

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
ROSEMARIE TORTO,

Charging Party,

-and-

CASE NO. U-8854

CHENANGO VALLEY TEACHERS ASSOCIATION,
NYSUT,

Respondent.

ROSEMARIE TORTO, pro se

BRIAN L. LAUD, for Chenango Valley Teachers
Association, NYSUT

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of Rosemarie Torto, charging party, to an Administrative Law Judge (ALJ) dismissal, after hearing, of her improper practice charge against the Chenango Valley Teachers Association, NYSUT (CVTA), which alleges that the CVTA violated §§209-a.2(a) and (b) of the Public Employees' Fair Employment Act (Act). In particular, Torto alleges that the CVTA breached its duty of fair representation by failing and refusing to bargain for a salary adjustment on her behalf because she is not a member of CVTA.

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Torto serves as a teacher and chairperson for the Business Education Department at the Chenango Valley Junior-Senior High School. She is a member of the bargaining unit represented by the CVTA, although not a member of that employee organization.

In 1981, Torto obtained a Certificate of Advanced Study (CAS) from the State University of New York at Cortland School of Administration and Supervision. The CAS is presented in recognition of the successful completion of 30 semester hours beyond a masters degree, and is accepted for permanent certification as a substitute for a masters degree by the New York State Education Department. Torto does not, however, possess a masters degree.

The collective bargaining agreement between the CVTA and the Chenango Valley Central School District (District) makes a distinction in salary step between bargaining unit members who have completed a baccalaureate degree plus 60 credit hours in graduate study and those who have a masters degree plus 30 graduate credit hours. Torto was placed in the lower step, and contended that because she had earned a CAS, which could be equated to a masters degree, she should be placed in the higher salary step for persons possessing a masters degree plus 30 graduate credit hours.

In December 1985, at Torto's request, the District's Board of Education unilaterally passed a resolution placing

Torto in the salary step for persons possessing a masters degree plus 30 graduate credit hours. The CVTA grieved this action and, in an award dated March 14, 1986, an arbitrator found that the District violated the collective bargaining agreement by unilaterally moving Torto from the BA plus 60 graduate credit hours step to the masters degree plus 30 graduate credit hours step, holding that the collective bargaining agreement is specific in its requirement that a person possess a masters degree (as opposed to a CAS) as a prerequisite of achieving the higher salary step.

As a result of the award, Torto was returned to the BA plus 60 credit hours salary step effective September 1, 1986.

Torto thereupon requested that the CVTA either enter into a memorandum of agreement with the District modifying the existing agreement on her behalf or include in its next round of negotiations with the District a proposal which would amend the parties' collective bargaining agreement to treat a CAS in the same manner as a masters degree for salary step purposes. The CVTA determined that, in light of the arbitration award, it would not seek to modify the agreement then in effect, since the arbitrator found that equating a CAS to a masters degree would be a modification of the agreement rather than an interpretation of it. Additionally, following lengthy discussions (including a presentation by

Torto in support of the proposal), both the negotiating team and the executive committee of the CVTA determined not to present such a proposal to the District in contract negotiations.

Several members of both committees cited as the reasons for their decision that they did not believe that the CAS was in fact equivalent to the masters degree, and that it would be unfair to bargaining unit members possessing a masters degree to treat the CAS as its equivalent for salary purposes.

In support of her claim that the refusal of the negotiating committee and executive committee to endorse her proposal was prompted by animus against her based upon her nonmember status, Torto presented testimony concerning the existence of personal animosity between herself and Michael Senio, president of the CVTA and a member of its executive committee. However, the ALJ found that, regardless of any personal animosity which may have existed on Senio's part, he supported Torto (and voted in her favor) both before the negotiating committee and before the executive committee with respect to the proposal seeking to treat the CAS and masters degree as equivalent. Additionally, the ALJ made the credibility determination that the members of the negotiating and executive committees did not base their decisions concerning the proposal upon Torto's nonmember status, but

upon the merit of the proposal. The ALJ accordingly found that the CVTA did not breach its duty of fair representation either when it failed to pursue a salary adjustment for Torto during the term of its collective bargaining agreement with the District, or when the negotiating committee voted 4 to 2 not to seek a change in the successor agreement to have the CAS equated to the masters degree for pay purposes.

Torto claims, in support of her exceptions to the ALJ finding that there was no improper motivation in the refusal of the CVTA to present her proposal, that both the negotiating committee and the executive committee decided not to pursue the proposal further because she had initiated the action which had necessitated the filing of a grievance by the CVTA and the expenditure of monies in its successful prosecution. She further claims that this motive violates §209-a.2(a) of the Act.^{1/} However, we find no basis to disturb the ALJ's credibility determination that the members of the negotiating and executive committees decided not to pursue Torto's proposal at negotiations because a majority believed that a CAS and masters degree should not be treated as equivalent for salary purposes.

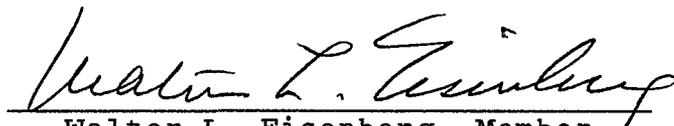
^{1/}Nassau Educational Chapter of Syosset CSD Unit, CSEA, Inc., 11 PERB ¶3010 (1978); Hauppauge Schools Office Staff Ass'n, 18 PERB ¶3029 (1985); UFT (Kimmel), 20 PERB ¶3049 (1987).

Having sustained the ALJ's credibility resolutions, we conclude that the CVTA did not breach its duty of fair representation under §209-a.2(a)^{2/} of the Act when it refused to make a negotiating demand to the District that it treat a CAS and a master's degree as equivalent for purposes of the salary structure for CVTA bargaining unit members.

IT IS THEREFORE ORDERED that the charge be, and it hereby is, dismissed in all respects.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

^{2/}The allegation made by Torto of a violation of §209-a.2(b) of the Act was dismissed by the ALJ upon the ground that Torto did not have standing as an individual to file a claim under that section of the Act. Torto did not except to that portion of the ALJ decision.

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
MORRIS E. ESON,

Charging Party,

-and-

CASE NO. U-9376

UNITED UNIVERSITY PROFESSIONS,

Respondent.

