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1-23-2002

## State of New York Public Employment Relations Board Decisions from January 23, 2002

New York State Public Employment Relations Board

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## State of New York Public Employment Relations Board Decisions from January 23, 2002

### 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

**REEVA MILLER,**

Charging Party,

- and -

**CASE NO. U-21339**

**BOARD OF EDUCATION OF THE CITY  
SCHOOL DISTRICT OF THE CITY OF NEW YORK,**

Respondent:

---

**LLOYD SOMER, ESQ., for Charging Party**

**DALE KUTZBACH, GENERAL COUNSEL (MICHELE A. BAPTISTE of  
counsel), for Respondent**

**BOARD DECISION AND ORDER**

This case comes to us on exceptions filed by Reeva Miller to a decision of an Administrative Law Judge (ALJ) dismissing an improper practice charge filed individually by Miller which, as amended, alleged that the Board of Education of the City School District of the City of New York (District) violated §§209-a.1(a) and (c) of the Public Employees' Fair Employment Act (Act) by engaging in a pattern of harassment that culminated in an Education Law (EL) §3020-a proceeding on October 20, 1999. The District denied the material allegations of the charge and raised as affirmative defenses that Miller had utilized the grievance procedure and EL §3020-a procedures to defend any adverse action taken against her, and that the charge fails to state a cause of action.

### EXCEPTIONS

Miller has filed several *ad idem* exceptions to the ALJ decision. We will address the principal exception that alleges the ALJ erred in his analysis of the facts as they applied to the Act.

The District has filed a response in which it disputes the contents of Miller's exceptions.

Based upon our review of the record and our consideration of the parties' arguments, we affirm the ALJ's decision.

### FACTS

We will confine our review to the salient facts relevant to Miller's exceptions.

Miller has been employed by the District since 1984. She taught English at Harry Van Arsdale High School (Van Arsdale) from 1988 to June 1997. Van Arsdale is a vocational school in which the students learn a trade such as plumbing. In 1997, Miller transferred from Van Arsdale to William Cullen Bryant High School (Bryant), pursuant to a seniority transfer, because she lives near Bryant. Bryant is a school in which the students are from different cultural backgrounds and are, for the most part, college-bound.

The District stipulated that Miller was rated satisfactory while at Van Arsdale. In her first observation report at Bryant, dated October 16, 1997, which Miller received from William Fishkind, the Assistant Principal of the English Department, it was noted that, while there was a positive aspect to her lesson, several recommendations for improvement were made and the overall conclusion was that the lesson was weak. In January 1998, Miller spoke to Fishkind about her Spring schedule. She, thereafter,

consulted a representative of the United Federation of Teachers (UFT) who advised her that her concern had merit and was grievable. Following that, she received a memorandum from Fishkind about a program change. Her Spring schedule was then changed to the session she had requested.

Miller was also observed on September 24, 1997; February 24, March 24, April 23, May 14, June 11, and December 21, 1998; January 19, February 26, March 10, and May 11, 1999. Miller's annual performance evaluation for the period September 2, 1997 to June 30, 1998 was overall marked unsatisfactory. Her performance evaluation for the period September 8, 1998 to June 30, 1999 was overall marked unsatisfactory.

In the report of the September 24, 1997 observation, Fishkind wrote that he would continue to visit her class and that he was available to assist her in planning. In the report of the February 24, 1998 observation, Fishkind advised Miller that "[i]n order to assist you in the area of management and lesson planning I will meet with you on a weekly basis on Tuesdays, during period 5." By her signature, Miller acknowledged receipt of Fishkind's report and understood that it would be placed in her permanent file.

The observation of May 14, 1998 was conducted by Dr. Joan P. Kaufman. Dr. Kaufman is the Principal of Concord High School and was acting as a representative of the Superintendent. Dr. Kaufman's report noted that ". . . despite the assistance . . . , you appear unable to teach in a satisfactory manner. As a result of my observation, I concur with the findings of your Principal and Assistant Principal that your teaching performance is unsatisfactory."

