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New York State Public Employment Relations  
Board (PERB)

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9-26-1975

## State of New York Public Employment Relations Board Decisions from September 26, 1975

New York State Public Employment Relations Board

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## State of New York Public Employment Relations Board Decisions from September 26, 1975

### Keywords

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

### Comments

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STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

#2A-9/26/75

In the Matter of  
COUNTY OF NASSAU,

Respondent,

-and-

NASSAU CHAPTER, CIVIL SERVICE EMPLOYEES  
ASSOCIATION, INC.,

Charging Party.

BOARD DECISION  
AND ORDER

CASE NO. U-1015

This case comes to us on the exceptions of the Nassau Chapter of CSEA (CSEA) to the decision of a hearing officer dismissing its charge on the ground that it was not timely. The charge, as amended, had alleged that the County of Nassau (County) had violated CSL §209-a.1(a) and (d) in that it had unilaterally altered terms and conditions of employment by promulgating a policy that required newly hired auto mechanics employed in its Police Department to furnish their own hand tools and to sign a statement prior to employment to that effect. Almost all of the evidence in this case was included in a stipulation.<sup>1</sup>

It is clear that in November 1972, the County unilaterally terminated a long-standing past practice of furnishing, without charge, all hand tools to auto mechanics employed in its Police Department, and established a new policy requiring all employees hired thereafter to furnish their own hand tools as a condition of hiring. This new policy has been in effect since that time and was known to some employees in the negotiating unit that included

<sup>1</sup> CSEA called one witness who testified briefly regarding the type and cost of equipment that the candidates for employment were required to purchase.

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the auto mechanics and was represented by CSEA.

The charge was filed on November 2, 1973, about a year after the unilateral action was taken by the County. There is no evidence before us regarding the date when CSEA first became aware of the County's unilateral change and CSEA's attorney made an unsworn statement that it first became aware of the situation shortly before September 18, 1973. This issue of timeliness was not raised by the County, but the hearing officer, noting that it is jurisdictional, raised it himself. Concluding that CSEA had the burden of submitting evidence establishing the date when it first became aware of the circumstances that it alleges constituted the violation, and finding that CSEA failed to do so, he dismissed the charge.

There are unique circumstances in this case including: the absence of any substantial record of the facts; the unsworn representation by CSEA's attorney that CSEA first became aware of the facts shortly before September 18; and, the absence of any challenge by the County to this representation. It may be that under these circumstances the hearing officer should have assumed the timeliness of the charge, rather than raising the question on his own. However, assuming arguendo that this were true, we would, nevertheless, affirm his decision and would dismiss the charge.

In our opinion, the unilateral change instituted by the County did not involve a term and condition of employment in that it applied only to candidates for employment. In a related case, we dealt with the circumstances of an employer, the Board of Education of the City School District of Rochester, imposing a requirement that certain candidates for employment must live within the City of Rochester. The hearing officer ruled (The Association of Central Office Administrators, 4 PERB 4597, 4599):

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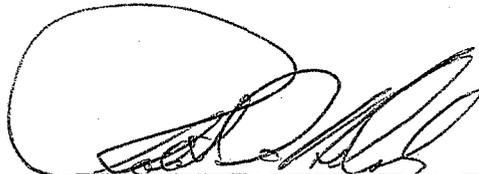
"[I]t is readily apparent that the decision to impose a residency requirement is not a mandatory subject of negotiations. A residency requirement is not a condition of, but a qualification for, employment.... Traditionally, qualifications for employment have been matters of managerial prerogative...." (emphasis in original)

This opinion was affirmed by us at 4 PERB 3703.

The requirement unilaterally imposed by the County that persons hired as auto mechanics in its Police Department have their own hand tools, was also a qualification for employment.

THEREFORE, IT IS ORDERED that the charge herein be, and hereby is, dismissed.

Dated: September 26, 1975  
Albany, New York



Robert D. Helsby, Chairman



Fred L. Benson

DISSENT

I dissent. I do not regard the possession of hand tools as a qualification for employment, but as a condition of employment.



