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Board (PERB)

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7-19-1984

## State of New York Public Employment Relations Board Decisions from July 19, 1984

New York State Public Employment Relations Board

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## State of New York Public Employment Relations Board Decisions from July 19, 1984

### 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

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In the Matter of  
COUNTY OF NASSAU,

Respondent,

-and-

CASE NO. U-3691

ANGELINA SINICROPI,

Charging Party.

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ANGELINA SINICROPI, pro se

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of Angelina Sinicropi to a decision of the Director of Public Employment Practices and Representation (Director) dismissing her charge against the County of Nassau (County) as not being timely filed.<sup>1/</sup> The charge was filed on November 16, 1978.<sup>2/</sup>

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<sup>1/</sup>Section 204.1(a)(1) of our Rules of Procedure permits the filing of an improper practice charge only within four months of the conduct complained of.

<sup>2/</sup>The charge was withdrawn conditionally in March 1979. Sinicropi had commenced a proceeding in court to review her disciplinary discharge by the County. It was stipulated that the charge would be withdrawn subject to reopening if the court did not address the issues involved in the improper practice case. The disciplinary discharge was eventually confirmed (Sinicropi v. Bennett, 60 NY2d 918 [1983]), but the court's decision did not deal with the improper practice issues. The matter was then reopened on Sinicropi's motion.

and complains that the County brought disciplinary charges against Sinicropi on June 20, 1978 in retaliation for her having filed a grievance and engaged in other protected activities.

In her exceptions, Sinicropi argues that the instant charge grows out of the same circumstances as were complained about in an earlier case.<sup>3/</sup> Thus, according to Sinicropi, the timeliness of the earlier charge should be imputed to the second.

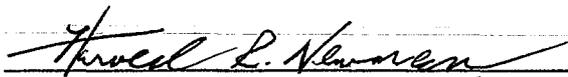
We affirm the decision of the Director. The two charges present distinct causes of action and, as noted by the Director, the second cause of action was not brought within the time authorized by Rule 204.1(a)(1).

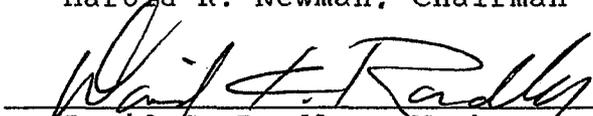
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<sup>3/</sup>U-2846. In this charge Sinicropi complains that the County interfered with her attempt to file a grievance in August, 1977, which incident allegedly provoked the retaliatory disciplinary action referred to in the instant charge. That charge, too, was conditionally withdrawn in March, 1979 and reopened in 1984. It has been assigned to an Administrative Law Judge for disposition on the merits.

NOW, THEREFORE, we Order that the charge herein be, and  
it hereby is, dismissed.

DATED: July 19, 1984  
Albany, New York

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

  
\_\_\_\_\_  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

PLAINVIEW-OLD BETHPAGE CENTRAL  
SCHOOL DISTRICT,

Respondent,

-and-

CASE NO. U-7059

PLAINVIEW-OLD BETHPAGE CONGRESS OF  
TEACHERS, NEA - NY/NEA,

Charging Party,

-and-

PLAINVIEW-OLD BETHPAGE CHAIRPERSONS'  
ASSOCIATION,

Intervenor.

---

CAMPANELLA & GUERCIO, P.C., for Respondent

ROBERT D. CLEARFIELD, ESQ. (JANET AXELROD, ESQ., of  
Counsel), for Charging Party

ROBERT SAPERSTEIN, ESQ., for Intervenor

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Plainview-Old Bethpage Central School District (District) to the decision of an Administrative Law Judge (ALJ) that it violated its duty to negotiate in good faith with the Plainview-Old Bethpage Congress of Teachers, NEA - NY/NEA

(Congress) in that it executed a "parity" agreement with the Plainview-Old Bethpage Chairpersons' Association (Association) which tied certain benefits of the chairpersons to future negotiations with the Congress. The record establishes that the District and the Association entered into a collective bargaining agreement on May 25, 1984 which, among other things, assured chairpersons of any benefits that the Congress might achieve in subsequent negotiations on behalf of teachers dealing with workers' compensation, health insurance and several other matters. The District and the Association, which was permitted to intervene in the proceeding, argued that their agreement upon this parity clause was not improper.<sup>1/</sup> Relying on our decisions in City of New York, 10 PERB ¶3003 (1977), and Rockville Centre Principals Assn., 12 PERB ¶3021 (1979), the ALJ found that it was.

The District and the Association argue that the Court of Appeals in Niagara-Wheatfield Administrators Association v. Niagara-Wheatfield CSD, 44 NY2d 68, 11 PERB ¶7512 (1978) and the Appellate Division, Third Dept. in City of

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<sup>1/</sup>The ALJ determined that the Congress did not amend its charge to complain about the conduct of the Association, and he found no violation by the Association. The Congress filed no exceptions and the issue is therefore not before us.

Schenectady, 85 AD2d 116, 15 PERB ¶7510 (1982), have determined that an agreement providing a parity clause is not improper. They further argue that, to the extent that these court decisions do not overrule our own decisions, City of New York should be distinguished on the ground that the employer there not only executed a parity clause but also used the clause as a shield against negotiation demands made by the union which bore the parity burden. This, it alleges, has not happened here.<sup>2/</sup>

Two other defenses raised by the District and the Association relate to the timing of the charge. The record shows that there was a similar parity clause in two prior agreements between the District and the Association covering a period of six years. They argue that by not objecting to that clause in the past, the Congress is barred by laches from objecting now. They also contend that the charge is not timely because it was brought four months and one day after the District's agreement with the Association was executed.

We find that the Congress is not barred by laches from filing the charge herein. Laches is an equitable defense that applies when there has been an excessive delay in

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<sup>2/</sup>At the time when the charge was filed, the Congress and the District had not yet commenced their negotiations.

asserting a right which prejudices an adverse party. There is no showing that the District or the Association have been prejudiced by the Congress' failure to contest the parity clauses in the prior agreements. Further, the failure of a union to object to improper conduct by an employer in one year does not amount to a waiver such as to preclude it from objecting to similar improper conduct taken in subsequent years.<sup>3/</sup> We also find no basis for concluding that the charge is not timely. There is no showing in the record that the Congress was aware of the contract between the District and the Association on the date of its execution. Thus, we conclude, its charge was brought within four months of the time when it knew or should have known of the alleged violation.

