

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LONG BRANCH BOARD OF EDUCATION  
Public Employer

and

LONG BRANCH ADMINISTRATIVE ASSOCIATION  
Petitioner

Docket No. RO-722

and

LONG BRANCH HIGH SCHOOL ADMINISTRATORS'  
ASSOCIATION  
Intervenor

DECISION AND DIRECTION OF ELECTION

Pursuant to Notice a hearing was held before Hearing Officer Bernard J. Manney to resolve a question concerning the representation of certain employees of the public employer. All parties were given an opportunity to examine and cross-examine witnesses, to present evidence, to argue orally and to submit briefs. Subsequently, the Hearing Officer issued his Report and Recommendations; no exceptions were filed to that Report.


The Executive Director has considered the record and the Hearing Officer's Report and Recommendations and, on the basis of the facts in this case, finds:

1. The Long Branch Board of Education is a public employer within the meaning of the Act.
2. The Long Branch Administrative Association and the Long Branch High School Administrators' Association are employee representatives within the meaning of the Act.
3. The Public Employer has declined recognition of the Petitioner as exclusive representative and the Intervenor challenges the appropriateness of the instant unit. Therefore, a question concerning representation of public employees is involved and the matter is properly before the Executive Director for determination.
4. In the absence of exceptions, the undersigned adopts the findings and recommendations of the Hearing Officer pro forma.
5. The appropriate collective negotiations unit is: "All elementary, junior high and senior high school principals and vice-principals, and elementary school curriculum supervisors employed by the Long Branch Board of Education, and excluding all clerical, craft, police, and all other employees of the Long Branch Board of Education."

DIRECTION OF ELECTION

The undersigned directs that a secret ballot election be conducted in the unit found to be appropriate. The election shall be conducted no later than 30 days from the date set forth below. Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date set forth below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. The Commission requires the submission of an alphabetical list of all eligible voters along with their job titles at least seven days prior to the election. Accordingly, the public employer is hereby directed to submit such a list to the Executive Director and to the employee organizations which will appear on the ballot as set forth below. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Long Branch Administrative Association.<sup>1/</sup> The majority representative shall be determined by a majority of the valid ballots cast, and the election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations.

BY ORDER OF THE EXECUTIVE DIRECTOR



Maurice J. Nelligan, Jr.  
Executive Director

DATED: May 3, 1974  
Trenton, New Jersey

<sup>1/</sup> The Intervenor, Long Branch High School Administrators' Association, sought to separate the high school administrators from the elementary and junior high school administrators and presumably represent them separately. Since it has been found inappropriate to have such a separation, there will be an election in the overall unit. As we understand Intervenor's position it does not desire to be on the ballot in that overall unit.

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HEARING OFFICER'S REPORT AND RECOMMENDATIONS

On October 24, 1973, the Long Branch Administrative Association filed a petition with the Public Employment Relations Commission for Certification of Public Employee Representative in a unit encompassing the senior high school principal, senior high school vice-principals, junior high school principal, junior high school vice-principals, elementary school principals, elementary school vice-principals, and elementary school curriculum supervisors. By Notice of Representation Hearing issued to the parties on December 20, 1973, a hearing was scheduled for January 8, 1974, in Newark, New Jersey. By mutual consent of the parties, the case was rescheduled by Order Rescheduling Hearing issued January 3, 1974, to January 15, 1974, and pursuant thereto a hearing was held before the undersigned. All parties were given the opportunity to examine and cross-examine witnesses, to present evidence and to argue orally.

Appearances were recorded as follows:

For the Public Employer:  
Richard D. McOmber, Esquire

For the Petitioner:  
Theodore Kozak

For the Intervenor:  
Thomas Maggio

Witnesses Testifying Were:

Milton Hughes, School Superintendent, Long Branch  
Thomas Maggio, Senior High School Vice-Principal  
Andrew Haynes, Senior High School Vice-Principal  
Gerald Palaia, Past President of Long Branch  
Administrative Association

The record of the proceedings establishes that:

1. The Long Branch Board of Education is a public employer within the meaning of the Act.
2. The Long Branch Administrative Association and the Long Branch High School Administrators Association are employee representatives within the meaning of the Act.
3. The petitioner on August 14, 1973, made a written request of the public employer for recognition as the exclusive negotiating representative for the employees in the instant unit; however, the said request for recognition was denied. Moreover, the intervenor challenges the appropriateness of the requested unit in the instant petition, and therefore, a question concerning representation of public employees is involved and the matter is properly before the Commission for determination.

ISSUE:

The only issue before the undersigned pertains to the appropriateness of a unit which would include the senior high school principal and senior high school vice-principals with the principal and vice-principals of the junior high school, elementary school principals and vice-principals, and elementary school curriculum supervisors.

POSITIONS OF THE PARTIES:

The petitioner requests a unit consisting of all administrators; to wit, the senior high school principal and vice-principals, junior high school principal, and vice-principals, elementary school principals and vice-principals, and elementary school curriculum supervisors (Tr.-14).