Joseph R. Crowley

Dated: September 26, 1975  
Albany, New York

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of	:	#2B-9/26/75
STATE OF NEW YORK,	:	
	:	
Respondent,	:	BOARD DECISION
- and -	:	<u>AND ORDER</u>
UNITED UNIVERSITY PROFESSIONS, INC.,	:	CASE NO. U-1445
LOCAL 2190, AFT (AFL-CIO),	:	
	:	
Charging Party.	:	
	:	

---

This matter comes to us on exceptions filed by the United University Professions, Inc., Local 2190, AFT (AFL-CIO) (charging party) to a decision of a hearing officer dismissing its charge on the ground that it was untimely<sup>1</sup>. The charge, filed on January 17, 1975, had alleged that the State of New York (respondent) had violated CSL §§209-a.1(a), (c) and (d). The factual allegations underlying the charge are that:

1. On May 7, 1974, the charging party and the respondent reached an agreement for the period July 1, 1974 through June 30, 1976.

2. Sometime thereafter, the respondent's Office of Employee Relations "did deliberately and wrongfully represent to the legislative body of the State of New York inaccurate information respecting

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<sup>1</sup> Although not specified in its exceptions, the charging party argues in its brief that the hearing officer showed partiality in favor of respondent. He further argued that the hearing officer should have been disqualified because Counsel to respondent had been previously employed by PERB and had been a colleague of the hearing officer. Having scrutinized the record, we find no evidence of partiality. We also reject the position that it is inherently improper for a case to be presented by a former employee of the Board and heard by a former colleague of his who is still employed by this Board. (See Matter of State of New York, 6 PERB 3131 [1973] and Rules of Procedure §208.2).

the negotiated compensation for certain members of the bargaining unit, to wit: '...that such increase shall not be applicable to incumbents of part time positions established on an individual basis for teaching in evening or extension programs.'

3. "[T]he Legislature pro forma on the recommendations of the Office of Employee Relations and on or about the 16th of May, 1974, enacted legislation in accordance with said recommendation."

(emphasis in original)

4. The impact of such legislation was that certain employees in the negotiating unit were deprived of rights that had been obtained through collective negotiations.

The charging party concludes that the respondent, through its Office of Employee Relations, violated CSL §209-a.1(a), (c) and (d) by unilaterally changing terms and conditions of employment. It is a matter of record that the subject bill was submitted to the Legislature on May 7, 1974, and that the charging party knew of the circumstances constituting the alleged violation by the 14th of August 1974. Relying upon this, the hearing officer determined that the charge was not timely.<sup>2</sup> The charging party argued the irrelevancy of the August 14, 1974 date and offered to prove that the wrong was first suffered on October 1, 1974 when the negotiated increase should have been, but was not paid. The hearing officer rejected the charging party's position.

We confirm the hearing officer's decision. No wrong transpired on October 1, 1974 when respondent failed to pay an increase as

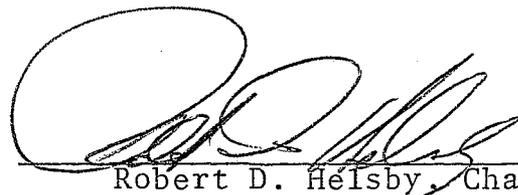
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<sup>2</sup> PERB's Rules of Procedure §§204.1(a)(1) does not permit the consideration of an improper practice charge that complains about conduct which occurred more than four months prior to the filing of the charge.

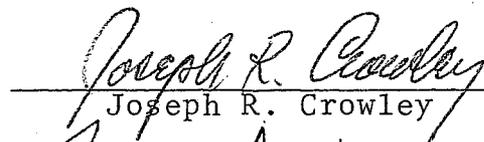
there was no contractual obligation to do so. CSL §§201.12 and 204-a make it clear that to the extent that an agreement requires legislative action to provide additional funds, it shall not become effective until the appropriate legislative body has given its approval. Such wrong as may have occurred would have transpired if and when respondent submitted inaccurate information to the State Legislature in the course of seeking legislative approval of the agreement. Assuming arguendo that the information submitted by the respondent to the State Legislature was inaccurate, a violation occurred on May 7, 1974, and it ripened into the basis of the charge not later than August 14, 1974.

NOW, THEREFORE, the charge herein should be, and hereby is,  
dismissed in its entirety.