SAMUEL J. BODANZA,

Charging Party,

-and-

CASE NO. U-9471

UNITED UNIVERSITY PROFESSIONS,

Respondent.

GLENN M. TAUBMAN, ESQ., for Charging Parties

BERNARD F. ASHE, ESQ. (IVOR R. MOSKOWITZ, ESQ. of
Counsel), for Respondent

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of Morris E. Eson and Samuel J. Bodanza (charging parties) to the dismissal of their charges in a consolidated action against the United University Professions (UUP) by the assigned Administrative Law Judge (ALJ) on the basis of a stipulated record. The charges allege that UUP violated §209-a.2(a) of the Public Employees' Fair Employment Act (Act) in connection

with the UUP agency fee refund procedure in effect for the 1985-86 fiscal year in two respects. Charging parties assert, first, that UUP violated the Act when it made changes in the 1985-86 procedure mid-term without communicating those changes to all agency fee payers and without reopening certain portions of the procedure which had already been completed prior to the change. Second, charging parties allege that they received inadequate financial information to justify the final 1985-86 year-end agency fee calculation made by UUP in March 1987.

In December 1986, UUP amended the portion of its 1985-86 procedure relating to year-end appeals of final agency fee refund determinations to eliminate an intermediate step in the appeal and to relinquish selection of a neutral decision maker to the American Arbitration Association. In March 1987, it notified agency fee payers who had filed objections in September 1985 and who had received an advance reduction payment in October 1985 that a determination of the final agency fee refund for 1985-86 had been made and that they could file an appeal pursuant to the amended procedure.

Charging parties do not contend that UUP does not have the right to modify its agency fee refund procedure mid-term, nor do they claim that the substantive modifications made violate the Act. They do claim, however, that UUP had the duty to notify the total bargaining unit (and not just those

who had previously filed objections) of the modified procedure, and to reopen the objection period during which agency fee payers would have the opportunity to file objections to the use of their fees for impermissible purposes. The reopening of the objection period would have required UUP to redo a step in the procedure which had occurred approximately one and one half years earlier, and to redo all subsequent steps in the procedure.

Although the charging parties claim that the failure to notify all bargaining unit members of changes in the 1985-86 procedure and to reopen the September 1985 objection period were improper, no law or evidence is presented in support of the claim. We do not construe §209-a.2(a) of the Act as requiring, per se, retroactive application of changes in agency fee refund procedures made to conform with decisional law^{1/} and the Act.^{2/} We conclude that the findings of fact and conclusions of law made by the ALJ in dismissing this aspect of the charge are fully warranted and they are accordingly affirmed.

The second aspect of the charging parties' claim is that the financial information they received from UUP to justify

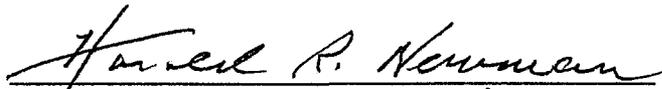
^{1/}Chicago Teachers Union, Local 1, AFT, AFL-CIO, et al. v. Hudson, 1069 Sup. Ct. 1066, 19 PERB ¶7502 (1986).

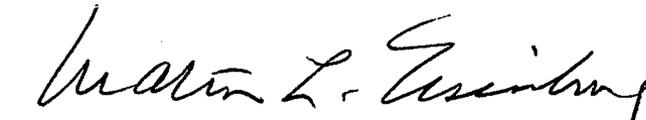
^{2/}UUP (Eson)(Gallup), 20 PERB ¶4515, aff'd, 20 PERB ¶3039 (1987).

the final agency fee calculation was inadequate and therefore violative of the Act. The ALJ found that this allegation, with particular reference to UUP's 1985-86 agency fee refund procedure, has already been addressed by this Board, which has held that the division of UUP and affiliate expenditures into the categories complained of here is not overly broad and therefore not violative of the Act. See UUP (Eson) (Gallup), supra, at 3074, fn. 13. We agree that the issue raised by charging parties in the instant case has already been decided by this Board. Moreover, as to Eson, who was a party to the earlier proceeding, that decision is entitled to res judicata effect upon the issue raised again herein.

Based upon the foregoing, IT IS HEREBY ORDERED that the charges be, and they hereby are, dismissed in their entirety.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

SALMON RIVER CENTRAL TEACHERS'
ASSOCIATION,

Charging Party,

-and-

CASE NO. U-9207

SALMON RIVER CENTRAL SCHOOL DISTRICT,

Respondent.

ROBERT ALLEN, for Salmon River Central Teachers'
Association

ARTHUR F. GRISHAM, ESQ., for Salmon River Central
School District

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Salmon River Central School District (District) to an Administrative Law Judge (ALJ) decision which found that the District violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act) when it denied the request of the Salmon River Central Teachers' Association (Association) for information required for negotiations and contract enforcement.

The ALJ found that the District violated its duty to negotiate in good faith when it failed and refused to grant the Association's request for a copy of an application submitted to the New York State Education Department by the District for a temporary coaching license for the position of hockey coach for the 1986-87 season. Item 10 of the application requires a statement from the Superintendent certifying that presently

employed personnel with the qualifications and experience needed to coach the sport are unavailable for recruitment. Prior to the District's rejection of the Association's request, the parties met and discussed a grievance of a bargaining unit employee who was certified to coach and who had sought the position which was given to a non-District employed, noncertified person. Although the ALJ had found that an earlier rejection for information was not violative of the Act, she found a violation here despite the fact that the written request, on its face, provided as a reason only that "this information is requested for negotiations and contractual enforcement purposes." The District's exceptions to the ALJ's decision assert that prior decisions of this Board have indicated that a request for information must be accompanied by a specific statement of the reasons why the information is needed, citing Board of Education, CSD of the City of Albany, 6 PERB ¶3012 (1973), and Hornell CSD, 9 PERB ¶3032 (1976).

