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9-30-1983

State of New York Public Employment Relations Board Decisions from September 30, 1983

New York State Public Employment Relations Board

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

#2A-9/30/83

HYDE PARK CENTRAL SCHOOL DISTRICT,

Employer/Petitioner,

-and-

CASE NO. C-2541

HYDE PARK TEACHERS' ASSOCIATION,

Intervenor.

DAVID S. SHAW, ESQ., for Employer/Petitioner

C. FREDERICK OTT, for Intervenor

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Hyde Park Central School District (District) to a decision of the Director of Public Employment Practices and Representation (Director) denying its petition to remove department chairpersons from a unit of teachers represented by the Hyde Park Teachers' Association (Association).

The Association acknowledged, and the Director found, that the department chairpersons supervised the teachers. However, relying upon our decision in Village of Scarsdale, 15 PERB ¶3125 (1982), the Director concluded that the chairpersons should remain in the same unit as the teachers

because the two groups had been in one unit since 1968 and there was no evidence that the unit structure had subverted effective supervision.

After the issuance of the Director's decision herein, we rendered our decision in Ulster County, 16 PERB ¶3069 (1983). In it we ruled that evidence of actual subversion of effective supervision was not required for a determination that supervisors should be removed from long-standing units comprising both supervisors and rank-and-file employees, saying:

In considering whether supervisory personnel should be removed from a long-standing unit, we shall not henceforth impose on an employer-petitioner the prerequisite of producing evidence of actual subversion of effective supervision.

Looking beyond the absence of such evidence, the record before us shows that these chairpersons exercise such responsibilities in connection with the hiring of new teachers and the evaluation and discipline of existing teachers as to indicate significant supervisory status on their part. See East Ramapo Central School District, 11 PERB ¶3075 (1978). Moreover, we find that here there is a history of negotiations that is consistent with separate

representation of the chairpersons and the teachers. Although they have been in a single unit for 15 years, the Association did not seek to represent the chairpersons with respect to the only terms and conditions of employment that were unique to them for most of this period. Those terms and conditions of employment are the stipends and release time of department chairpersons. There had been no formal negotiations regarding either issue prior to 1982; the District decided what to do about them unilaterally after discussing them with the chairpersons outside the framework of the negotiation process. Thus, despite the long-standing formal unit structure, there is no long-standing practice of the Association representing department chairpersons with respect to terms and conditions of employment that are unique to them.

Having examined the record before us, we conclude that a unit including chairpersons and teachers would not satisfy the statutory standards and that, accordingly, the chairpersons should be removed from the unit of teachers.

NOW, THEREFORE, WE ORDER that the department chairpersons be removed from the unit of teachers represented by the Association and that the matter herein be remanded to the Director for

further processing with regard to the
representation of the department
chairpersons.

DATED: September 30, 1983
Albany, New York

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member