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5-3-1978

## State of New York Public Employment Relations Board Decisions from May 3, 1978

New York State Public Employment Relations Board

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## State of New York Public Employment Relations Board Decisions from May 3, 1978

### Keywords

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

### Comments

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STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

#2A-5/3/78

In the Matter of :  
: BOARD DECISION AND ORDER  
BOARD OF EDUCATION OF DEER PARK UNION FREE :  
SCHOOL DISTRICT, :  
: Respondent,, :  
: CASE NO. U-2694  
-and- :  
: DEER PARK TEACHERS ASSOCIATION, affiliated :  
with NEW YORK EDUCATORS ASSOCIATION, and :  
MARLETTA STEVENSON, :  
: Charging Parties. :  
:

In the Matter of :  
: BOARD OF EDUCATION OF EAST RAMAPO, :  
: CASE NO. U-2703  
: Respondent, :  
: -and- :  
: EAST RAMAPO TEACHERS ASSOCIATION, affiliated :  
with NEW YORK EDUCATORS ASSOCIATION, and :  
RICHARD MULLIN, :  
: Charging Parties. :  
:

As part of a plan to enhance their public image, both the Deer Park Teachers Association and the East Ramapo Teachers Association initiated programs under which "success cards" bearing clear Association identification and returnable to the Association at its address would be prepared by classroom teachers and mailed to students' parents notifying them of positive student achievements. Teacher participation in the "success cards" was to be voluntary.

The program was never implemented in Deer Park because of the direction of the School District. In East Ramapo the program was commenced. It was terminated, however, at the direction of the President of the Board of Education. The letter containing his direction was distributed by the Superinten-

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dent to the faculty.

On May 16, 1977, the Deer Park Teachers Association and Marletta Stevenson filed an improper practice charge (Case No. U-2694) against the Board of Education of the Deer Park Union Free School District, alleging violations of §§209-a.1(a), (b) and (c) of the Taylor Law. On May 18, 1977, the East Ramapo Teachers Association and Richard Mullin filed an improper practice charge (Case No. U-2703) against the Board of Education of the East Ramapo Central School District, alleging violations of §§209-a.1(a), (b), (c) and (d)<sup>1</sup> of the Taylor Law. A joint hearing was held on the two charges. The hearing officer determined that the "success card" program was not a protected activity under the Taylor Law because it was not related to the terms and conditions of employment of the teachers. Accordingly, he dismissed the charges in both cases.

The employee organizations have filed exceptions to the hearing officer's decision. Although the exceptions specify eight particulars in which it would have us conclude that the hearing officer erred, the common denominator of each is the hearing officer's conclusion that the "success card" program was not a protected activity under the Taylor Law.

We affirm the determination of the hearing officer that the "success card" program is not a protected activity under the Taylor Law. The Taylor Law grants to public employees the right to organize and to be represented by employee organizations in collective negotiations and in the administration of grievances. Collective negotiations are limited to matters constituting "terms and conditions of employment".

An employee organization has no protected right to use for its benefit information about students obtained by a teacher in the course of his official

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<sup>1</sup> The alleged (d) violation is the employer's direct communication with the faculty.

activities on behalf of the School District. Neither does a school teacher have a protected right to disclose such information for the benefit of his employee organization. It may constitute insubordination for a teacher to do so in disobedience of instructions from the School District.<sup>2</sup>

In the private sector, it has long been held that the protected right of employees to engage in concerted activities does not affect their duty of loyalty to their employer in the sense that they may be prohibited from disclosing job-related information to their employer's clientele except insofar as those disclosures relate to a labor dispute.<sup>3</sup> In their brief, the Associations argue that public sector unions have a particular protected right to take concerted action to enhance their public image because public opinion is an indispensable ingredient in the ability of a public sector union to represent its constituency effectively. We find no basis in the Taylor Law for such distinction.

ACCORDINGLY, we determine that the charges are without merit. In doing so, we find it unnecessary to reach the question raised by the exception of the Board of Education of the Deer Park Union Free School District.<sup>4</sup>

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<sup>2</sup> Nothing herein should suggest that an employee organization may not give public recognition to student successes on the basis of information that is generally available to the public.

<sup>3</sup> E.g., NLRB v. Local Union No. 1229, IBEW, 346 U.S. 464 (1953).

<sup>4</sup> The Board of Education of Deer Park Union Free School District also filed a cross-exception because it disagreed with the hearing officer's statement "that the particular activity here in question" is not reserved to the employer by the Education Law. It is not clear to us what the precise disagreement is between the hearing officer and the Deer Park Board of Education. The hearing officer appears to be speaking of pupil evaluation, while the Deer Park Board of Education appears to be speaking about determining educational policy. In any event, in view of our decision herein, we need not reach the issue.

NOW, THEREFORE, WE ORDER that the charges herein be, and they hereby  
are, dismissed in their entirety.