In CSD of the City of Albany and later in Hornell CSD, the Board set forth certain criteria which an employee organization is expected to meet in order to be entitled to information necessary for the preparation for collective negotiations and/or the administration of contract grievances. We said:

In both cases, the obligation of the employer would be circumscribed by the rules of reasonableness, including the burden upon the employer to provide the information, the availability of the information elsewhere, the necessity therefor, the relevancy thereof and,

finally, that the information supplied need not be in the form requested as long as it satisfied a demonstrated need. (6 PERB ¶3012, at 3030).

The District construes our holding to require the employee organization requesting information to establish, as part of its request, "the necessity therfor", and in the absence of the presentation of such demonstrated need, the employer has no duty to provide the information requested.

We find that the District construes the language of our prior decisions in an unduly narrow manner. The ALJ found, and we concur, that the information requested was sufficiently specific and particular, as it had been when it was the subject of oral discussion between District representatives and the Association president. Under the facts of this case, the District was on notice that the Association sought the information in order to process a contract grievance concerning the failure to appoint a bargaining unit certified teacher to the hockey coach position for the 1986-87 season. It is noteworthy that the District did not respond to the Association's request by expressing confusion about the reasons for the request or the purposes for which the information was sought, but denied the request upon the ground that, in its view, providing the information would involve an unwarranted invasion of privacy.

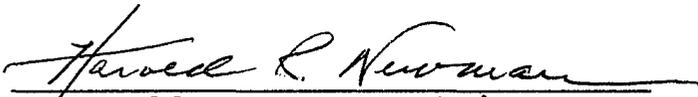
Based upon the foregoing, we affirm the finding of the ALJ that the District violated §209-a.1(d) of the Act when it failed to supply the Association with the District's response to Item 10

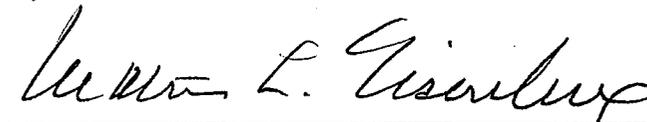
of the application submitted to the New York State Education Department by the District for a temporary coaching license for the position of hockey coach for the 1986-87 season.^{1/}

IT IS THEREFORE ORDERED that the District:

1. Cease and desist from refusing to negotiate in good faith with the Association;
2. Provide the Association with a copy of the application or the District's response to Item 10 contained therein; and
3. Sign and post a notice in the form attached at all locations at which any unit employee works, in places ordinarily used to post notices to unit employees.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

^{1/}Inasmuch as the Association has not filed exceptions to the scope of the remedial relief ordered by the ALJ, which limited the information to be provided to the response to Item 10 of the District's application, the scope of the remedial order is not before us.

NOTICE TO ALL EMPLOYEES

PURSUANT TO
THE DECISION AND ORDER OF THE
NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees of the Salmon River Central School District in the unit represented by the Salmon River Central Teachers' Association, that the District

1. Will negotiate in good faith with the Association by providing the Association with information necessary for negotiations and contract enforcement purposes; and

2. Will provide the Association with a copy of the application for a temporary coaching license for the position of hockey coach for the 1986-87 season or an informational statement of the District's response to item #10 contained therein.

SALMON RIVER CENTRAL SCHOOL DISTRICT

Dated.....

By.....
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

SACHEM OFFICE STAFF ASSOCIATION,

Respondent,

CASE NO. D-0243

upon the Charge of Violation of
§210.1 of the Civil Service Law.

BOARD DECISION AND ORDER

On October 19, 1987, Martin L. Barr, this agency's Counsel, filed a charge alleging that the Sachem Office Staff Association (Respondent) had violated Civil Service Law (CSL) §210.1 in that it caused, instigated, encouraged, condoned and engaged in a one-workday strike against the Sachem Central School District on September 3, 1987.

The charge further alleged that of the 128 employees in the negotiating unit, 122 employees participated in the strike.

The Respondent requested Counsel to indicate the penalty he would be willing to recommend to this Board as appropriate for the violation charged. Counsel proposed a penalty of the loss of Respondent's right to have dues and agency shop fee deduction privileges to the extent of twenty-five percent (25%) of the amount which would otherwise be deducted during a year.^{1/}

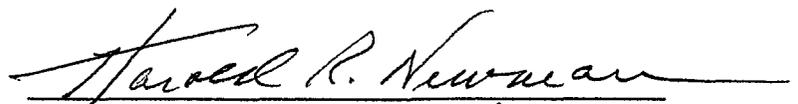
^{1/}This is intended to be the equivalent of a three-month suspension of privileges of dues and agency shop fee deductions, if any, if such were withheld in twelve monthly installments. The School District advises that the deductions are made two times a month over a period of twelve months.

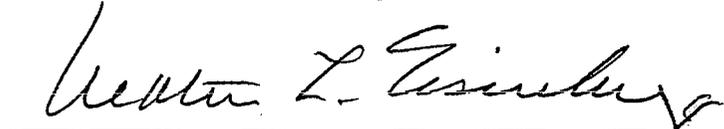
Upon the understanding that Counsel would recommend and this Board would accept that penalty, the Respondent withdrew its answer to the charge. Counsel has so recommended.

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, and we determine that the recommended penalty is a reasonable one and will effectuate the policies of the Act.

WE ORDER that the dues and agency shop fee deduction rights of the Sachem Office Staff Association be suspended, commencing on the first practicable date, and continuing for such period of time during which twenty-five percent (25%) of its annual agency shop fees, if any, and dues would otherwise be deducted. Thereafter, no dues or agency shop fees shall be deducted on its behalf by the Sachem Central School District 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: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

YATES COUNTY EMPLOYEES UNIT, LOCAL #862,
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,

Charging Party,

-and-

CASE NO. U-9214

COUNTY OF YATES,

Respondent.

MARJORIE E. KAROWE, ESQ., for Charging Party

DANIEL R. TAYLOR, ESQ., County Attorney, for
Respondent.

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the County of Yates (County) to the decision and order of the Administrative Law Judge (ALJ) determining that the County violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act) when it unilaterally required County employees represented by the charging party, Yates County Employees Unit, Local #862, Civil Service Employees Association, Inc. (CSEA), to charge January 19, 1987 (Dr. Martin Luther King, Jr. Day) to vacation or personal leave or not be paid for the day, after the County determined to close its offices on that holiday.