The rejection of these defenses confronts us with the parity issue.<sup>4/</sup> In City of Albany, 7 PERB ¶3079 (1974), this Board held parity to be a nonmandatory subject of negotiation. Later, in City of New York, we held parity to

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<sup>3/</sup>Compare CSEA v. Newman, 88 AD2d 685 (3d Dept., 1982), 15 PERB ¶7011, aff'd \_\_\_ NY2d \_\_\_ (1984), 17 PERB ¶7007.

<sup>4/</sup>The Association argues that the Congress has no standing to bring a charge attacking its contract with the District because it is not a party to that contract. This argument is integrally related to the question of the validity of the parity clause.

be a prohibited subject of negotiation "by reason of its inhibiting effect upon related collective negotiations".<sup>5/</sup> In Niagara-Wheatfield, the Court of Appeals ruled that a contract clause calling for the continuation of a contractual benefit was valid; the contract benefit in question was an assurance of parity. We nevertheless indicated our adherence to City of New York when the issue of parity next came before us in Rockville Centre. We reasoned that the Court of Appeals had not focused on the fact that the contract benefit being continued was a parity clause and that its specific and limited holding concerned the legality of a proposal for a continuation of benefits.

The issue next surfaced in City of Schenectady. The underlying facts were that the police and firefighters employed by Schenectady had negotiated a series of contracts jointly which contained parity clauses. An arbitrator awarded a benefit to the firefighters after the City had granted it to the police. Relying upon this Board's decisions, the City, unsuccessfully, contested the arbitrator's award. The Appellate Division rejected "any per se invalidation of such [parity] clauses".<sup>6/</sup>

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<sup>5/</sup>Supra, at p. 3010.

<sup>6/</sup>Supra, at p. 7531.

Upon reconsideration, we believe that the police and firefighters' joint negotiations in the Schenectady case require us to reconsider our analysis of parity in prior decisions to the extent that we held a parity clause to be prohibited in all circumstances. A parity agreement is improper only to the extent that it trespasses upon the negotiation rights of a union that is not a party to the agreement. It does so by making it more difficult for the nonparty union to negotiate some benefits for employees it represents while imposing upon it a burden of negotiating for employees it does not represent. As evidenced by the facts in Schenectady, however, it cannot be assumed that the nonparty union will always object to the intrusion upon its negotiation rights affected by the parity agreement. We therefore agree with the court in Schenectady that there is no policy reason for barring parity clauses agreed to by both unions in joint bargaining with the employer or otherwise consented to by the nonparty union. ✓

Our prior decisions failed to give sufficient recognition to the fact that litigation of parity clauses may not involve the rights of a non-party union, but only the rights of the parties to the parity agreement. The above-cited court decisions involved only the parties to the parity agreement. In sustaining arbitration awards

growing out of disputes between those parties, the courts perceived the dispositive public policy to be that set forth by the Court of Appeals in District No. 3 v. Associated Teachers of Huntington, 30 NY2d 122, 5 PERB ¶7057 (1972): having reached an agreement with the union a public employer should not be able to disavow it because it finds that the agreement has become disadvantageous.

Nevertheless, with respect to a nonparty union--the unwilling bargaining representative--we continue to believe that the policies underlying the Taylor Law require a different result. In our view, the interference with the rights of a union that may be effected by a parity agreement between an employer and another union is an improper practice within the exclusive jurisdiction of this Board. ✓

Not being party to the parity agreement, a union may seek to vindicate its rights by bringing an improper practice charge before this Board. The parties to a parity agreement, in the ensuing improper practice proceeding, may defend their conduct by showing that the charging party had consented to the intrusion upon its negotiation rights. Such would have been the case had the joint bargaining situation in Schenectady emerged as an improper practice proceeding.

This analysis leads us to the conclusion that a parity clause is subject to nullification but is not prohibited per se. The relevant circumstances supporting the voiding of a parity clause can be established only in a timely improper practice charge brought by a union alleging that the parity clause trespasses upon its negotiation rights.

We now have before us such an improper practice charge, and the evidence is clear that the Congress did not consent to the parity clause. The Association contends that the parity clause itself does not trespass upon the negotiation rights of the Congress; only the use of that clause by the District as a shield to resist negotiation demands by the other union would be objectionable. It asserts that no such use of the parity clause was alleged in the instant case.<sup>1/</sup>

We reject this attempted distinction between the parity clause and its effect. The parity clause may not become an explicit issue in the Congress' subsequent negotiations, but its effect will inevitably be present in the minds of the negotiators and constrict negotiating rights. The Connecticut State Labor Relations Board has dealt with this problem persuasively in City of New London, MPP-2268 (1973). It said:

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<sup>1/</sup>See footnote 1.

What we find to be forbidden is an agreement between one group (e.g. firemen) and the employer that will impose equality for the future upon another group (e.g. policemen) that has had no part in making the agreement. We find that the inevitable tendency of such an agreement is to interfere with, restrain and coerce the right of the later group to have untrammelled bargaining. And this affects all the later negotiations (within the scope of the parity clause) even though it may be hard or impossible to trace by proof the effect of the parity clause upon any specific terms of the later contract (just as in the case before us). The parity clause will seldom surface in the later negotiations but it will surely be present in the minds of the negotiators and have a restraining or coercive effect not always consciously realized. And while the evidence in the present case may not have shown a specific connection between the parity clause and the terms of the Police contract, it certainly did not indicate the lack of such connection. The economic terms offered to policemen and finally accepted by them were just the same as those previously given to the firemen. (emphasis in original)

For the foregoing reasons, we affirm the decision of the ALJ.

NOW, THEREFORE, WE ORDER that the District:

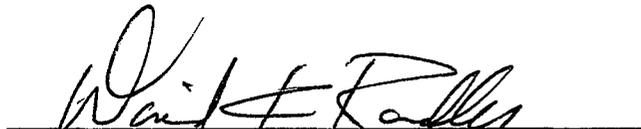
1. Cease and desist from giving effect to the parity provision contained in the present agreement with the Plainview-Old Bethpage Chairpersons' Association;
2. Cease and desist from agreeing to a contract provision that would require it to automatically tie in benefits of

employees in the unit represented by the Association to the yet-to-be negotiated benefits of employees in the unit represented by the Congress.

