d) is hereby amended as follows:

§201.4(d) The showing of interest, as well as any evidence of majority status for the purpose of certification without an election pursuant to section 201.9(g)(1) of these Rules, shall be submitted by a responsible officer or agent of the employee organization who shall simultaneously file with the Director a declaration of authenticity of such showing of interest, signed and sworn to [by] before any person authorized to administer oaths, containing the following:

(1) The name of the officer or agent executing the declaration, his position with the employee organization, and a statement of his authori to execute the declaration on its behalf.

(2) A declaration that upon his personal knowledge, or inquiries that he has made, the persons whose names appear on the evidence submitted have themselves signed such evidences on the dates specified thereon, and the persons specified as current members are in fact current member

Section 201.7 is hereby amended as follows:

§201.7 Intervention. (a) One or more public employees, an employee organization acting in their behalf, or a public employer may be permitted, in the discretion of the Board, [or in the discretion] of the Director, or of the designated trial examiner, to intervene in a proceeding. The intervenor must make a motion on notice to all parties

Opinions and Related Matters of the Public Employment Relations Board, sets of which are kept in various libraries, including the library of the Court of Appeals, the four Appellate Divisions and the Board's libraries. [Also contained in said publication are selected reports of fact-finding boards.]

I hereby certify that these amendments were adopted by the Public Employment Relations Board on May 20, 1980.

Harold R. Newman
Chairman
Public Employment Relations Board

in the proceeding. Supporting affidavits establishing the basis for the motion may be required by the Board, [or] the Director, or the designated trial examiner.

Section 204.3 is hereby amended as follows:

§204.3 Answer. (a) Filing. The respondent shall file with the Director, within ten working days after receipt from the Director of [the notice of hearing] a copy of the charge, an original and four copies of an answer, with proof of service of a copy thereof upon all other parties. The original shall be signed and sworn to before any person authorized to administer oaths.

(b) Motion for Particularization of the Charge. If the charge is believed by a respondent to be so vague and indefinite that it cannot reasonably be required to frame an answer, the respondent may, within ten working days after receipt from the Director of [the notice of hearing] a copy of the charge, file an original and four copies of a motion with the hearing officer for an order directing the charging party to file a verified statement supplying specified information. The filing of such motion will extend the time during which the respondent must file and serve his answer until ten working days from the ruling of the hearing officer on the motion, or until such later date as the hearing officer may set. Such a motion must be served upon the charging party simultaneously with its filing with the hearing officer; proof of service must accompany the filing of the motion with the hearing officer.

Section 204.5 is hereby amended as follows:

§204.5 Intervention. One or more public employees, an employee organization acting in their behalf, or a public employer may be permitted, in the discretion of the Board, [or in the discretion] of the Director, or of the designated hearing officer, to intervene in a proceeding. The intervenor must make a motion on notice to all parties in the proceeding [, accompanied by] . Supporting affidavits establishing the basis for the motion may be required by the Board, the Director, or th designated hearing officer. If the intervention is permitted, the person, employee organization, or public employer becomes a party for all purposes.

Section 208.2 is hereby amended as follows:

§208.2 NOTE: Most records of the Board available for inspection may also be found in the published volume entitled Official Decisions,