The observation of March 10, 1999 was conducted by Bernadette M. Kriftcher, the new Principal of Bryant High School.<sup>1</sup> Kriftcher wrote in her report that

. . . I recommend that you continue to work with Mr. Fishkind during your preobservation conferences and with Virginia Gray, the UFT PEER Intervenor. They will assist you in lesson planning, classroom management strategies and questioning techniques. This was an unsatisfactory lesson. Failure to improve may result in an unsatisfactory rating for the school year.

The observation of May 11, 1999 was conducted by William C. Bassell, Principal of Long Island City High School. Bassell acted as a representative of the Superintendent while conducting this observation. He concluded that, overall, the lesson he observed was unsatisfactory: "I must concur with the recommendation made by your Principal that you be given a rating of 'unsatisfactory' for the 1998-1999 school year."

As a result of the foregoing 1998/99 unsatisfactory evaluation, the District commenced a disciplinary proceeding pursuant to EL §3020-a.

#### DISCUSSION

The ALJ correctly enunciated the factors that must be established in order to prove a violation of §§209-a.1(a) and (c) of the Act. We have consistently held that the charging party must prove that he/she had been engaged in protected activities and that the respondent had knowledge of, and acted because of, those activities. If the charging party proves a *prima facie* case of improper motivation, the burden of going

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<sup>1</sup>Kriftcher succeeded Rose Albanese-DePinto, who was Principal from August 1992 to February 1999.

forward shifts to the respondent to establish that its actions were motivated by legitimate business reasons.<sup>2</sup>

As correctly noted in the ALJ's decision, Miller engaged in a protected activity when she sought assistance in January 1998 from UFT regarding a change in class assignment to an earlier time based on her seniority. It is undisputed that both Albanese-DePinto and Fishkind were aware of Miller's contact with UFT and involved in the decision to change Miller's class assignment consistent with the terms of the collective bargaining agreement. The ALJ, however, found that, on the record, the District had not instituted EL §3020-a proceedings against Miller because of her protected activity. We agree.

In her principal exception, Miller argues that the ALJ erred in applying the facts to the law in making his determination. In support of this argument, Miller contends that timing established a nexus between her protected activity and the subsequent unsatisfactory evaluation that occurred on February 24, 1998. Miller relies on the ALJ decision in *Rockville Centre Union Free School District* (hereafter, *Rockville Centre*)<sup>3</sup> as authority for this argument. We disagree. The ALJ's decision was reversed by us on exceptions filed by the District. We found in *Rockville Centre* that, as here, there was "[n]o connection . . . established . . . between . . . union activity and the principal's evaluation and recommendation for [discipline] . . . ."<sup>4</sup>

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<sup>2</sup>*State of New York (SUNY-Oswego)*, 34 PERB ¶¶3017 (2001). See also *City of Salamanca*, 18 PERB ¶¶3012 (1985).

<sup>3</sup>32 PERB ¶¶4532 (1999).

<sup>4</sup>32 PERB ¶¶3050, at 3115 (1999).

While timing of two events could raise a suspicion, a suspicion has never been accepted by us as a substitute for evidence of anti-union animus. Consequently, timing alone is insufficient to establish the "but for" element of a §201-a.1(a) or (c) violation.<sup>5</sup>

Miller has failed to demonstrate on this record that the District, acting through its administrators at Bryant, was motivated to seek EL §3020-a charges against her solely because of anti-union animus. Indeed, Miller was observed in September 1997, prior to her request for a change in class schedule, and that observation was characterized as weak. Her subsequent observations likewise resulted in unsatisfactory evaluations for the school years 1997-1998 and 1998-1999. Throughout 1998, she was given the opportunity to improve and utilize the services provided through the PEER intervention program. Miller was then observed by Kaufman and Bassell who were not employed at Bryant and who were unaware of her January 1998 communications with UFT. She received unsatisfactory evaluations from these administrators. There is no evidence on this record that their evaluations were biased and, therefore, negative, because of Miller's protected activity. Miller has failed to establish any nexus between her protected activity and her subsequent unsatisfactory evaluations. The District has established that its institution of EL §3020-a proceedings was based on Miller's continual evaluation as an unsatisfactory teacher.