3. Post a notice in the form attached at all locations ordinarily used to communicate information to its employees.

DATED: July 19, 1984  
Albany, New York

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

  
\_\_\_\_\_  
David C. Randles, Member

APPENDIX

# 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 our employees that the Plainview-Old Bethpage Central School District

1. Will not give effect to the parity provision contained in the present agreement with the Plainview-Old Bethpage Chairpersons' Association;
2. Will not agree to a contract provision that would require us to automatically tie in benefits of employees in the unit represented by the Association to the yet-to-be negotiated benefits of employees in the unit represented by the Congress.

Plainview-Old Bethpage Central School Dist.

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.*

9149

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

ROCKLAND COUNTY SHERIFF'S  
CORRECTION OFFICERS ASSOCIATION,

CASE NO. D-0230

Upon the charge of a violation of  
Section 210.1 of the Civil Service  
Law.

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BOARD DECISION AND ORDER

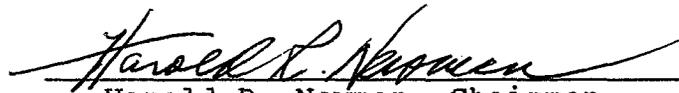
This matter comes to us on the application of the Rockland County Sheriff's Correction Officers Association (Association) for restoration of the dues and agency shop fee deduction privileges afforded under Section 208 of the Civil Service Law. The Association's privileges had been suspended indefinitely by an order of this Board dated October 29, 1982. At that time we determined that the Association had violated CSL §210.1 by engaging in a one day strike against the County of Rockland on June 22, 1981. We ordered that the Association's dues deduction privileges and agency shop fee deduction privileges, if any, should be suspended indefinitely, provided that it "may apply to this Board at any time after twelve months have elapsed from the commencement of the forfeiture for the restoration of such dues deduction privileges." The application was to be supported by proof of good faith compliance with CSL §210.1 since the violation

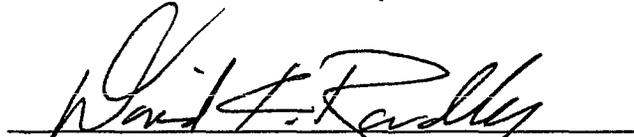
found, and accompanied by an affirmation that the Association no longer asserts the right to strike, as required by CSL §210.3(g).

The Association has submitted an affirmation that it does not assert the right to strike against any government and we have ascertained that its deduction privileges were suspended effective with the pay period commencing May 28, 1983, and that it has not engaged in, caused, instigated, encouraged or condoned a strike against the County of Rockland since the date of the above-stated violation.

NOW, THEREFORE, WE ORDER that the indefinite suspension of the dues and agency shop fee deduction privileges of the Rockland County Sheriff's Correction Officers Association be, and it hereby is, terminated.

DATED: July 19, 1984  
Albany, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

FREWSBURG CENTRAL SCHOOL DISTRICT

CASE NO. E-0973

Upon the Application for Designation of  
Persons as Managerial or Confidential.

---

S. RALPH MARRA, for Frewsburg Central School District  
JOHN W. CAMPION, for Frewsburg Faculty Association

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Frewsburg Faculty Association (Association) to a decision of the Director of Public Employment Practices and Representation (Director) holding Thomas Sharp to be a managerial employee.

Sharp is employed as a high school administrative assistant. That position has been in existence since 1974 and involved part-time work for a teacher who received an annual stipend above his normal salary. In 1983 his duties were expanded to include some responsibilities that had been exercised by the former business manager of the Frewsburg Central School District (District). The former business manager had been a member of the District's team in negotiations with custodial employees. He left the employment

of the District in 1983 to accept a position with a BOCES which services the District. As part of his duties in his new position, he continues to serve as a negotiator for the District. Some of his negotiation-related duties, however, were assigned to Sharp. Sharp's new job description provides, inter alia:

IV. Negotiations and Contract Administration

- A. Will help to frame proposals for non-teaching contract negotiations.
- B. Will provide background data during the course of non-teaching negotiations.

In support of its exceptions to the Director's decision holding for the District, the Association argues that the record does not support a finding that Sharp has a significant role in negotiations. In this connection, it points out that the former business manager will continue to represent the District at the table and that, in any event, Sharp has not yet performed any functions in connection with negotiations. In further support of its position, it relies upon the Board's decision in Hempstead Public Schools, 6 PERB ¶3001 (1973), for the proposition that a public employer applying for the designation as managerial of an employee who is already in a

negotiating unit has a very heavy burden. It contends that the District has not met this burden with respect to Sharp.

Having reviewed the record, we affirm the decision of the Director. Section 201.7(a) of the Taylor Law provides that a person may be designated managerial if he:

may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of negotiations . . . provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.

The record demonstrates that Sharp's role in negotiations with the custodial employees satisfies this standard. His assignment both requires him to prepare negotiating proposals and to provide support to the former business manager during the course of negotiations. This assignment is not routine or clerical in nature and it requires the exercise of independent judgment.

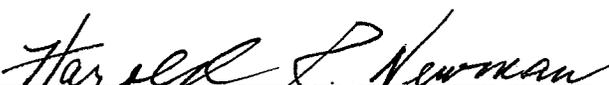
It is irrelevant that, negotiations not yet having commenced, Sharp has not yet performed this assignment. In City of Newburgh, 16 PERB ¶3053 (1983) at p. 3082, we noted that under the Taylor Law:

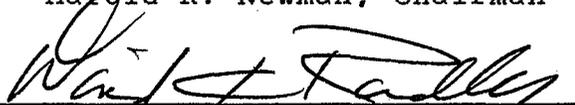
an employee may be designated "managerial" on the basis of services that may reasonably be required of him in the future, while an employee may be designated "confidential" only on the basis of services already performed. (emphasis in original).

We conclude that the District satisfied its burden of proving that Sharp is a managerial employee.

NOW, THEREFORE, WE ORDER that Thomas Sharp be, and he hereby is, designated a managerial employee of the District.

DATED: July 19, 1983  
Albany, New York

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

  
\_\_\_\_\_  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of  
CITY OF BINGHAMTON,

Employer.