CSEA and the County are parties to a collective bargaining agreement covering the period from January 1, 1985 through December 31, 1986. The agreement contains a clause continuing the agreement until a new agreement is executed. No successor agreement was executed prior to the completion of the record in this case. The agreement provides for holiday leave with pay on each of eleven named holidays; Dr. Martin Luther King, Jr. Day is not included among the enumerated holidays.

On December 30, 1986, the County Legislature passed a resolution authorizing an unpaid holiday in observance of Dr. Martin Luther King, Jr. Day on January 19, 1987. Thereafter, the County Attorney issued a memorandum indicating that, in order to receive pay for January 19, 1987, employees would be required to take a vacation or personal leave day.

On January 19, 1987, County offices were closed, employees did not report to work, and only those employees who charged their time off to vacation or personal leave were paid.

In 1986, County offices were closed to the public on Dr. Martin Luther King, Jr. Day; County employees were nevertheless required to work.

CSEA filed a charge alleging that the County's action violated §§209-a.1(d) and (e) of the Act. The ALJ dismissed

CSEA's §209-a.1(e) allegation. CSEA has not excepted to that determination. As to CSEA's §209-a.1(d) claim, the ALJ noted that a public employer has the right to direct employees not to report to work, but it does not have the right to decide unilaterally that employees should lose pay for such absence. Thus, the ALJ found that the County did not violate the Act when it implemented the County Legislature's resolution establishing January 19, 1987 as a County holiday, but it did violate §209-a.1(d) of the Act "when it unilaterally required employees to charge lost time to vacation or personal leave", since such a requirement impacted on a mandatory subject of bargaining.

In its exceptions, the County argues 1) that it did not direct employees to charge lost time to vacation or personal leave, but merely offered the employees the option of taking vacation or personal leave rather than not being paid for the day; 2) that state statutes required the County to close its offices on Dr. Martin Luther King, Jr. Day and that, therefore, it was not a discretionary decision by the County to direct employees not to report to work; and 3) that the ALJ's recommended order improperly requires the County to pay all affected employees for the day in question.

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DISCUSSION

We affirm the decision of the ALJ.

Contrary to the County's assertion, the resolution of the County Legislature not only orders the closing of County offices on January 19, 1987, but directs that such closing shall be a "non-paid holiday". Thus, the County's implementation of that resolution with regard to the payment of employees was not based solely on the County Attorney's opinion. We agree that the action of the County violated the Act.

The County misapprehends the import of the ALJ's decision. The record clearly establishes that the County, by virtue of the Legislature's resolution and the County Attorney's opinion, unilaterally imposed two options on its employees: either they could take leave without pay or they could charge the day to vacation or personal leave accruals. Neither option could be imposed unilaterally.

In our first decision in State of New York (State University of New York at Albany),^{1/} we held that the power to direct absences from work is, by itself, not a mandatory subject of negotiation, but "[w]hether the affected employees will be paid for the day or not, whether they must charge

^{1/}13 PERB ¶3044 (1980), aff'd in part, rev'd in part sub nom. CSEA v. Newman, 88 A.D.2d 685, 15 PERB ¶7011 (3rd Dep't 1982), appeal dismissed, 57 N.Y.2d 775, 15 PERB ¶7020 (1982).

the day to leave credits or not, clearly must be negotiated...".^{2/} since this aspect involves the impact of the directed absences on the terms and conditions of employment of the affected employees. In our second decision in that case,^{3/} we reiterated that "while a public employer may direct employees not to come to work, it may not unilaterally decide that employees shall lose pay for the days of such absence".^{4/}

It is manifest, therefore, that the County's contention that state statutes mandate the closing of its offices on the holiday in question is irrelevant to the issue presented to us.^{5/} Whether or not the County was required to close its offices, the impact of such closing on the terms and conditions of employment of the affected employees remains a mandatory subject of negotiations.

Finally, we reject the County's objection to the ALJ's remedial order. That order makes whole those employees who chose to take leave without pay, by requiring the County to reimburse them for lost wages plus interest (paragraph 2). The order also makes whole those employees who elected to

^{2/}Id., at p. 3071.

^{3/}16 PERB ¶3050 (1983), aff'd sub nom. State of New York v. Newman, 116 A.D.2d 827, 19 PERB ¶7002 (3rd Dept. 1986).

^{4/}Id., at p. 3076.

^{5/}The County refers to General Construction Law §24, County Law §§206 and 206-a, and Public Officers Law §62.

charge the day to their vacation or personal leave accruals, by requiring the County to restore to those employees the vacation or personal leave time utilized on January 19, 1987 (paragraph 3). Inasmuch as the County could not unilaterally require the employees to make either choice, the remedial order clearly effectuates the policies of the Act by restoring all employees to the status quo ante.

We find that the County violated §209-a.1(d) of the Act.

NOW, THEREFORE, WE ORDER that the County:

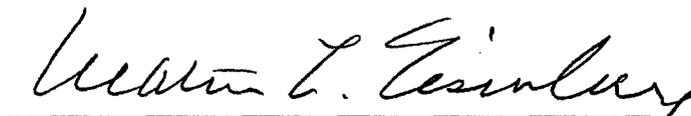
1. Cease and desist from unilaterally requiring unit employees to charge lost work time on Dr. Martin Luther King, Jr. Day to vacation or personal leave in order to receive pay for that day;
2. Reimburse unit employees who chose to take leave without pay on January 19, 1987, their lost wages plus interest at the maximum legal rate;
3. Restore to unit employees their vacation or personal leave time utilized on January 19, 1987;
4. Permit those employees who have had their leave restored pursuant to this order to use the restored accrued leave for the period of one year from the date that the time is restored to

them, in the event that the parties' agreement otherwise limits the use of such time; and

5. Sign and post notice in the form attached at all work locations normally used to post written communications to unit employees.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

NOTICE TO ALL EMPLOYEES

PURSUANT TO THE DECISION AND ORDER OF THE NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees of the County of Yates in the unit represented by the Yates County Employees Unit, Local #862, Civil Service Employees Association, Inc. that the County:

1. Will not unilaterally require unit employees to charge lost work time on Dr. Martin Luther King, Jr. Day to vacation or personal leave in order to receive pay for that day;
2. Will reimburse unit employees who chose to take leave without pay on January 19, 1987, their lost wages plus interest at the maximum legal rate;
3. Will restore to unit employees their vacation or personal leave time utilized on January 19, 1987;
4. Will permit those employees who have had their leave restored pursuant to this order to use the restored accrued leave for the period of one year from the date that the time is restored to them, in the event the parties' agreement otherwise limits the use of such time.