Since our area of expertise is limited to interpretation of the Act,<sup>6</sup> we do not pass judgment on the content of evaluations made of Miller's teaching ability except to the

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<sup>5</sup>*Roswell Park Cancer Institute*, 34 PERB ¶3040 (2001).

<sup>6</sup>*County of Nassau (Nassau Community College) v. PERB*, 151 AD2d 168, 22 PERB ¶7034 (2d Dep't 1989), *affirmed on other grounds*, 76 NY2d 579, 23 PERB ¶7019 (1990).

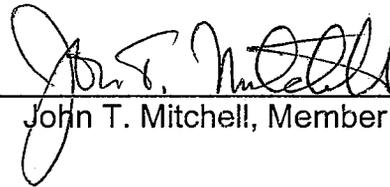
extent that our review is necessary to a determination that they were motivated by anti-union animus or that they are evidence of a legitimate business purpose for the action taken. Having found no evidence of anti-union animus, we affirm the decision of the ALJ and dismiss the exceptions. SO ORDERED.<sup>7</sup>

DATED: January 23, 2002  
Albany, New York



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Michael R. Cuevas, Chairman



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John T. Mitchell, Member

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<sup>7</sup>Member Abbott was not present, but participated by telephone.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

**MARILYNN D. CURTIS,**

Petitioner,

-and-

**CASE NO. C-5138**

**COUNTY OF WASHINGTON (PUBLIC HEALTH),**

Employer,

-and-

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

Intervenor.

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**MARILYNN D. CURTIS, *pro se***

**JOSEPH IGOE, for Employer**

**NANCY E. HOFFMAN, GENERAL COUNSEL (MARILYN S. DYMOND,  
of counsel), for Intervenor**

**BOARD DECISION AND ORDER**

On September 4, 2001, Marilyn D. Curtis filed a timely petition for decertification of the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, the current negotiating representative for employees in the following unit:

Included: Principal Account Clerk, Clerk Typist, Home Health Aide, Nutrition Aide, Nutritionist, Licensed Practical Nurse, Lactation Consultant, Handicapped Children Service Specialist, Medical Typist, Computer Programmer, Senior Account Clerk, Senior Home Health Aide, Typist, Account Clerk, Health Educator.

Excluded: All other employees.

Upon consent of the parties, a mail ballot election was held on January 9, 2002.

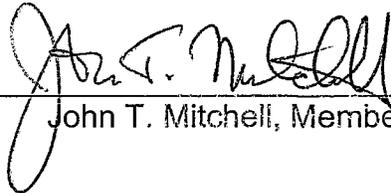
The results of this election show that the majority of eligible employees in the unit who cast valid ballots no longer desire to be represented for purposes of collective negotiations by the intervenor.<sup>1/</sup>

THEREFORE, IT IS ORDERED<sup>2/</sup> that the intervenor be, and it hereby is, decertified as the negotiating agent for the unit.

DATED: January 23, 2002  
Albany, New York



Michael R. Cuevas, Chairman



John T. Mitchell, Member

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<sup>1/</sup>Of the 34 ballots cast, 11 were for representation and 23 against representation. There were no challenged ballots.

<sup>2/</sup>Member Abbott was not present, but participated by telephone.

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

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In the Matter of

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 17,**

Petitioner,

-and-

**CASE NO. C-5129**

**TOWN OF GAINES,**

Employer.

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**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 International Union of Operating Engineers, Local 17 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.

Included: All full-time and regular part-time employees of the Town Highway Department.