-and-

CASE NO. C-2771

TEAMSTERS LOCAL UNION 693, INTERNA-  
TIONAL BROTHERHOOD OF TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN AND HELPERS  
OF AMERICA,

Petitioner,

-and-

LOCAL UNION 675, AFSCME, AFL-CIO,

Intervenor.

---

DAVID M. DUTKO, ESQ., for Employer

BEINS, AXELROD & OSBORNE, P.C. (HUGH J. BEINS,  
ESQ., of Counsel), for Petitioner

ROWLEY, FORREST & O'DONNELL, P.C. (BRIAN J.  
O'DONNELL, ESQ. and RONALD G. DUNN, ESQ., of  
Counsel), for Intervenor

BOARD DECISION AND ORDER

The petition herein was filed by Teamsters Local Union 693, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Local 693) to represent a unit of supervisory employees of the City of Binghamton's Departments of Public Works, Parks and Water, and its Signal Bureau. These employees had been represented by Local Union

675, AFSCME, AFL-CIO (Local 675), which intervened in the proceeding. Local 675 was apparently then merged into Local Union 826, AFSCME, AFL-CIO (Local 826). The matter now comes to us on the exceptions of Local 826 to an interim decision of the Acting Director of Public Employment Practices and Representation (Acting Director) finding the petition of Local 693 timely.<sup>1/</sup>

The City's collective bargaining agreement with Local 675 expired on December 31, 1983 and under §201.3(e) of our rules it, or its successor, had 120 days to conclude a successor agreement before Local 693 could file a timely petition. No such agreement was reached by then, or by May 1, 1984, when the petition was filed. Local 826 asserts that there was an informal agreement to extend to the supervisors the terms of the City's collective bargaining agreement with Local 826 covering another unit of public employees, but it is clear from the record that no formal agreement was ever reached. The alleged informal agreement would not be sufficient to bar a petition by Local 693.<sup>2/</sup>

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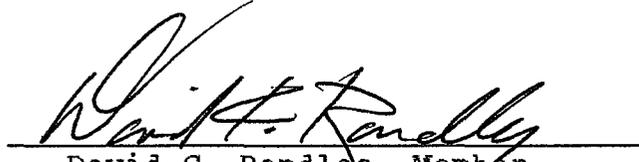
<sup>1/</sup>The Acting Director issued a consolidated decision covering this matter and Case C-2772, a related matter. Not having completed our deliberations on C-2772, we separate these matters for decision.

<sup>2/</sup>Farmingdale UFSD, 7 PERB ¶3073 (1974).

ACCORDINGLY, WE AFFIRM the decision of the Acting  
Director, and  
WE REMAND the matter to the Director of  
Public Employment Practices and  
Representation (Director) for further  
proceedings consistent with this decision.

DATED: July 19, 1984  
Albany, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

STATE OF NEW YORK, UNIFIED COURT  
SYSTEM

CASE NO. E-0969

---

Upon the Application for Designation  
of Persons as Managerial or  
Confidential.

---

HOWARD A. RUBENSTEIN, ESQ. (ANDREA R. LURIE, ESQ.,  
of Counsel), for Employer

ROEMER & FEATHERSTONHAUGH, ESQS., (MICHAEL J. SMITH,  
ESQ., of Counsel), for Intervenor

BOARD DECISION AND ORDER

On August 30, 1983, the State of New York, Unified Court System (UCS) filed an application seeking the designation of certain of its employees as managerial or confidential in accordance with the criteria set forth in Civil Service Law (CSL) §201.7.

The UCS has filed exceptions to that part of the decision of the Acting Director, dated March 27, 1984, which found that the record did not warrant a designation that Kevin Riley (Riley) and Kevin McGraw (McGraw) are managerial employees.

The exceptions argue that Riley and McGraw, who are employed as assistant court analysts, Salary Grade 14, do meet the criteria of CSL §201.7(a)(i) for designation as managerial employees because they formulate policy in that they participate with regularity in the process of determining the methods and means by which the State can achieve its objective of improving the delivery of justice in the town and village courts.

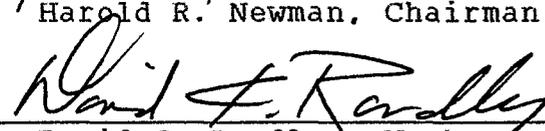
Having reviewed the record and considered the exceptions, we affirm the determination of the Acting Director.

The record discloses that Riley and McGraw, basically, gather data on issues of concern to local magistrates and report the results to their superiors within UCS. The title standards for the position indicate that the role of assistant court analyst is to "provide professional level assistance to Court Analysts and higher level personnel" concerning various projects. The Acting Director, upon consideration of the evidence, found that the record did not establish that Riley and McGraw have the authority to formulate policy. The exceptions and argument of the employer do not persuade us otherwise.

NOW, THEREFORE, WE AFFIRM the decision of the Acting Director and we ORDER that the exceptions herein be, and the same hereby are, dismissed.

DATED: July 19, 1984  
Albany, New York

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

  
\_\_\_\_\_  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of  
CITY OF ROCHESTER,

Respondent,

-and-

CASE NO. U-7396

AFSCME, NY, COUNCIL 66, LOCAL 1635,  
CITY OF ROCHESTER CIVILIAN EMPLOYEES,

Charging Party.

---

BARRY C. WATKINS, ESQ., for Respondent

JOEL M. POCH, ESQ., for Charging Party

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of AFSCME, NY, Council 66, Local 1635, City of Rochester Civilian Employees (Local 1635) to a decision of the Director of Public Employment Practices and Representation (Director) which dismissed its improper practice charge against the City of Rochester (City) for failure to state a cause of action. The charge alleged that the City violated §209-a.1 (a) and (d) of the Act when, without prior negotiations with Local 1635, it entered into an arrangement with the Monroe County Sheriff by which some of the Sheriff's "911 dispatchers" would receive training while working alongside the City's 911 dispatchers. The City's

dispatchers are members of a negotiating unit represented by Local 1635.

We agree with the Director that Local 1635's charge fails to allege facts sufficient to state a cause of action. While the charge asserts that the City had an obligation to negotiate, it does not allege facts which might suggest a basis in law to support that conclusion.