County of Yates

Dated

By
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

MCGRAW CENTRAL SCHOOL ADMINISTRATORS
ASSOCIATION,

Petitioner,

-and-

CASE NO. C-3182

MCGRAW CENTRAL SCHOOL DISTRICT,

Employer.

BEVERLY R. HACKETT, ESQ., for Petitioner

O'HARA & CROUGH (CRAIG M. ATLAS, ESQ., of Counsel),
for Employer

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the McGraw Central School Administrators Association (Association) to a decision of the Director of Public Employment Practices and Representation (Director), which dismissed its petition seeking to represent the high school principal and elementary school principal employed by the McGraw Central School District (District).

The District opposed the petition on the ground that the two employees at issue are managerial and therefore not public employees within the meaning of §201.7(a) of the Public Employees' Fair Employment Act (Act).

The District is a small one, consisting of two schools: the elementary school, consisting of grades K through 6 and the junior-senior high school, consisting of grades 7 through 12. The District has 53 teachers and 3 administrators: Donato Leopardi, the superintendent of schools; William Swisher, the elementary school principal; and James Dullaghan, the secondary school principal. The latter two positions are the ones which the Association seeks to represent in a separate bargaining unit.

The Director found that the principals regularly meet with Leopardi and attend and participate in all regular meetings and executive sessions of the District's Board of Education, with the exception of those executive sessions at which personnel matters affecting the superintendent or either of the principals are discussed. During the course of meetings with Leopardi, the principals discuss and have input on matters of District-wide interest, including general and special educational programs, student conduct and discipline, standardized testing, the use and terms and conditions of employment of substitute teachers, and other matters of a policy-making nature. It was on the basis of this policy-making role that the Director made his determination. We concur with the Director's determination that the evidence supports a finding that the principals formulate policy, thus removing them from the definition of employees entitled to collective bargaining.

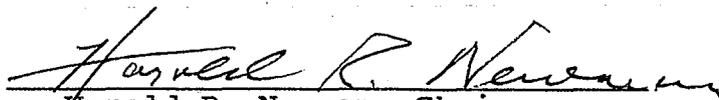
Although, based upon his finding, the Director did not deem it necessary to look further, our review of the record persuades us that the principals play a major role in personnel administration, such that they would be precluded from membership in a bargaining unit on that ground also. The principals play, in this particular school district, a major role in personnel administration since they interview, recommend hiring, and participate in other employment decisions concerning all personnel in their schools, provide input in the grievance and negotiation processes with the employee organizations representing District employees under their supervision, and are responsible for employee conduct within their schools. While, as a general proposition, a school district's central office staff, rather than its building principals, are typically involved in personnel administration and policy-making, due to the size of this particular district, the principals have been and are responsible for these types of functions.^{1/}

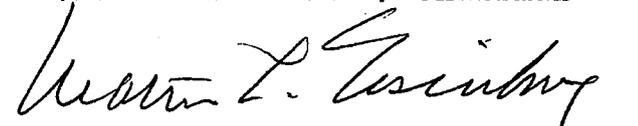
We accordingly affirm the determination of the Director that the role of the elementary school and secondary school principal makes inappropriate their inclusion in any negotiating unit.

^{1/}See East Meadow UFSD, 16 PERB ¶3027 (1983), and cases cited therein.

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

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Petition of the
UNITED LPN's,

to review the implementation of the
provisions and procedures enacted by the
Westchester County Public Employment
Relations Board pursuant to §212 of the
Civil Service Law.

CASE NO. I-0035

ROBERT CARNES, for Petitioner

BOARD DECISION AND ORDER

On December 23, 1987, the United LPN's filed a petition with this Board, pursuant to §203.8 of this Board's Rules of Procedure, to review the implementation of the provisions and procedures of the Westchester County Public Employment Relations Board (Local Board).

The petitioner challenges a decision of the Local Board in its Case No. 001-87 issued on October 30, 1987. In that decision, the Local Board dismissed the petition filed by United LPN's, which sought to decertify the Westchester County Civil Service Employees Association (CSEA) as the representative of certain licensed practical nurses who are in an overall unit of County employees of which CSEA is the recognized representative. The reason for dismissal was that the United LPN's failed to support its decertification

petition by a showing of interest of at least 30% of the employees in the unit already in existence, a unit consisting of approximately 6,000 employees. The showing of interest submitted was for the group of 85 employees that the United LPN's asserted should not be included in the CSEA unit. The United LPN's did not file a petition seeking certification as the representative of any alternative unit.

The Local Board relied on our decision in Town of North Castle, 17 PERB ¶3115 (1984). In that case, we held that the appropriate showing of interest for a decertification petition is 30% of the existing unit where the petition seeks only to have the incumbent union decertified as the representative of part of the unit. We stated in that decision that a certification petition, by which a union seeks to represent employees in a unit which it alleges to be appropriate, need only be accompanied by a 30% showing of interest in the unit alleged to be appropriate.

The petitioner asserts that the Local Board failed to implement its provisions and procedures in a manner substantially equivalent to those set forth in the Act and PERB's Rules of Procedure by relying on the aforesaid PERB decision, which the petitioner claims is repugnant to the Act.

Petitioner's contention cannot be considered by us in this proceeding. Section 212 of the Act empowers us to determine whether the continuing implementation of local provisions and procedures by local boards is substantially

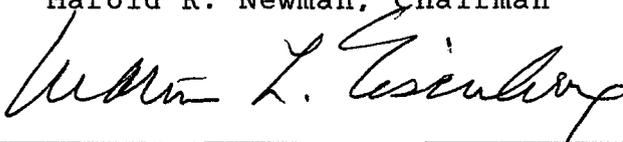
equivalent to the provisions and procedures set forth in the Act and our Rules of Procedure. The Local Board has, in this case, adopted a showing of interest requirement identical to our own. No further inquiry is necessary to dispose of the instant petition. If we were to permit an implementation petition to raise only a question as to the propriety of a decision of ours, the entire purpose of the proceeding would be changed. Accordingly, the petition must be dismissed.