The public employer assumed an ambivalent role and advised that

"the Board will agree with any determination reached by P.E.R.C." (Tr.-16).

The intervenor maintains that "there is little, if any, community of interest" between the high school administrators and the others named in the instant unit, and therefore, disputes the appropriateness of the unit as defined by the petitioner (Tr.-18). Moreover, the intervenor asserts that "established practices" and "special circumstances..." support his request for exclusion from said unit (Tr.-19).

#### DISCUSSION AND FINDINGS:

After a plenary review of the record and exhibits in evidence, the undersigned concludes that the position of the petitioner is supported by the evidence and, therefore, the instant disputed unit is appropriate for collective negotiations.

The record establishes that there are eighteen administrators in the disputed unit; to wit, one senior high school principal and two vice-principals, one junior high school principal and three vice-principals, eight elementary school principals and one vice-principal, and two elementary school curriculum supervisors (Tr.-27-28). The instant school district has ten schools: a senior high school, a junior high school and eight elementary schools; each of which has a principal, teaching staff, custodial staff and secretarial staff; one elementary school has a vice-principal, and two elementary school curriculum supervisors "articulate...an instructional program...and assist the building principal in the orientation of new teachers and the mediation of difficulties encountered by various members of the elementary school staff." (Tr.-20-21). An Assistant Superintendent of Schools works with the Superintendent of Schools (Tr.-20). The Board of Education employed the current Superintendent of Schools on June 1, 1973; however, prior thereto, he held the position of Assistant Superintendent of Schools for about five years (Tr.-9). There are 219 tenured employees and 142 nontenured employees in the district (Tr.-31).

In view of the neutral stand taken by the public employer, the undersigned addresses himself to the position of the intervenor, and employs pertinent parts of the record to refute said position and support ultimate determinations and conclusions.

N.J.S.A. 34:13A-5.3 (Chapter 303, Laws of 1968) provides in part, that:

"The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the Commission shall not intervene in matter of recognition and unit definition except in the event of a dispute."

In this matter, therefore, the Commission must determine whether or not all administrators in the instant disputed unit mutually share a community of interest. Accordingly, this aspect will be treated first.

Witness Milton Hughes, School Superintendent, testified that: all principals report directly to him; no principal has supervisory power over any other principal; all principals are paid in accordance with salary guides albeit with differentials; (Ex. R-1); fringe benefits, i.e., blue cross, blue shield, major medical, holidays, sick days, vacation days, and travel allowance, are provided equally for all administrators except, in the latter instance, the elementary supervisors are paid more because of greater use of their cars; the elementary school curriculum supervisors articulate an instructional program both on a vertical and horizontal level, assist building principals in orientation of new teachers and in mediating difficulties encountered by elementary school staff (Tr.-21-25); vice-principals report to their respective principals; "management team" staff meetings are conducted monthly by the Superintendent and all school principals and elementary curriculum supervisors attend except that a vice-principal may represent his principal or be present whenever a topic of special importance to him is being discussed; he (the superintendent) meets privately, too, with the senior high school principal to discuss matters pertaining to the

peration of the senior high school and meets with all the elementary principals periodically to discuss matters essential to the operation of the elementary schools (Tr.-34-35); each principal is required to discuss with his vice-principals the relevant portions of the agenda of the monthly "management team" meetings (Tr.-85). Items of a general nature pertaining to the operation of the entire district are discussed at said meetings, e.g., Board policies, program innovation or implementation and reports from other district administrators (Tr.-84); and social workers, psychologists, speech therapists, and learning disability specialists are employed to service grades "K through 12" (Tr.-44).

It should be noted that none of this testimony by Witness Hughes was effectively contradicted. A recap of the Superintendent's testimony shows: that all of the administrators work under a common supervisory structure; that there is a common recognition by the Board of Education of all administrators as a "management team"; that the administrators share a common relationship as to the continuous educational process and needs of the school district, i.e., from grades "K through 12"; all administrators in the instant disputed unit are compensated in accordance with a "Principals Salary Guide" (Ex.-R-1); that said administrators share in the common objective vis-a-vis the education of students, and the Board provides identical fringe benefits for each of the administrators.

Witness Thomas Maggio, a vice-principal of the senior high school, predicated his arguments vis-a-vis lack of community of interest on differences in responsibilities and job duties as defined in job descriptions not yet approved by the Board of Education (Tr.-47-48). Said job descriptions were not admitted into evidence (Tr.-48-49). Witness Maggio was given wide latitude with regard to testimony relating to various job elements of the senior high school principal and vice-principals (Tr.-47-65). His purpose was to demonstrate differences in qualification, workload, and function between senior high school administrators and the others. Granted,

that the senior high school administrators have a diversity of job duties greater than the other administrators, however, this is compensated for and reflected in the higher salary guide provided for said administrators (Ex.R-1). As to qualifications, Witness Maggio maintained that senior high school administrators required certifications and major studies which differed from those of the other administrators (Tr. 50,51). However, in the opinion of the undersigned, neither the differences in certifications and course studies nor those involving workload detract from the overriding common educational interest, process and purpose to which all of the instant administrators are inextricably tied. In sum, the record demonstrates, and the undersigned finds, that adequate common factors establish that the administrators in the instant disputed unit possess a community of interest sufficient to form an appropriate unit for purposes of collective negotiations.