In certain circumstances, the assignment of new and unfamiliar duties to unit employees may be a negotiable decision. Even were we to infer from the charge that the City's dispatchers are training the Sheriff's dispatchers, the Director correctly pointed out that the charge fails to allege that such work is unrelated to the essential duties and functions of the City's dispatchers and also fails to allege that this assignment represents any departure from their ordinary duties.<sup>1/</sup>

The unilateral assignment of "unit work" to nonunit employees<sup>2/</sup> may also be a negotiable decision in

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<sup>1/</sup>Waverly CSD, 10 PERB ¶3103 (1977); Town of Oyster Bay, 12 PERB ¶3086 (1979).

<sup>2/</sup>The charge alleges that the Sheriff's dispatchers will "ultimately" become City employees. Should this occur, the new employees might be covered under the recognition clause of the parties' agreement, or might be subject to placement in Local 1635's unit via the filing of a representation petition. We note that such a unit placement petition has been filed by Local 1635 and is pending before the Director (Case No. CP-044).

certain fact situations. The instant charge, however, neither alleges that the arrangement between the City and the Sheriff resulted in any reduction in the size of Local 1635's negotiating unit, nor alleges that the arrangement caused work to be removed from that unit.<sup>3/</sup> In fact, the charge contains an allegation that the arrangement increased the workload of unit employees, presumably through the need to train the Sheriff's dispatchers or aid them in the performance of their duties. While this allegation may well constitute negotiable "impact", the Director correctly noted that the charge fails to allege that Local 1635 ever demanded negotiations on the impact of this arrangement or that the City ever refused to negotiate such impact. In sum, the charge fails to allege any facts sufficient to state a violation of §209-a.1(d).

In its exceptions, Local 1635 also complains that its charge alleged, and the Director ignored, a "per se" violation of §209-a.1(a). In this regard, it argues that by avoiding the obligation to negotiate, the City intended to

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<sup>3/</sup>North Shore UFSD, 10 PERB ¶3082 (1977), 11 PERB ¶3011 (1978); Northport UFSD, 9 PERB ¶3003 (1976), affirmed 54 AD2d 935 (2nd Dept. 1976), 9 PERB ¶7021; East Ramapo CSD, 10 PERB ¶3064 (1977).

"undermine the ability of Local 1635 to represent its bargaining unit employees." This argument, however, assumes that a negotiating obligation existed and, as already discussed, the charge does not appear to state facts from which such an obligation can be discerned. Moreover, a failure to negotiate does not give rise to a per se violation of §209-a.1(a).

Finally, the exceptions complain of the Director's summary dismissal, particularly in light of the City's alleged failure to answer the improper practice charge. This exception lacks merit because §204.2(a) of our Rules of Procedure specifically authorizes the Director to screen improper practice charges prior to joinder of issue, and to dismiss those charges that, as a matter of law, do not allege facts sufficient to constitute an improper practice. Under §204.3 of our Rules, the City's obligation to answer was dependent upon its receipt of a copy of the charge from the Director. Since the Director had found the charge to be deficient and therefore was not processing it further, he merely sent an informational copy to the City with specific directions that the City was not required to take any action thereon. As such, it was not obligated to answer the charge.

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

DATED: July 19, 1984  
Albany, New York

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

  
\_\_\_\_\_  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

EAST AURORA POLICE BENEVOLENT  
ASSOCIATION,

Respondent,

-and-

CASE NO. U-7009

VILLAGE OF EAST AURORA,

Charging Party.

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DAMON & MOREY, ESQ. (JAMES N. SCHMIT, ESQ., of  
Counsel), for Charging Party

SARGENT & REPKA, P.C. (NICHOLAS J. SARGENT, ESQ.,  
of Counsel), for Respondent

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the Village of East Aurora (Village) to the decision of the Administrative Law Judge (ALJ) dismissing its charge against the East Aurora Police Benevolent Association (PBA), alleging that the PBA had failed to negotiate in good faith by submitting to interest arbitration, during the term of their collective bargaining agreement, a demand for improvement in the existing retirement plan.

The issues presented by this case arise out of a clause in the parties' contract which provided:

Both parties agree that negotiations will be commenced at least one hundred twenty (120) days prior to June 1, 1983 to

discuss the twenty (20) year retirement plan or such other retirement plans offered by the New York State Policemen and Firemen Retirement System.

Pursuant to this clause, the parties met on eight occasions between February 9 and June 20, 1983 to negotiate concerning a 20-year retirement plan. The Village took the position that it would not agree to such a plan unless the PBA granted concessions from the existing contract. In July, the PBA requested mediation; however, the Village did not attend the scheduled mediation session. Thereupon, the PBA filed a petition for compulsory interest arbitration, which the Village blocked through the filing of the instant improper practice charge.

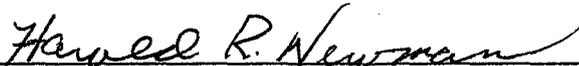
The essence of the Village's exceptions is based upon its position that the quoted clause gives rise to a contractual obligation rather than a statutory obligation to negotiate the demand; that PERB has no jurisdiction to interpret the contract, and hence no jurisdiction to address the issue.

Upon review of the record, we affirm the findings of the ALJ, including her credibility determinations and conclusions of law. We agree, and the record sustains the finding, that the parties intended by the above-quoted clause to reopen negotiations on the retirement issue.

The ALJ correctly noted that while §205.5(d) of Article 14 of the Civil Service Law denies to the Board the authority to enforce an agreement, it does not preclude the Board from exercising jurisdiction to determine whether an alleged violation of such an agreement would otherwise also constitute an improper practice,<sup>1/</sup> a role specifically contemplated by the law. The position of the Village that the ALJ should have exercised her discretion in favor of deferring to arbitration lacks consistency, for it cannot file an improper practice charge asking us to address the issue and, at the same time, argue that we should defer or have no jurisdiction to address its merits.

ACCORDINGLY, WE AFFIRM the decision of the ALJ and WE ORDER that the charge herein be, and it hereby is, DISMISSED.

DATED: July 19, 1984  
Albany, New York

  
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Harold R. Newman, Chairman

  
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David C. Randles, Member

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<sup>1/</sup>Hunter-Tannersville Teachers Assn., 16 PERB ¶3109 (1983).

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of  
ADDISON CENTRAL SCHOOL DISTRICT,  
Respondent,

-and-

ADDISON TEACHERS' ASSOCIATION, NEA/NY,  
Charging Party.