NOW, THEREFORE, WE ORDER that the petition of the United LPN's be, and the same hereby is, dismissed.

DATED: January 15, 1988
Albany, New York



Harold R. Newman, Chairman



Walter L. Eisenberg, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

CIVIL SERVICE EMPLOYEES ASSOCIATION,
INC., LOCAL 1000, AFSCME, AFL-CIO,

Petitioner,

-and-

CASE NO. C-3266

VILLAGE OF WEBSTER,

Employer.

THOMAS MULLEN, for Petitioner

HARRIS, BEACH, WILCOX, RUBIN & LEVEY (JAMES C.
HOLAHAN, ESQ., of Counsel) for Employer

BOARD DECISION AND ORDER

In this representation proceeding, we are asked to certify the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO (petitioner) as the exclusive ^{1/} negotiating representative for employees of the Village of Webster (employer) in the following unit:

^{1/}Pursuant to stipulation, the parties have agreed that the petitioner, if certified, should be certified as the exclusive negotiating agent.

Included: All full-time employees (that is, employees who regularly work at least 40 hours per week) employed in the Village's Water, Waste Water, and Public Works Departments with the following functional titles: Working Foreman, Assistant Chief Waste Water Plant Operator, Assistant Chief Water Plant Operator, Mechanic, Operator-Laborer, Operator-Laborer Trainee, Operator-Serviceman, Grade II-B Operator, and Laborer.

Excluded: Supervisors, managerial and confidential employees, and all other employees.

The petitioner requests certification without an election pursuant to §209.1(g)(1) of the Rules of Procedure of the New York State Public Employment Relations Board (Rules), and decision dated November 13, 1987, the Director of Public Employment Practices and Representation (Director) determined that "the petitioner has satisfied the requirements for certification without an election and is entitled to be certified as the exclusive [footnote omitted] representative of the employees in the stipulated unit."

Our Rules require, as a condition of certification without an election, the presentation of evidence that dues deduction authorization cards, if used as the evidence of majority status, are "current". We have always construed this term to mean reasonably current, and certainly not more than six months old, which is the limit contained in our Rules for the use of individual designation cards for certification without an election.

The dues deduction authorization cards used in the

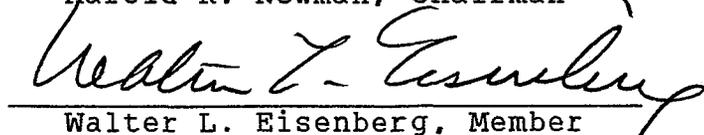
instant proceeding were executed less than six months prior to, and were deemed current at the time of, issuance of the Director's determination. However, at this time the cards are more than six months old, and our Rule is clear that dues deduction authorization cards must be current at the time of certification, an act which is performed by this Board.

Based upon the foregoing, we are constrained to remand this matter to the Director to conduct an election, unless satisfactory evidence of majority status is presented to the Director within a reasonable period of time, such time to be established by the Director based upon the facts and circumstances of this case. In the event that satisfactory evidence of majority status, such as evidence of current membership of a majority of bargaining unit employees, is timely presented to the Director, we may at that time entertain new application for certification without an election.

IT IS THEREFORE ORDERED that the, instant petition for Certification of Representative and Order to Negotiate be, and it hereby is, denied without prejudice, and the petition is remanded to the Director for further proceedings consistent herewith.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

11392

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
DOCTORS COUNCIL,

Charging Party,

-and-

CASE NO. U-9117

NEW YORK CITY TRANSIT AUTHORITY,

Respondent.

In the Matter of
DOCTORS COUNCIL,

Petitioner,

-and-

CASE NO. CP-113

NEW YORK CITY TRANSIT AUTHORITY,

Employer.

PRYOR, CASHMAN, SHERMAN & FLYNN, ESQS. (RICHARD M.
BETHEIL, ESQ., of Counsel), for Doctors Council

ALBERT C. COSENZA, ESQ. (KAREN A. KIMMEL, ESQ., of
Counsel), for New York City Transit Authority

BOARD DECISION AND ORDER

Case No. U-9117 comes to us on the exceptions of the
New York City Transit Authority (Authority) and
cross-exceptions of the Doctors Council to an Administrative
Law Judge (ALJ) decision. The ALJ found that the Authority

violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act) when it failed and/or refused to negotiate the impact of a reorganization of its Medical Services Department, but dismissed the charge insofar as it alleged that the Authority, in reorganizing the Medical Services Department, replaced a unit title, laid off its incumbents, and created a new, nonunit title having the same duties, due to antiunion animus or an intent to deprive employees of union representation in violation of §209-a.1(a) and (c) of the Act.

Case No. CP-113 comes to us on the exceptions of the Authority to a decision of the Director of Public Employment Practices and Representation (Director), which determined that the title of Assistant Medical Director, created by the Authority during the course of its Medical Services Department reorganization, is within the scope of the existing unit of Physicians represented by the Doctors Council.

These matters were consolidated for hearing, although separate decisions were issued by the ALJ assigned and the Director. Because of the identity of facts and interrelationship between the cases, we have consolidated them here, upon our own motion, for the purpose of issuing a decision.

On May 11, 1984, the Doctors Council was certified as the exclusive bargaining representative for Authority

employees holding the title of Physician. The unit originally consisted of nine employees, two of whom were employed under the supervision of the Labor Relations Department's absentee control program, and seven of whom were employed in the Medical Services Department. The Physicians in the absentee control program were employed on a full-time basis, as were two of the Physicians in the Medical Services Department. The five remaining physicians were employed on a part-time basis in clinics operated by the Authority for its employees. Some of these Physicians had been employed by the Authority for thirty years or more. Following certification, the Doctors Council and the Authority engaged in negotiations, which did not result in an agreement until January 1986. The agreement was actually implemented in July 1986.