Dated: September 26, 1975  
Albany, New York



Robert D. Heisby, Chairman



Joseph R. Crowley



Fred L. Denson

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of	:	
	:	#2C-9/26/75
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT,	:	<u>BOARD DECISION AND ORDER</u>
	:	
Respondent,	:	
	:	
- and -	:	<u>CASE NO. U-1255</u>
	:	
WILLIAMSVILLE TEACHERS ASSOCIATION,	:	
	:	
Charging Party.	:	

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This matter comes before us on the exceptions of the Williamsville Teachers Association (charging party) to the decision of a hearing officer dismissing its charge on the ground that it had expressly agreed not to "re-litigate" the matter before PERB. The charge alleged that the Williamsville Central School District (respondent) had violated §209-a.1(d) of the Public Employees' Fair Employment Act (Act)<sup>1</sup> in refusing to grant contractually agreed upon sabbatical leaves to eight teachers. The charge was dismissed on respondent's motion and no hearing was held on the merits.

In dismissing the charge, the hearing officer based his decision solely upon Section 3.18 of the agreement between the parties:

"By submitting a grievance to arbitration, a grievant who is a teacher waives on his own behalf, and a grievant which is the Association waives on its own behalf and on behalf of all teachers affected by the grievance, every right, if any, which the grievant has or may have to pursue any other remedy before any hearing officer, tribunal, administrative agency or court with respect to the subject matter of the grievance."

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<sup>1</sup> This section of the Act makes it an improper employer practice to deliberately "(d) ...refuse to negotiate in good faith with the duly recognized or certified representatives of its public employees."

In his decision, the hearing officer stated:

"That the contractual condition precedent had been fully met when the charging party filed and prosecuted a grievance on this matter through arbitration."

The hearing officer erred in this regard.

We note that on May 2, 1974, the charging party commenced a class grievance in its name alleging a contract violation by the respondent in refusing to grant sabbatical leaves. The employer successfully challenged the arbitrability of this grievance on the basis that the Association had no standing to bring the grievance in that it did not affect all, or substantially all, of the teachers in the bargaining unit. The arbitrator, however, gave the aggrieved teachers 10 days to bring individual grievances. These grievances were timely commenced and the merits of the matter were decided in a second arbitration proceeding in which the individuals were represented by the Association.

While procedures such as those agreed upon in Section 3.18 are to be encouraged in that they foster employer-employee relations by minimizing the relitigation of issues in various forms, nonetheless, express waiver provisions are to be closely scrutinized to insure that there has been no improper divestment of statutory rights. It is noted that there was an attempt by the Association to submit the grievance to arbitration, but this attempt was defeated when the respondent successfully challenged arbitration of the matter. A determination that the first grievance brought by the Association was not arbitrable precluded arbitration of the matter and, as such, the matter was never submitted to arbitration. Thus, the condition precedent of Section 3.18 has not been fulfilled and the express waiver provision is not operable. Even though the Association represented the individuals in the second grievance, it was not, in fact, the grievant as required by Section 3.18. Thus, the Association is not barred from pursuing remedial measures based on an improper practice charge under the Act.

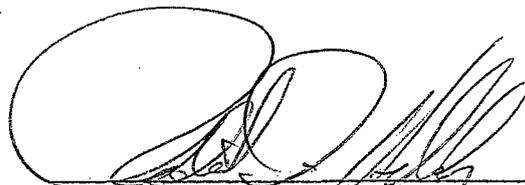
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Albeit that the express waiver provisions of Section 3.18 are not applicable, the arbitration of the matter based on the second grievance may have been dispositive of the issue that is the basis of the improper practice charge. Thus, we are hereby remanding the matter for the hearing officer to determine whether the award in the second arbitration proceeding satisfies the criteria set forth in our New York City Transit Authority decision (4 PERB 3669, 3670) and, if not, whether there is any merit to the charge. The standards in our New York City Transit Authority decision are:

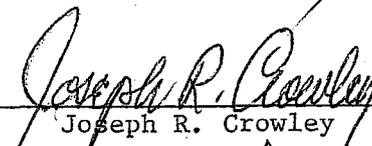
"...it (PERB) must be satisfied that the issues raised by the improper practice charge were fully litigated in the arbitration proceeding, that arbitral proceedings were not tainted by unfairness or serious procedural irregularities and that the determination of the arbitrator was not clearly repugnant to the purposes and policies of the Public Employees Fair Employment Act."