The undersigned next addresses himself to the intervenor's contention that "established practices" and "special circumstances" support the request of the high school administrators for exclusion from the disputed unit. N.J.S.A. 34:13A-6(d) (Chapter 303, Laws of 1968) provides in contested cases that the Commission,

"...shall decide in each instance which unit of employees is appropriate for collective negotiation, provided that, except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes (1) both supervisors and non-supervisors, (2) both professional and non-professional employees unless a majority of such professional employees vote for inclusion in such unit, or (3) both craft and non-craft employees unless a majority of such craft employees vote for inclusion in such unit."



In view of the fact that no question has arisen herein vis-a-vis inclusion of supervisors in a unit with non-supervisors (Tr.-22), professionals with non-professionals or craft employees with non-craft employees, the undersigned must determine which unit of employees is appropriate for collective negotiation with due regard for community of interest rather than with "established practice, prior agreement, or special circumstances." The Hearing Officer is mindful, too, of the need to consider the question of substantial, actual or potential conflict of interest among the employees in the disputed instant unit vis-a-vis community of interest in accordance with the New Jersey Supreme Court decision, Board of Education of the Town of West Orange v. Elizabeth Wilton, 57 N.J. 404, 273A2d 44 (1970). However, the question of substantial potentiality for conflict was not raised by any of the parties, and the record is silent and non-directional in this subject area.

Although the undersigned is not required to pursue the intervenor's argument of "established practices" and "special circumstances" for above-mentioned reasons, a perusal of the record reveals a history of a continuous representation relationship prior and subsequent to enactment of Chapter 303, Laws of 1968, which militates against the intervenor's position and reinforces the idea of an all-inclusive administrators unit as appropriate for collective negotiations.

Witness Gerald Palaia testified that from the middle 1950's up through 1965, the administrators met with the Superintendent at monthly meetings and "go over salaries and so forth." (Tr.-87). From 1965 through 1969, the witness advised that he served as chairman of the "informal group" of administrators for two years during which the negotiating committee met with the Board of Education and succeeded in obtaining a ratio guide based on

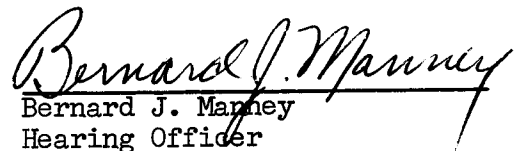
the existing teachers' salary guides. In 1969, he stated, the Long Branch Administrative Association was formed, adopted a constitution, elected officers and selected a committee of four to six administrators from secondary, junior high, and elementary levels to negotiate with the Board of Education. At these negotiations, all of the administrators would attend as a group and sit behind their negotiating committee. In this period, the current senior high school principal became president of the Long Branch Administrative Association and "played an extremely active role" in negotiations. This negotiating team made proposals in the area of sabbatical leaves, additional elementary school assistant principals, group insurance benefits, and correction of ratio inequities. Witness Palaia testified further that the current senior high school principal served on every negotiating team from 1973-74 back to the 1968-69 negotiations with the possible exception of one of the latter years; and too, he added that Mr. Maggio, senior high school vice-principal, served on the negotiating team for "the year just passed." The witness stated, too, that all of the administrators in the instant disputed unit received the benefits from any gains made in these informal negotiations or discussions (Tr.-88-93). The participation of the senior high school principal and the senior high school vice-principal in said negotiations was verified by Mr. Maggio (Tr.-98). This history of representation relationship demonstrates that, up to and including the past school year, all of the administrators acted voluntarily and in concert to obtain and/or improve salaries, fringe benefits, and non-economic benefits.

In view of all of the above, the undersigned finds that the administrators in the instant disputed unit comprise an appropriate unit for purposes of collective negotiations.

RECOMMENDATIONS:

From all of the foregoing and the official record of these proceedings, the undersigned recommends:

1. That a secret ballot election be conducted among employees as hereinafter delineated in the designated appropriate unit and the date for the election shall be set by the Public Employment Relations Commission.
2. The appropriate unit shall be: the senior high school principal, senior high school vice-principals, junior high school principal, junior high school vice-principals, elementary school principals, elementary school vice-principals, and elementary school curriculum supervisors employed by the Long Branch Board of Education, and excluding all clerical, craft, police and all other employees of the Long Branch Board of Education.
3. Those eligible to cast ballots in this election shall vote on whether or not they desire to be represented for purposes of collective negotiations by the Long Branch Administrative Association.
4. The election directed herein shall be conducted in accordance with the provisions of Public Employment Relations Commission Rules.

  
Bernard J. Manney  
Hearing Officer

Dated: February 28, 1974  
Trenton, New Jersey

BJM:sw