Approximately one month after implementation of the parties' collective bargaining agreement, advertisements appeared in the New York Times for positions in the Authority of Assistant Medical Director (AMD). Immediately thereafter, all of the Physicians in the Medical Services Department (consisting of seven of the nine employees in the Doctors Council bargaining unit) were notified that they were to be laid off, that their titles were being abolished, and that the title of Assistant Medical Director was being created in place of the Physician title. The Physicians were informed

that the Assistant Medical Director title was managerial and thus outside the Doctors Council bargaining unit.

Upon learning about the impending action of the Authority in relation to its bargaining unit members, the Doctors Council demanded negotiations concerning the impact of the layoff of its employees and elimination of their titles. The ALJ assigned found that the Authority failed and refused to negotiate in good faith, in violation of §209-a.1(d) of the Act, by failing and refusing to provide to the Doctors Council basic information necessary to the conduct of impact negotiations, and by failing and refusing to respond to proposals made by the Doctors Council in a good faith manner.

The ALJ dismissed so much of the Doctors Council charge as alleged a violation of §§209-a.1(a) and (c), however, finding that the actions of the Authority in eliminating the Physician positions and creating the AMD positions in their place was not motivated by antiunion animus or an intent to deprive employees of the right of representation. The ALJ based his finding in this regard upon a credibility determination that the individual responsible for the reorganization plan in the Medical Services Department, Monica Benjamin, Assistant Vice-President for Medical Services at the Authority, implemented the changes for legitimate business-related reasons. These reasons included

a desire to eliminate the part-time positions and replace them with full-time positions, together with an intention to amplify the duties of the employees beyond providing medical examinations, to include administrative and supervisory responsibilities within each clinic and to provide advice and assistance in the implementation of wellness programs such as hypertension, smoking, physical fitness and other areas of medical concern.

As part of its cross-exceptions, the Doctors Council points out that two of the six^{1/} physicians then in the Medical Services Department were already full-time. Additionally, George Buckley, Vice-President for Labor Relations at the Authority, testified that he suggested to the Doctors Council's negotiator the possibility of offering two part-time positions in exchange for a commitment by the Doctors Council not to pursue any proceedings before PERB, indicating at least some willingness to be flexible concerning the need for exclusively full-time persons. Also in support of its cross-exceptions, the Doctors Council asserts that, according to the Authority's own witness, Ms. Benjamin, the Assistant Medical Directors hired by the Authority had not, three to four months after their hire, begun performing any of the described additional duties

One of the five part-time physician positions was vacated prior to the layoff date, apparently for reasons unrelated to the charge.

beyond the conduct of medical examinations, which were represented to constitute the basis for a need for new job titles. Furthermore, the Doctors Council points out that the Director made a finding in CP-113 that "the duties of and qualifications for the AMD positions are substantially the same as for the physician positions which they have replaced . . .", (20 PERB ¶4061 at 4080), such that the Authority's claim of a substantial difference in the duties and responsibilities of the position of AMD as support for its action has been found to have no basis.

From these claims, the Doctors Council asserts that the legitimate business reasons presented by the Authority to justify its layoff of unit employees and hire of new employees are without basis in fact, and merely pretextual, requiring an inference that the Authority's actions were motivated by antiunion animus and/or an intent to deprive the bargaining unit members of their right to representation.

Before making a determination on the claimed violation of §§209-a.1(a) and (c) of the Act, we find it appropriate to decide whether the Director's determination in Case No. CP-113, that the duties of the AMDs and Physicians are substantially the same and warrant inclusion of the AMDs in the existing bargaining unit represented by the Doctors Council, should be affirmed.

We have reviewed the exceptions filed by the Authority

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in opposition to the Director's determination and we do not find them persuasive. In reaching this conclusion we find the following points of particular relevance. First, the great majority of the work time of the AMDs is devoted to conducting medical examinations, as was the case with the Physicians. Second, at least until the last day of hearing conducted in this matter, on April 6, 1987, the AMDs had not begun to perform the supervisory or other expanded duties envisioned and described by the Assistant Vice-President for Medical Services, despite the fact that they had been in the employ of the Authority for a period of three to five months. Third, according to the job descriptions for the positions, the Physician is at a salary grade 29, while the AMD position is at a salary grade 28. Fourth, the Physician job description includes the following as an example of typical tasks:

They also have administrative and supervisory responsibilities over various activities, such as hospital admitting, emergency room and disaster unit, home care, outpatient or clinic service, or the medical service in an institution or an entire hospital during the evening or night tour of duty. (Emphases supplied)

Based upon the foregoing, and other findings of fact specifically made by the Director in his decision, we affirm the determination of the Director that the AMD positions created by the Authority are within the scope of the existing bargaining unit for Physicians.

We now turn to the question of the bearing, if any, of the Director's finding on the claim made by the Doctors Council that the elimination of the Physician positions and the creation of the AMD positions as physicians outside the bargaining unit violated §209-a.1(a) or (c) of the Act.

A finding of a violation of §209-a.1(a) or (c) of the Act based solely upon a determination in a unit clarification case that a newly created title and position is not, contrary to the contentions of the employer, a managerial position, but is in fact a bargaining unit position, would give rise to a per se finding that the Act has been violated. This we decline to do.

The ALJ made a credibility determination in favor of the Assistant Vice-President for Medical Services, finding that her decision to reorganize the Medical Services Department by elimination of the physician positions and creation of the AMD positions was not motivated by antiunion animus or malintent. Because credibility determinations made by the trier of fact are entitled to great weight, we decline to disturb the ALJ's credibility determination on this point.

However, regardless of the legitimate intentions of the employer in this case, it did in fact eliminate six of eight bargaining unit positions, which had existed for as many as thirty years, and created seven new positions which were characterized as managerial positions outside the scope of

the bargaining unit, when in fact the positions are substantially the same, immediately upon the heels of implementation of a first collective bargaining agreement. These actions had the effect of undermining and interfering with the ability of the certified employee organization to represent its bargaining unit members, giving rise to a violation of §§209-a.1(a) and (c) of the Act.^{2/}

Finally, we concur with the ALJ's finding that the Authority violated §209-a.1(d) of the Act when it failed and refused to negotiate in good faith with the Doctors Council concerning the Council's impact demands relating to the reorganization of its Medical Services Department, for the reasons set forth in the ALJ decision.