CASE NOS. U-7011,  
U-7035 & U-7047

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R. WHITNEY MITCHELL, for Respondent

JOHN B. SCHAMEL, for Charging Party

BOARD DECISION AND ORDER

The Addison Teachers' Association, NEA/NY (Association) filed five charges between August 24 and October 23, 1983 against the Addison Central School District (District).<sup>1/</sup> The Administrative Law Judge (ALJ) consolidated the charges and conducted a hearing, after which he found the following violations to which the District takes exceptions:

1) The District refused to process grievances during the life of the collective bargaining agreement and after it expired. The ALJ found that the refusal during the life of the agreement was of such magnitude as to constitute not

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<sup>1/</sup>The charge in Case No. U-7011 was withdrawn; the charge in Case No. U-7090 is not before us as no exception was filed to the ALJ's disposition of it.

merely a violation of the parties' contract, but also a repudiation of it. Accordingly, he found that the District's conduct in this regard violated §209-a.1(a), (d) and (e) of the Taylor Law.

2) The District refused to furnish relevant information to the Association during negotiations in violation of §209-a.1(d) of the statute.

3) The District unilaterally extended the number of days of the work year from 184 to 186 in violation of §209-a.1(d) of the Law.

4) The District Superintendent attempted to intimidate unit employees by reason of their union activities in violation of §209-a.1(a) of the Law.

The primary focus of the District's exceptions is on a procedural matter.<sup>2/</sup> It sought permission to file an amended answer and to reopen the cases after the close of the hearing and the filing of briefs, but before the ALJ issued his decision. The ALJ rejected that request. The District argues that this rejection was a prejudicial error. It points to §204.3(d) of our Rules of Procedure which provides that an answer may be amended "for good cause shown at any time . . . prior to the issuance of the ALJ's decision . . . ." Much of the rest of the District's position is that it never

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<sup>2/</sup>The Association has moved us to reject the District's exceptions on the ground that they were filed late. Finding that the exceptions were timely filed, we deny the motion.

had an opportunity to raise arguments or present facts in its defense because those arguments and facts would have been based upon allegations made in its proposed amended answer.

We reject this aspect of the exceptions. No good cause has been shown for the granting of the amendment at so late a date. There is no indication that the arguments or facts were not known to, or knowable by, the District before the hearing was concluded. Furthermore, insofar as they are asserted in the exceptions, the facts and arguments which the District would have presented would have been relevant to the District's defense against the Association's charges even without the amendments, and there is not even an allegation that the ALJ refused to permit the introduction of such evidence or the making of such arguments. Indeed, the record would not support such an allegation.

The District also excepts to the ALJ having found a violation by reason of its refusal to process grievances. The District argues that because in two specific situations, arbitrators had found this conduct to have violated the parties' contract, the ALJ's decision would impose "excessive, unwarranted, dual penalties." The District appears to be arguing that the ALJ should have deferred to the arbitrators in accordance with our decision in New York City Transit Authority, 4 PERB ¶3031 (1971).

We are not persuaded by this argument. Deferral is discretionary and is not usually applied when a violation of

§209-a.1(a) is alleged, as it is here. The arbitrators remedied violations of the contract. We are remedying flagrant violations of §209-a.1(a), (d) and (e) of the Law.

The District next claims that some of the information sought by the Association did not exist and other information was supplied in a timely fashion. Apparently recognizing that there is no support for this claim in the record, the District argues that this would have been dealt with under the amended answer. This argument is disposed of by our rejection of the District's first exception.

The District asserts that the work year was not extended because there had not been any set work year in the past. This claim, too, is based on information that is not in the record.

The District's last exception is that the evidence on which the ALJ relied to find that the superintendent engaged in intimidating conduct is not reliable in that it merely consists of the testimony of two long-time union activists. There is no basis in the record for rejecting this testimony.

We also have before us cross-exceptions of the Association in which it argues that the conduct of the District was so destructive of the employees' Taylor Law rights that we should "strengthen the penalties set forth in the Administrative Law Judge's Order . . . ." (emphasis added). More specifically, it urges us to award it interest on the money which the two arbitrators had directed the District to pay it by reason of the District's failure to process grievances.

This argument is based upon a misunderstanding of the responsibility of this Board in improper practice cases. The Taylor Law authorizes this Board to remedy improper conduct, but it does not authorize us to impose penalties for such conduct.<sup>3/</sup> Accordingly, we affirm the decision of the ALJ.

NOW, THEREFORE, WE ORDER that the District and its agents  
cease and desist:

1. From interfering with, restraining or coercing public employees in the exercise of their rights guaranteed in section two hundred two for the purpose of depriving them of such rights;
2. From refusing to negotiate in good faith with the Addison Teachers' Association;
3. From refusing to continue all the terms of an expired agreement until a new agreement is negotiated;
4. From failing and refusing to consider the settlement of grievances, and from failing and refusing to administer and participate in the grievance procedure as provided in the expired agreement;
5. From failing and refusing to furnish information reasonably necessary to the conduct of collective negotiations and the administration of grievances; and

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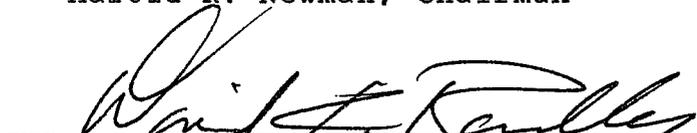
<sup>3/</sup>Civil Service Law §205.5(d) authorized this Board to direct "an offending party to cease and desist from any improper practice, and to take such affirmative action as will effectuate the policies of this article (but not to assess exemplary damages) . . . ."

6. From extending the work year beyond 184 days and to compensate those teachers who worked in excess thereof at their pro-rated salaries with interest at the legal rate;

WE FURTHER ORDER the District to post the notice attached<sup>4/</sup>  
in all places normally used for communication  
with unit employees.

DATED: July 19, 1984  
Albany, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member

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<sup>4/</sup>The notice also refers to a violation found by the ALJ to which the District filed no exceptions.