NOW, THEREFORE, WE ORDER that this matter be remanded to the hearing officer.

Dated: September 26, 1975  
Albany, New York



Robert D. Helsby, Chairman



Joseph R. Crowley



Fred L. Denson

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

#2D-9/26/75

In the Matter of

QUEENS BOROUGH PUBLIC LIBRARY,

Respondent,

-and-

LOCAL 1321, DISTRICT COUNCIL 37,  
AMERICAN FEDERATION OF STATE, COUNTY,  
& MUNICIPAL EMPLOYEES, AFL-CIO,

Charging Party.

BOARD DECISION  
AND ORDER

CASE NO. U-1234

The Queens Borough Public Library (Library) issued a directive on April 24, 1974 rescinding a supertime allowance that was a long-standing past practice. It had been referred to in its procedures manual since July 1, 1960 as follows:

"A time allowance of 1/2 hour is made for the meal hour when on evening duty to all appointed members of the staff if the evening assignment is part of a regular work day."

This unilateral action occurred while the Library and Local 1321, DC 37, AFSCME, AFL-CIO (charging party) were negotiating a successor contract to one covering the period from February 1, 1971 to August 31, 1973. This action by the Library precipitated the charge which alleged that the Library's unilateral action constituted a refusal to negotiate in good faith in violation of CSL §209-a.1(d).

In 1970, the Library had elected to come under the provisions of the New York City Collective Bargaining Law (New York City Administrative Code Section 1173-1.0 et seq.). That Law provides for tiered bargaining. Although we have exclusive jurisdiction over this charge (CSL §205.5(d)), the applicable substantive

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provisions regarding the level at which a mandatory subject of negotiations must be negotiated are those of the New York City Law so long as they are substantially equivalent to the Taylor Law (CSL §212). The employer must negotiate certain terms and conditions of employment with the unit representative. It may negotiate other terms and conditions of employment only on a departmental basis with an employee organization or group of employee organizations that is designated by the Board of Certification as being the representative of bargaining units which include more than 50 percent of all employees in the department (Admin. Code Sec. 1173-4.3 (3)). Still other terms and conditions of employment which must be uniform for all employees subject to the City's career and salary plan may be negotiated only on a citywide basis with an employee organization or group of employee organizations that is designated by the Board of Certification as being the representative of bargaining units which include more than 50 percent of all employees in the career and salary plan (Admin. Code Sec. 1173-4.3 (2)).

In a case related to the instant one, New York City's Board of Collective Bargaining determined that the subject of supertime allowances involved shift differentials and/or hours, and both matters are appropriate for negotiations at the citywide level (Matter of Queens Borough Public Library Decision No. B-12-17 at p. 11). It qualified this conclusion by the observation that there could be unique circumstances on a department-wide or local level that would justify negotiations for an exception from the citywide agreement but found that no such issue was raised by the parties to their case, which includes the parties to this case.

The implication of this is that the continuation of a supertime allowance is a prohibited subject of negotiation between the Library and a union representing only Library employees, and that a contract between the Library and the charging party providing such a benefit would be void. However, it is not necessary for us to reach that question. In Matter of Administrative Board of the Judicial Conference of the State of New York, 6 PERB 3032, we determined that the representation rights of an employee organization might be restricted by the terms of its recognition or certification and that it might be denied the right to negotiate some terms and conditions of employment. For such an employee organization, those terms and conditions of employment would not be mandatory subjects of negotiations. The charging party is so restricted. For it, supertime allowances is not a mandatory subject of negotiations.