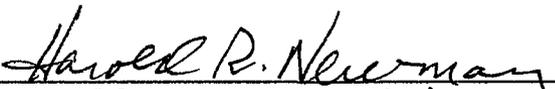
NOW, THEREFORE, WE ORDER the Authority to:

1. Cease and desist from interfering with and discriminating against its employees in the exercise of their right of representation;
2. Offer reinstatement to their previous positions to any and all employees laid off from the title of Physician;

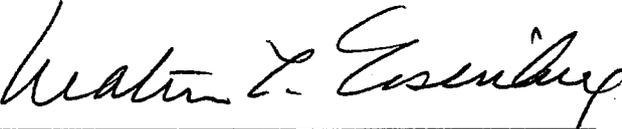
^{2/}City of Albany v. Helsby, 36 A.D.2d 348, 4 PERB ¶7008 (3d Dep't 1971), modified on other grounds, 29 N.Y.2d 433, 5 PERB ¶7000 (1972). See also East Rockaway UFSD, 18 PERB ¶3069 (1985), and Town of West Seneca, 19 PERB ¶3028 (1986).

3. Make laid off employees whole for salary and benefits lost as a result of their layoff until such time as they are reinstated to employment or reject offers of reemployment, together with interest at the maximum legal rate, less interim outside earnings;
4. Cease and desist from failing and refusing to negotiate in good faith with the Doctors Council regarding the Council's impact demands relating to the reorganization of its Medical Service Department;
5. Sign and post a notice in the form attached at all locations ordinarily used to post written communications to unit employees.

DATED: January 15, 1988
Albany, New York



Harold R. Newman, Chairman



Walter L. Eisenberg, Member

11402

NOTICE TO ALL EMPLOYEES

PURSUANT TO THE DECISION AND ORDER OF THE NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify all employees of the New York City Transit Authority in the unit represented by Doctors Council that the Authority:

1. Will not interfere with and discriminate against its employees in the exercise of their right of representation;
2. Will offer reinstatement to any and all employees laid off from the title of Physician;
3. Will make laid off employees whole for salary and benefits lost as a result of their layoff until such time as they are reinstated to employment or reject offers of reemployment, together with interest at the maximum legal rate;
4. Will negotiate in good faith with the Doctors Council regarding the Council's impact demands relating to the reorganization of its Medical Service Department.

NEW YORK CITY TRANSIT AUTHORITY

Dated

By
(Representative)

(Title)

11403

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

SAG HARBOR ASSISTANT TEACHERS
ASSOCIATION, NYSUT, AFT, AFL-CIO,

Petitioner,

-and-

CASE NO. C-3191

SAG HARBOR UNION FREE SCHOOL DISTRICT,

Employer.

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,

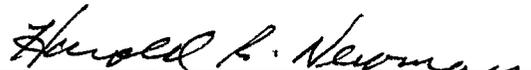
IT IS HEREBY CERTIFIED that the Sag Harbor Assistant Teachers Association, NYSUT, AFT, AFL-CIO has been designated and selected by a majority of the employees of the above-named employer, in the unit described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: Assistant Teachers.

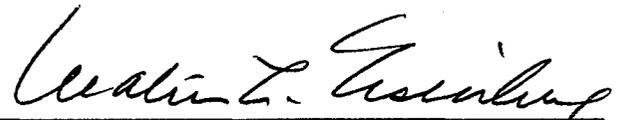
Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Sag Harbor Assistant Teachers Association, NYSUT, AFT, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: January 15, 1988
Albany, New York



Harold R. Newman, Chairman



Walter L. Eisenberg, Member

11405

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
AFSCME, LOCAL 1000, AFL-CIO,

Petitioner,

-and-

CASE NO. C-3318

ROYALTON-HARTLAND CENTRAL SCHOOL DISTRICT,

Employer,

-and-

ROYALTON-HARTLAND ASSOCIATION OF EDUCATIONAL
SECRETARIES,

Intervenor.

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 Civil Service Employees Association, Inc., AFSCME, Local 1000, AFL-CIO has been designated and selected by a majority of the employees of the above-named employer, in the unit described below, as their

exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Included: All full-time employees in the following titles: Senior Library Clerk, Typist, Account Clerk/Typist.

Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Civil Service Employees Association, Inc., AFSCME, Local 1000, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

11407

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
AFSCME, LOCAL 1000, AFL-CIO,

Petitioner,

-and-

CASE NO. C-3319

ORLEANS-NIAGARA BOARD OF COOPERATIVE
EDUCATIONAL SERVICES,

Employer,

-and-

ORLEANS-NIAGARA BOARD OF COOPERATIVE
EDUCATIONAL SERVICES TEACHER AIDE
ASSOCIATION,

Intervenor.

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 Civil Service Employees Association, Inc., AFSCME, Local 1000, 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 full-time and part-time aides employed by Niagara-Orleans Board of Cooperative Educational Services in special education programs for non-adult students excluding casual and temporary aides and all other employees.

Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Civil Service Employees Association, Inc., AFSCME, Local 1000, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

11409

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
UNITED FEDERATION OF POLICE OFFICERS, INC,
Petitioner,

-and-

CASE NO. C-3257

TOWN OF LLOYD,
Employer.

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,

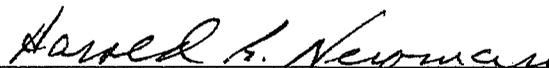
IT IS HEREBY CERTIFIED that the United Federation of Police Officers, Inc. has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

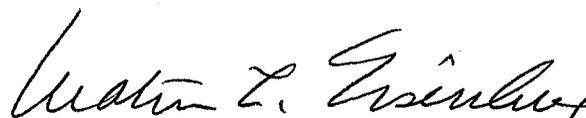
Unit: Included: All full-time and part-time patrolmen.

Excluded: Chief of Police, secretary to the Chief of Police, and all other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the United Federation of Police Officers, Inc. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

DATED: January 15, 1988
Albany, New York


Harold R. Newman, Chairman


Walter L. Eisenberg, Member

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