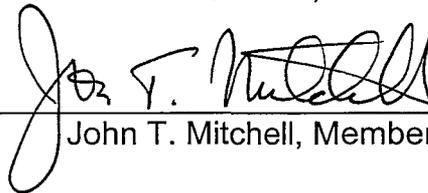
Excluded: Highway Superintendent and seasonal employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the International Union of Operating Engineers, Local 17. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



Michael R. Cuevas, Chairman



John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

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In the Matter of

**SCOTIA-GLENVILLE TEACHERS ASSOCIATION,  
AIDES AND MONITORS UNIT, NYSUT, AFT, AFL-CIO,**

Petitioner,

-and-

**CASE NO. C-5172**

**SCOTIA-GLENVILLE CENTRAL SCHOOL  
DISTRICT,**

Employer.

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**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 Scotia-Glenville Teachers Association, Aides and Monitors Unit, NYSUT, AFT, AFL-CIO has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

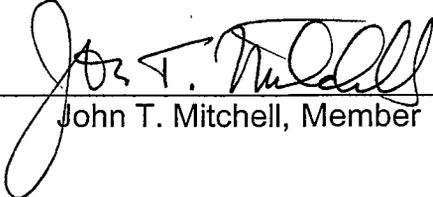
Included: All full-time and part-time aides and monitors.

Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Scotia-Glenville Teachers Association, Aides and Monitors Unit, NYSUT, AFT, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York

  
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Michael R. Cuevas, Chairman

  
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John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

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

Petitioner,

-and-

**CASE NO. C-5090**

**AVON CENTRAL SCHOOL DISTRICT,**

Employer.

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**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., Local 1000, AFSCME, AFL-CIO has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Included: Food Server IV & III, Monitor I, Cleaner IV & III, Teacher-Aide, Custodian II, Library Aide II, Grounds II, Mechanic II, Guidance Secretary, Secretary, Child Associate, Duplicating Assistant, Cook, Accounting Clerk, Attendance Clerk, and Clerk Typist.

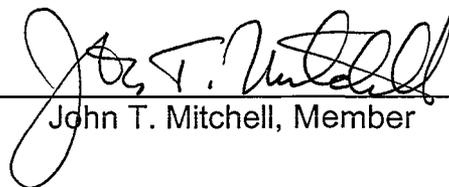
Excluded: All Professional and Confidential employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



Michael R. Cuevas, Chairman



John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

**TEAMSTERS LOCAL 445, IBT, AFL-CIO,**

Petitioner,

-and-

**CASE NO. C-5134**

**VILLAGE OF WARWICK,**

Employer.

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**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 Teamsters Local 445, IBT, AFL-CIO has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Included: Clerks, secretarial and clerical staff.

Excluded: Managerial and supervisory employees.

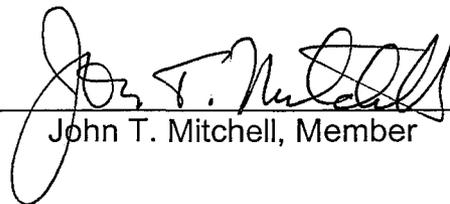
FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Teamsters Local 445, IBT, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



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Michael R. Cuevas, Chairman



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John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

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In the Matter of

**JAMESTOWN CITY ADMINISTRATIVE  
ASSOCIATION, JURA UNIT,**

Petitioner,

-and-

**CASE NO. C-5146**

**JAMESTOWN URBAN RENEWAL AGENCY,**

Employer.

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**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 Jamestown City Administrative Association, JURA Unit, 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.

Included: Housing Inspector-Work Writeup Specialist, Community Outreach Specialist, Data Entry Clerk, Senior Clerk-Typist, Economic Development Coordinator, Grants Coordinator, Planning/Special Projects Assistants, Financial Coordinator, Principal Planner, Building-Zoning Code Enforcement Officer.