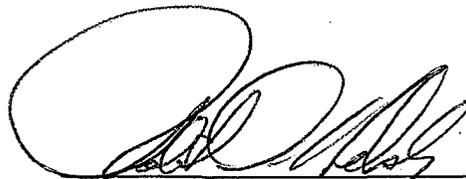
We have dealt with a similar problem in Matter of Board of Education of the City of New York, 5 PERB 3094. In that case, we held that a possible breach of contract involving a non-mandatory subject of negotiations raised no Taylor Law question under CSL §209-a.1(d), accord Allied Chemical and Alkali Workers Local 1 v. Pittsburgh Plate Glass Company, Chemical Division, 404 U.S. 157 (1971). The charging party was thus left to its remedies for breach of agreement. Similarly, we now conclude that a public employer breaches no such duty to an employee organization by virtue of its changing a past practice involving a term and condition of employment over which it has no duty to negotiate with that organization. The above-cited decision of New York City's Board of Collective Bargaining directed the parties to arbitration. We assume that the

parties will comply with the direction of the Board of Collective Bargaining. This is not inconsistent with our decision in Matter of Board of Education of the City of New York.

The hearing officer dismissed the charge herein and the Charging Party filed exceptions. Those exceptions alleged errors of fact and law in that the hearing officer failed to apply our decision in Matter of Triborough Bridge and Tunnel Authority, 5 PERB 3064, failed to distinguish between scope of bargaining and levels of bargaining under the New York City Collective Bargaining Law, and failed to conclude that the Library had an unlimited statutory obligation to negotiate with it notwithstanding its "limited election". Having reviewed the record, heard the parties' arguments and read their briefs, we confirm the action of the hearing officer.

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

Dated: Albany, New York  
September 26, 1975



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Robert D. Helsby, Chairman



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Joseph R. Crowley



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Fred L. Denson

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

#2E-9/26/75

In the Matter of  
COUNTY OF CATTARAUGUS,

Respondent,

-and-

CATTARAUGUS COUNTY CHAPTER, CIVIL  
SERVICE EMPLOYEES ASSOCIATION, INC.,

Charging Party.

BOARD DECISION AND ORDER

CASE NO. U-1206

On June 27, 1974, the Cattaraugus County Chapter of the Civil Service Employees Association, Inc., (CSEA) filed an improper practice charge alleging that the County of Cattaraugus (County) violated §209-a.1(d)<sup>1</sup> of the Public Employees' Fair Employment Act (Act) when, on March 26, 1974, it unilaterally discontinued providing county-owned cars to six Health Department employees who had theretofore enjoyed the use of such cars for travel within the scope of their employment and for driving to and from work.

The hearing officer found a violation in that the County unlawfully discontinued its practice of providing cars to employees. The County filed the following exceptions to the hearing officer's decision and recommended order.

<sup>1</sup> This section makes it an improper employer practice deliberately to refuse to negotiate collectively in good faith with the duly recognized or certified representatives of its public employees.

EXCEPTIONS:

1. The affirmative defense of laches is a meritorious one and the hearing officer was in error in failing to give effect thereto, and further a finding of a violation of respondent's duty to negotiate cannot be sustained in the absence of a finding that the employee organization requested negotiations.

2. ~~The grant of affirmative relief in the hearing officer's~~ recommended order that the respondent "shall forthwith return the cars to the affected employees" is beyond the power of this Board to grant.

Exception based on defense of laches

The assertion of the defense of laches presents an initial problem. Such a defense in our system of jurisprudence is asserted traditionally as a defense to the grant of equitable relief such as injunction or specific performance and is not generally regarded as a defense to an action at law. The essential difference being that in the former, i.e., equitable relief, the grant of relief is not absolute, but discretionary, whereas in the latter the right to relief, once the right is established, is an absolute right.

The Rules of this Board in prescribing the time within which to file an improper practice charge provides that the charge be filed within four months.<sup>2</sup> The Rules of this Board and the decisions of this Board have not, to date, given effect to the doctrine of laches. Thus, we will treat the defense of laches as one asserting

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<sup>2</sup> §204.1(a).

that the charge herein was not timely filed.

This requires a review of the facts established in the record.

1. The County Legislature passed a resolution on July 11, 1973 for the sale of the 14 cars in the Health Department, and to be replaced by the purchase of only 8 cars.

2. Pursuant to Article VIII §3 of the agreement between the County and CSEA, a copy of the agenda of the legislature is to be sent to the president of CSEA chapter. Baker, County Clerk and chief negotiator for County, testified (p. 207) that a copy of the above resolution was sent to CSEA. Later, on cross-examination, he testified he had no specific record of sending the July 11, 1973 resolution, but relied upon general practice that it was sent (p. 223). The field representative of CSEA said he did not learn of the change until May 1974 (p. 140).