DATED: New York, New York  
May 4, 1978

*Harold R. Newman*  
\_\_\_\_\_  
Harold R. Newman, Chairman

*Ida Klaus*  
\_\_\_\_\_  
Ida Klaus, Member

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of : #2B-5/3/78  
WAPPINGERS FEDERATION OF TRANSIT, CUSTODIAL BOARD DECISION  
AND MAINTENANCE WORKERS, : AND ORDER  
upon the Charge of Violation of Section : Case No. D-0163  
210.1 of the Civil Service Law. :

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On February 1, 1978, Martin L. Barr, Counsel to this Board, filed a charge alleging that the Wappingers Federation of Transit, Custodial and Maintenance Workers (Federation) had violated Civil Service Law (CSL) §210.1 in that it caused, instigated, encouraged, condoned and engaged in a four-day strike against the Wappingers Central School District (District) on November 15, 16, 17 and 18, 1977.

The Federation filed an answer but thereafter agreed to withdraw it, thus admitting to all of the allegations of the charge, upon the understanding that the charging party would recommend, and this Board would accept, a penalty of loss of the Federation's deduction privileges for five (5) months. The charging party has in fact recommended a five-month suspension of deduction privileges.

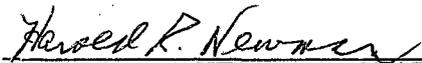
On the basis of the unanswered charge, we find that the Federation violated CSL §210.1 in that it engaged in a strike as charged, and we determine that the recommended penalty is a reasonable one.

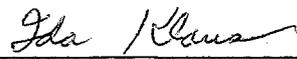
WE ORDER that the deduction privileges of the  
Wappingers Federation of Transit, Custodial and  
Maintenance Workers be suspended for a period

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of five months, commencing September 1, 1978. Thereafter, no dues and agency shop fee shall be deducted on its behalf by the Wappingers Central School District until the Wappingers Federation of Transit, Custodial and Maintenance Workers affirms that it no longer asserts the right to strike against any government, as required by the provisions of CSL §210.3(g).

DATED: New York, New York  
May 3, 1978

  
\_\_\_\_\_  
HAROLD R. NEWMAN, Chairman

  
\_\_\_\_\_  
IDA KLAUS, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Application of the : #2C-5/3/78  
TOWN OF RYE : BOARD ORDER  
for a Determination pursuant to Section : Docket No. S-0055  
212 of the Civil Service Law. :

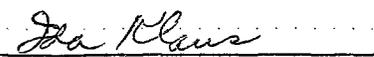
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At a meeting of the Public Employment Relations Board held on the 3rd day of May, 1978, and after consideration of the application of the Town of Rye made pursuant to Section 212 of the Civil Service Law for a determination that its Resolution of February 20, 1968 establishing a Town of Rye Public Employment Relations Board, as last amended by a resolution of the Town Board of the Town of Rye adopted on March 27, 1978, is substantially equivalent to the provisions and procedures set forth in Article 14 of the Civil Service Law with respect to the State and to the Rules of Procedure of the Public Employment Relations Board, it is

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

DATED: New York, New York  
May 3, 1978

  
HAROLD R. NEWMAN, Chairman

  
IDA KLAUS, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

#2D-5/3/78

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In the Matter of the Application of the : BOARD ORDER  
COUNTY OF SUFFOLK : Docket No. S-0006  
for a Determination pursuant to Section :  
212 of the Civil Service Law. :

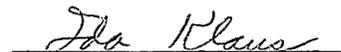
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At a meeting of the Public Employment Relations Board held on the 3rd day of May, 1978, and after consideration of the application of the County of Suffolk made pursuant to Section 212 of the Civil Service Law for a determination that its Local Law No. 7-1967 as last amended by Local Law No. 4-1978, is substantially equivalent to the provisions and procedures set forth in Article 14 of the Civil Service Law with respect to the State and to the Rules of Procedure of the Public Employment Relations Board, it is

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

DATED: New York, New York  
May 3, 1978

  
HAROLD R. NEWMAN, Chairman

  
IDA KLAUS, Member



STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of : #2F-5/3/78  
VILLAGE OF VALLEY STREAM, :  
Employer, :  
- and - :  
LONG ISLAND PUBLIC SERVICE EMPLOYEES, : CASE NO. C-1565  
LOCAL 342, :  
Petitioner, :  
- and - :  
VILLAGE OF VALLEY STREAM UNIT OF THE NASSAU :  
COUNTY CHAPTER OF CSEA, INC., :  
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 Long Island Public Service Employees, Local 342

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 white-collar employees, including court clerks, steno-secretaries, typist-clerks, senior clerks, stenographers, children's librarian, adult service librarian, senior library clerks, multiple residence inspector, fire inspector, sign inspector, junior civil engineer and all regular part-timers employed in the following four job titles librarian, clerk, typist-clerk and stenographer, who on the completion of one (1) year of employment have worked during such initial year an amount of time equivalent to forty-five (45%) percent of the time worked by a regular full-time employee in a similar job classification in the same department.

Excluded: All other employees

Further, IT IS ORDERED that the above-named public employer shall negotiate collectively with the Long Island Public Service Employees, Local 342.