# 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** our employees in the unit represented by the Addison Teachers' Association, NEA/NY, that the Addison Central School District and its agents:

1. Will not interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section two hundred two for the purpose of depriving them of such rights;
2. Will not refuse to negotiate in good faith with the Addison Teachers' Association;
3. Will not refuse to continue all the terms of the expired agreement until a new agreement is negotiated;
4. Will not fail and refuse to consider the settlement of grievances or fail or refuse to administer and participate in the grievance procedure as provided in the expired agreement;
5. Will not fail and refuse to furnish information reasonably necessary to the conduct of collective negotiations and the administration of grievances;
6. Will not require the unilateral increase in student-contact minutes during duty-free time without negotiations, and
7. Will not extend the work year beyond 184 days without negotiations.

ADDISON 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.*

9176

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of  
THE MERRICK LIBRARY,

Employer,

-and-

CASE NO. C-2705

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THE MERRICK LIBRARY STAFF ASSOCIATION,

Petitioner.

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BOARD DECISION AND ORDER

On November 23, 1983, the Merrick Library Staff Association (petitioner) filed, in accordance with the Rules of Procedure of the Public Employment Relations Board (Rules) a timely petition for certification as the exclusive negotiating representative of certain employees employed by the Merrick Library (employer).

Thereafter, the parties agreed to a negotiating unit as follows:

Included: All full-time and regular part-time employees in the following titles: Librarians, Principal Librarian Clerk, Clerk, Principal Clerk, Typist/Clerk, Clerk/Illustrator.

Excluded: All other employees, including employees working 24 or fewer hours per month, Library Director, pages, custodial employees, Secretary to the Director, Assistant to the Secretary to the Director (Accounts Clerk).

Pursuant to agreement, a secret ballot election was held on February 9, 1984, at which there were 14 ballots

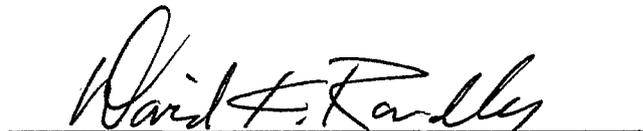
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cast in favor of representation by petitioner, 15 ballots against representation by petitioner, and one challenged ballot.<sup>1/</sup>

Inasmuch as the results of the election do not indicate that the majority of eligible voters in the agreed-upon unit who cast ballots desire to be represented for purposes of collective bargaining by the petitioner, IT IS ORDERED that the petition should be, and it hereby is, dismissed.

DATED: July 19, 1984  
Albany,, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member

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<sup>1/</sup> Even if the challenged ballot was resolved in petitioner's favor, the Rules do not provide for a run-off in a "yes-no" election.

The petitioner filed, but later declined to prosecute, objections to employer conduct affecting the results of the election. All of these objections were factually controverted.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of  
COUNTY OF ERIE,

Respondent,

-and-

CASE NO. U-7414

BRIAN LIEBLER, RALPH GRZEDZICKI, AND  
PAUL HEJNA,

Charging Parties.

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BRIAN LIEBLER, pro se

RALPH GRZEDZICKI, pro se

PAUL HEJNA, pro se

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of the charging parties to a decision of the Director of Public Employment Practices and Representation (Director) dismissing their charge that the respondent violated §209-a.1(a) of the Public Employees' Fair Employment Act by changing their check-off from dues to agency shop fee, without their consent, following their expulsion from the Civil Service Employees Association (CSEA). Their expulsion resulted from their unsuccessful attempt to fragment a CSEA unit and

certify a different union as the representative of the fragmented unit.<sup>1/</sup>

Improper practice charges filed by the same charging parties against CSEA because of their expulsion and the resultant collection of agency shop fees from them as non-members, were also dismissed by the Director.<sup>2/</sup> In a companion decision issued today, we have affirmed that dismissal.<sup>3/</sup> For the reasons set forth in that decision, we found that the expulsion did not violate the Act and that CSEA is entitled to collect the agency shop fees.

It follows that the deduction of the agency shop fees and their transmission to CSEA by the respondent is permissible under the Act. In fact, the respondent is obligated pursuant to Sections 201.2(b), 208.3(b) and 209-a.1(e) of the Act to deduct agency shop fees from the charging parties.<sup>4/</sup>

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<sup>1/</sup>The separate unit was denied in County of Erie, 17 PERB ¶3020 (1984).

<sup>2/</sup>Civil Service Employees Association, Inc., 17 PERB ¶4568.

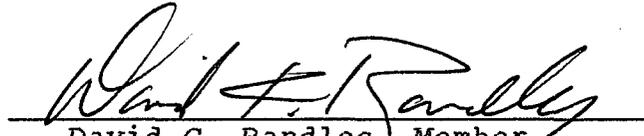
<sup>3/</sup>Civil Service Employees Association, Inc., 17 PERB ¶3072.

<sup>4/</sup>Section 209-a.1(e) became applicable when the contract between the respondent and CSEA, which contains an agency shop fee provision, expired on December 31, 1983.

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

DATED: July 19, 1984  
Albany, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

CIVIL SERVICE EMPLOYEES ASSOCIATION,  
INC.,

Respondent,

-and-

CASE NOS. U-7411,  
U-7412 & U-7413

BRIAN LIEBLER, RALPH GRZEDZICKI AND  
PAUL HEJNA,

Charging Parties.

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ROEMER AND FEATHERSTONHAUGH, P.C. (PAULINE ROGERS  
KINSELLA, ESQ., of Counsel), for Respondent

BRIAN LIEBLER, pro se

RALPH GRZEDZICKI, pro se

PAUL HEJNA, pro se

BOARD DECISION AND ORDER

This matter comes to us on the joint exceptions of the three charging parties to a Director's decision which dismissed their consolidated charges against the Civil Service Employees Association, Inc. (CSEA) for failure to state facts sufficient to constitute a violation of the Act. The charging parties were members and/or officers of Local 815, CSEA, which represented a unit of Erie County correction officers. All three actively supported a rival employee organization's challenge to Local 815's representative

status. The efforts of the charging parties to decertify Local 815 resulted in their being charged by CSEA with aiding a competing labor organization in violation of the CSEA constitution. They were each found guilty of disloyalty by CSEA's Judicial Board, which ordered their expulsion from CSEA membership. Pursuant to its collective agreement with Erie County, Local 815 subsequently collected the proceeds of an agency shop fee deduction from each of the charging parties.