3. Baker testified no one from CSEA approached him on the issue of cars until the spring of 1974.

4. On October 16, 1973, the Health Commissioner, Dr. Moss, wrote to the six nurses (to be deprived of cars) that "around December 1, 1973" the County would no longer supply cars to them. He wrote, "I made numerous efforts to maintain the car...but my efforts were of no avail," and further, "the final decision has been made". The decision of the legislature on July 11, 1973, "does not leave me any other choice".

5. All the nurses who testified said, in substance, that when the letter of October 16, 1973 was received, they did not

believe it would actually happen because of rumors in prior years that the cars would be taken away and they were not. They admitted, however, there was never legislative action before and that they had never received such a letter before.

6. One nurse discussed the October 16th letter with her supervisor, who said the Commissioner could do nothing about it (p. 56). Another nurse (p. 80) spoke to the Commissioner in November or December and he said that he would do everything to keep the cars. The Director of Nursing also spoke to the Commissioner. She testified he said that he would go back to take care of it as he had done in the past. Nothing was heard from the Commissioner through December - February (pp. 118-120).

7. No one of the nurses spoke to CSEA representatives after receiving the October 16th letter. The first time the Director of Nursing took it up with a representative of CSEA was when the car was taken away in March 1974 (p. 121).

8. The CSEA field representative said he first heard of the car issue in May 1974 (p. 140). The field representative spoke with Baker and agreed not to file any charge until Baker reported back to him. In June, Baker reported that the legislature was adamant (pp. 147-8).

9. Dr. Moss testified that when the nurses spoke to him about the car issue, he said that they should take it up with the union, but on cross-examination he could not identify the persons so advised. He did testify that he did go back to speak to the authorities, including a legislator, several times (pp. 178, 181, 189, 193).

On the above facts in the record, it cannot be controverted that the affected employees knew in October 1973 that the employer, through the legislature, had resolved to withdraw the subject cars. However, this fact does not warrant the conclusion that the time within which to file a charge commenced in October. The charging party, CSEA, is the negotiating agent for the affected employers. Thus, when a change in terms and conditions of employment is contemplated, the employer, in discharge of its obligation, must give notice to the certified or recognized representative of its employees. This obligation is not discharged by giving notice to the individual employees affected. An employer should deal with its employees through their representative and not deal with the representative through the employees.<sup>3</sup> Therefore, the time to file a charge herein commenced when the representative had, or should have had, notice, or was otherwise aware of the employer's decision to change terms or conditions of employment.<sup>4</sup> Here, the representative was not aware of the employer's action until, at the earliest, March of 1974; and since the charge was filed in June 1974, it was within the four-month period and thus timely filed.<sup>5</sup> The part of the employer's exception to the effect that a violation of a duty to negotiate in good faith does not arise until the employee organi-

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<sup>3</sup> Cf. NLRB v. General Electric, 418 F2d 736, 759.

<sup>4</sup> Cf. In the Matter of City of White Plains, 7 PERB 4557.

<sup>5</sup> Thus, even if the defense of laches were available, it would not be properly invoked due to lack of notice to the charging party.

zation makes a request to negotiate and such request is denied has no application here because the charge is grounded on a unilateral change in terms and conditions of employment and not upon a denial of a demand to negotiate.<sup>6</sup>

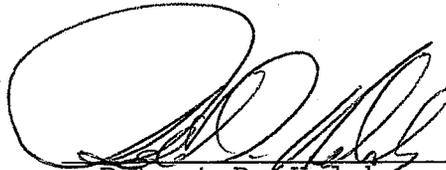
Exception as to scope of the recommended order

This exception is meritorious in the light of the decision of the Court of Appeals in the Matter of Jefferson County, NY 2d \_\_\_\_ (1975), and the order herein is modified so as to be in accord with such decision.

Therefore, in view of the above findings of fact, conclusions of law, and the specific violation we have found,

WE ORDER that the County negotiate in good faith.