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 3d day of May, 1978

Harold Newman  
Harold Newman

Ida Klaus  
Ida Klaus

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of : #2G-5/3/78  
CENTRAL ISLIP PUBLIC LIBRARY, :  
Employer, :  
- and - : CASE NO. C-1573  
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., :  
Petitioner. :

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

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

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

IT IS HEREBY CERTIFIED that the Civil Service Employees Association, 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 and part-time professional and non-professional employees

Excluded: Director, student pages and all other employees.

Further, IT IS ORDERED that the above-named public employer shall negotiate collectively with the Civil Service Employee Association, Inc.

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 3d day of May, 1978

Harold Newman  
Harold Newman

Ida Klaus  
Ida Klaus

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of :  
LINDENHURST UNION-FREE SCHOOL DISTRICT, : #2H-5/3/78  
Employer, :  
- and - :  
LOCAL 806, INTERNATIONAL BROTHERHOOD OF :  
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND :  
HELPERS OF AMERICA, :  
Petitioner, : CASE NO. C-1572  
- and - :  
LINDENHURST PUBLIC SCHOOLS UNIT, SUFFOLK :  
EDUCATIONAL CHAPTER, CSEA, INC., :  
Intervenor, :  
- and - :  
LOCAL 144, SEIU, AFL-CIO, :  
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 Lindenhurst Public Schools Unit, Suffolk Educational Chapter, CSEA, 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:

SEE ATTACHMENT

Excluded:

Further, IT IS ORDERED that the above-named public employer shall negotiate collectively with the Lindenhurst Public Schools Unit, Suffolk Educational Chapter, CSEA, Inc.

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 3d day of May, 1978

Harold Newman  
Harold Newman

Ida Klaus  
Ida Klaus

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Included: All full-time, non-instructional office and clerical personnel, cafeteria drivers, custodians, custodial workers, carpenters, painters, plumbers, electricians, heating and plumbing general repairmen, groundsmen, driver-warehousemen and station wagon drivers.

Excluded: Administrative assistant, business; assistant business manager; administrative assistant, operations and maintenance; purchasing agent; supervisor of custodian and maintenance service; tabulating unit supervisor; superintendent's secretary; stenographer assigned to the administrative assistant, business; (2) stenographers assigned to the personnel office; school lunch director; A. V. technician; duplicating machine operator; cafeteria aides; playground aides; library aides; classroom aides and receptionists.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of : #2I-5/3/78  
SEAFORD UNION FREE SCHOOL DISTRICT, :  
Employer, :  
- and - :  
SEAFORD ASSOCIATION OF EDUCATIONAL OFFICE : CASE NO. C-1603  
PERSONNEL, NYEA/NEA, :  
Petitioner, :  
- and - :  
NASSAU CHAPTER OF CIVIL SERVICE EMPLOYEES :  
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 Seaford Association of Educational Office Personnel, NYEA/NEA.

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: Clerk Typist; Switchboard Operators, Stenographers, Senior Stenographers, Stenographic Secretaries, Account Clerks and Senior Account Clerks.

Excluded: Secretary to the Superintendent of Schools.

Further, IT IS ORDERED that the above-named public employer shall negotiate collectively with the Seaford Association of Educational Office Personnel, NYEA/NEA.

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 3rd day of May, 1978

Harold Newman  
Harold Newman

Ida Klaus  
Ida Klaus

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Conduct of the Election : Case No.  
Between the CIVIL SERVICE EMPLOYEES ASSOCIATION, : C-1537  
INC., :

-and- :

The PUBLIC EMPLOYEES FEDERATION, AFL-CIO :

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In the Matter of : Case No.  
THE CIVIL SERVICE EMPLOYEES ASSOCIATION, : U-3232  
INC., :

Charging Party, :

-and- :

STATE OF NEW YORK, GOVERNOR'S OFFICE OF :  
EMPLOYEE RELATIONS, :

Respondent, :

-and- :

PUBLIC EMPLOYEES FEDERATION, AFL-CIO, :

Proposed Intervenor-Respondent. :

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In the Matter of : Case No.  
THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., : U-3226

Charging Party, :

-and- :

NEW YORK STATE, ROCHESTER PSYCHIATRIC CENTER, :

Respondent, :

-and- :

PUBLIC EMPLOYEES FEDERATION, AFL-CIO, :

Proposed Intervenor-Respondent :

A motion has been made directly to the Public Employment Relations Board by the Civil Service Employees Association for an order directing discovery proceedings in the above-entitled matters. The submission of this motion to the Board is not in accordance with appropriate procedures.

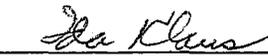
With respect to the representation case, §201.9(c)(2) of our Rules provides that "all motions other than those made during a hearing shall be made in writing to the Director.... The Director may rule upon motions filed with him or he may refer motions to the trial examiner.... All such motions and rulings and orders thereon shall be part of the record of the proceeding."

With respect to the improper practice cases, §204.7(h) of our Rules provides only that motions and rulings made at a hearing "shall be part of the record of the proceeding and,...shall be considered by the Board whenever the case is submitted to it for decision."

NOW, THEREFORE, the motion is denied.

DATED: May 3, 1978  
New York, New York

  
\_\_\_\_\_  
Harold R. Newman, Chairman

  
\_\_\_\_\_  
Ida Klaus

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