There are three basic aspects to the charges herein, each of which, according to the charging parties, involves a violation of CSL §209-a.2(a). They may be stated as follows:

1. The expulsion of the charging parties from membership and that aspect of CSEA's constitution which permits such expulsion are per se violative of the Act because they interfere with the employee's §202 right to participate in any employee organization of their own choosing;
2. The expulsion was improper because CSEA later collected an agency shop fee from the charging parties; and
3. The collection of the agency shop fee by CSEA was improper because CSEA chose to expel the charging parties from membership.<sup>1/</sup>

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<sup>1/</sup>This contention was specifically advanced only by Grzedzicki, who argued that we should outright excise the expulsion provision from CSEA's constitution or invalidate it "until such time that agency shop regulations are altered to allow for some type of financial accommodations for those who are expelled".

The Director dismissed the charges prior to joinder of issue. He held that complaints which are based only upon expulsion from union membership raise issues related to internal union affairs, which are beyond this Board's jurisdiction. He further held that §208.3 of the Taylor Law does not preclude an employee organization from collecting agency shop fees from employees who were expelled from union membership for permissible cause.

We affirm the Director's decision. With respect to the first two aspects of the charges noted above, we have repeatedly refused to entertain complaints about internal union discipline or other internal union affairs which neither affect an employee's terms and conditions of employment nor violate any fundamental purposes or policies of the Act.<sup>2/</sup> There is no allegation in this case that the charging parties' expulsion for disloyalty had any effect upon their employment relationship. Neither does such expulsion impinge upon the basic policies and rights set out in §202 of the Taylor Law. The grant to employees of the right to join and participate in any employee organization does not preclude a union from the exercise of

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<sup>2/</sup>Civil Service Employees Assn., Inc., 9 PERB ¶3064 (1976); Buffalo Sewer Authority, 13 PERB ¶3052 (1980); Half Hollow Hills Community Library District, 13 PERB ¶3104 (1980). See also, Opinion of Counsel, 14 PERB ¶5004 (1981).

self-governance, which may include the placement of reasonable conditions upon continued membership. Furthermore, the expulsion is not rendered improper merely because Local 815 was entitled to receive an agency shop fee from non-members pursuant to its contract with the County of Erie. Were there any impropriety in this combination of circumstances, it would lie in the collection of the fee, and not in the expulsion.

In this latter regard, however, we find no impropriety in Local 815's collection of an agency shop fee from the charging parties after expelling them from membership, and therefore find no merit in the last aspect of the charges herein. The Director correctly noted that §208.3 of the Act, which authorizes the deduction of agency shop fees from non-members, does not contain any language precluding an employee organization from receiving an agency shop fee from an employee whose membership was terminated by the employee organization; nor can any such limitation be found in §201.2(b) of the Act, which defines "agency shop fee deduction". The Taylor Law thereby differs from private sector labor relations statutes, such as the Railway Labor Act and the National Labor Relations Act. These statutes specifically preclude the application of union security agreements to employees whose membership is terminated for

any reason other than the failure to pay dues, fees and assessments.<sup>3/</sup> The statutory provisos are necessary in the private sector where it is permissible to condition an employee's continued employment upon membership in the union. Were a union able to deny membership or expel a member on the basis of the employee's organizational efforts on behalf of a rival union, and then obtain the employee's discharge from employment on the basis of non-membership, the employee's protected right to organize would be completely emasculated. No such danger exists under the Taylor Law, which does not permit non-membership to have any employment consequences. Hence, there does not appear to be any policy reason which would support reading a comparable proviso into the Taylor Law.

The charging parties' other exceptions also lack merit. While they argue that their agency shop fees may not be used for contract administration on their behalf, it is well established that the union's duty of fair representation extends to all employees in the negotiating unit, including non-members of the union.<sup>4/</sup>

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<sup>3/</sup>Railway Labor Act, §2, eleventh; National Labor Relations Act, §§8(a)(3) and 8(b)(2). See, Communications Workers v. NLRB, 520 F.2d 411 (2d Cir., 1975), cert. den. 423 US 1041 (1976); Klemens v. Air Line Pilots Assn., 113 LRRM 2825 (W.D. Wash., 1981).

<sup>4/</sup>Plainview-Old Bethpage CSD, 7 PERB ¶3058 (1974); Brighton Transportation Association, 10 PERB ¶3090 (1977); Nassau Educational Chapter, 11 PERB ¶3010 (1978).

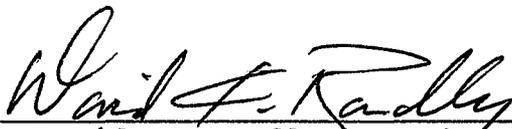
The charging parties also complain that the Director failed to give them a hearing, but §204.2(a) of our Rules of Procedure specifically authorizes him to dismiss a charge prior to fixing a hearing date if it fails to state facts sufficient to constitute a violation of the Act.

Finally, while the charging parties complain that they were not afforded "due process" in the CSEA expulsion proceeding, this claim was never raised in their improper practice charges and may not be raised for the first time in their exceptions.

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

DATED: July 19, 1984  
Albany, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of  
TOWN OF CAMPBELL,

Employer,

-and-

CASE NO. C-2767

TEAMSTERS LOCAL UNION NO. 529,  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN AND HELPERS  
OF AMERICA,

Petitioner,

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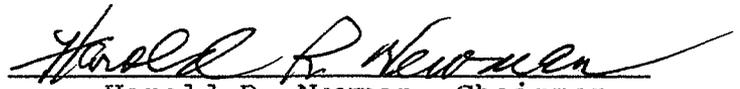
BOARD DECISION AND ORDER

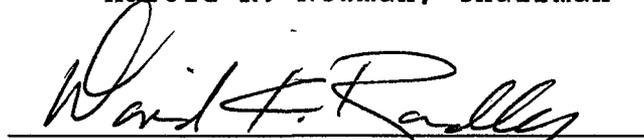
On June 1, 1984, our Director of Public Employment Practices and Representation issued a decision in which he found that Local 529 met the requirements of §201.9(g)(1) of our Rules of Procedure for certification without an election as the representative of the bargaining unit agreed to by the parties. He then forwarded the record of the proceeding to the Board for issuance of a certification order.

Since we have not yet issued a certification order and we have received information which may indicate that Local 529 no longer meets the requirements of Rule 201.9(g)(1), the matter is

remanded to our Director of Public Employment Practices and  
Representation for further investigation.

DATED: July 19, 1984  
Albany, New York

  
Harold R. Newman, Chairman

  
David C. Randles, Member