Dated: September 26, 1975  
Albany, New York



Robert D. Helsby, Chairman



Joseph R. Crowley



Fred L. Denson

<sup>6</sup> cf Matter of Rensselaer County, 8 PERB 3064.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of : #2F-9/26/75  
PENFIELD CENTRAL SCHOOL DISTRICT, :  
Employer, :  
-and- : CASE NO. C-1234  
BENTE/AFSCME, LOCAL 2419-A, NEW YORK COUNCIL 66, :  
AFSCME, AFL-CIO, :  
Petitioner. :

BOARD DECISION AND ORDER

On May 2, 1975, BENTE/AFSCME, Local 2419-A, New York Council 66, AFSCME, AFL-CIO (petitioner) filed, in accordance with the Rules of Procedure of the New York State Public Employment Relations Board, a timely petition for certification as the exclusive negotiating representative of certain employees employed by the Penfield Central School District. Thereafter, the parties entered into a consent agreement in which they stipulated to the following as the appropriate negotiating unit:

Included: Food service helper, bus driver, bus mechanic, general mechanic (maintenance), custodian, groundskeeper, cleaner (matron).

Excluded: All other employees of the employer (seasonal and substitute).

The consent agreement was approved by the Director of Public Employment Practices and Representation on June 6, 1975.

Pursuant to the consent agreement, a secret ballot election was held on June 16, 1975. The results of this election indicate that a majority of the eligible voters in the stipulated unit who cast ballots do not desire to be represented for purposes of collective negotiations by the petitioner.

1] Of the 127 employees participating in the election, 47 voted in favor of representation by the petitioner, 78 voted against and 2 ballots were challenged.

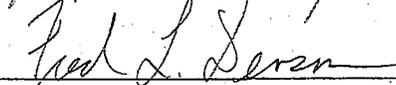
Following the election, the petitioner filed objections to conduct allegedly affecting the results of the election; however, the Director overruled the objections in their entirety (8 PERB 4076 [1975]) and no appeal was taken from his decision.

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

Dated: Albany, New York  
September 26, 1975

  
ROBERT D. HELSBY, Chairman

  
JOSEPH R. CROWLEY

  
FRED L. DENSON

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

#2F-9/26/75

IN THE MATTER OF :  
PENFIELD CENTRAL SCHOOL DISTRICT, :  
Employer, :  
-and- : Case No. C-1234  
BENTE/AFSCME, LOCAL 2419-A, NEW YORK :  
COUNCIL 66, AFSCME, 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 BENTE/AFSCME, LOCAL 2419-A, NEW YORK COUNCIL 66, AFSCME, AFL-CIO,

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

Unit: Included: head custodian, head painter, head groundsman, head auto mechanic, cook managers, head maintenance mechanic.

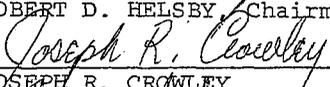
Excluded: all other employees of the employer.

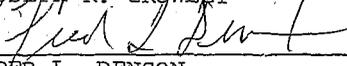
Further, IT IS ORDERED that the above named public employer shall negotiate collectively with BENTE/AFSCME, LOCAL 2419-A, NEW YORK COUNCIL 66, AFSCME, AFL-CIO,

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 26 day of September, 1975.

  
ROBERT D. HELSBY, Chairman

  
JOSEPH R. CROWLEY

  
FRED L. DENSON

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of :  
SUFFOLK COUNTY OFF-TRACK BETTING : #2G-9/26/75  
CORPORATION, :  
Employer, :  
-and- : Case No. C-1278  
LOCAL 237, INTERNATIONAL BROTHERHOOD OF :  
TEAMSTERS, :  
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 237, International Brotherhood of Teamsters

has been designated and selected by a majority of the employees of the above named public 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 and part-time cashiers, attendants, custodians and telephone operators.

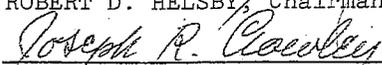
Excluded: All other employees.

Further, IT IS ORDERED that the above named public employer shall negotiate collectively with Local 237, International Brotherhood of Teamsters

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 26th day of September , 19 75.

  
ROBERT D. HELSBY, Chairman

  
JOSEPH R. CROWLEY

  
FRED L. DENSON