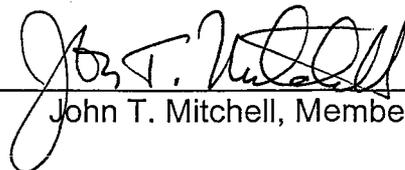
Excluded: Director of Development, Senior Secretary and all other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Jamestown City Administrative Association, JURA Unit. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



Michael R. Cuevas, Chairman



John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

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In the Matter of

**INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL 693,**

Petitioner,

-and-

**CASE NO. C-5148**

**TOWN OF SMITHVILLE,**

Employer.

---

**CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE**

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

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

IT IS HEREBY CERTIFIED that the International Brotherhood of Teamsters, Local 693 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.

Included: Motor Equipment Operator (MEO)

Excluded: All other employees.

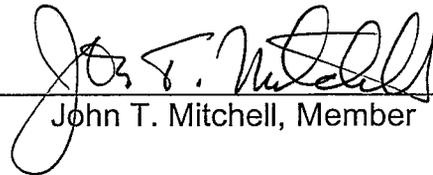
FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the International Brotherhood of Teamsters, Local 693. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



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Michael R. Cuevas, Chairman



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John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

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In the Matter of

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

Petitioner,

-and-

**CASE NO. C-5149**

**TOWN OF MANLIUS,**

Employer.

---

**CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE**

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

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

IT IS HEREBY CERTIFIED that the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO has been designated and selected by a majority of the employees of the above-named public employer, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Included: Motor Equipment Operators (MEO), Local Crew Leader, and Auto Mechanic

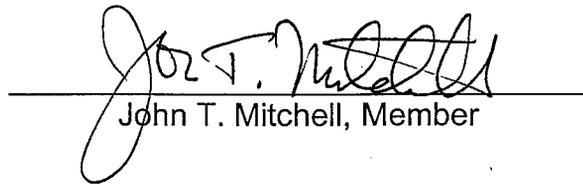
Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



Michael R. Cuevas, Chairman



John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of

**WEST VALLEY SERVICE EMPLOYEES  
ASSOCIATION,**

Petitioner,

-and-

**CASE NO. C-5147**

**WEST VALLEY CENTRAL SCHOOL DISTRICT,**

Employer.

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**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 West Valley Service Employees Association 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.

Included: Non-Instructional Employees, including: Bus Driver, Bus Dispatcher, Bus Mechanic, Long-Term Substitute Bus Driver, School Monitor, Head Cleaner, Cleaner, Custodian, CSE Secretary, Guidance Secretary and Secretary to Principals.

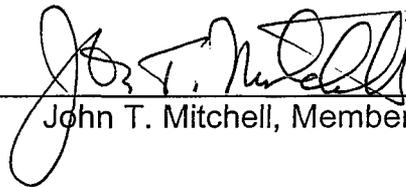
Excluded: All other employees.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the West Valley Service Employees Association. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



Michael R. Cuevas, Chairman



John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

---

In the Matter of

**CATTARAUGUS COUNTY DEPUTY SHERIFFS  
UNION,**

Petitioner,

-and-

**CASE NO. C-5094**

**COUNTY OF CATTARAUGUS and  
CATTARAUGUS COUNTY SHERIFF,**

Employer,

-and-

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

Intervenor.

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**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., Local 1000, AFSCME, AFL-CIO has been designated and selected by a majority of the

employees of the above-named public employer, in the unit found to be appropriate and described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Included: All full-time and regular part-time deputy sheriffs.

Excluded: All non-regular part-time and substitute deputies, and all others.

FURTHER, IT IS ORDERED that the above named public employer shall negotiate collectively with the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO. The duty to negotiate collectively includes the mutual obligation to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party. Such obligation does not compel either party to agree to a proposal or require the making of a concession.<sup>1</sup>

DATED: January 23, 2002  
Albany, New York



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Michael R. Cuevas, Chairman



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John T. Mitchell, Member

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<sup>1</sup>Member Abbott was not present, but participated by telephone.