

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY SPECIAL SERVICES SCHOOL
DISTRICT,

Respondent,

- and -

Docket No. CO-76-260-91

BURLINGTON COUNTY SPECIAL SERVICES CUSTODIAL
and MAINTENANCE ASSOCIATION, a/w N.J.E.A.
and WILLIAM HORN,

Charging Parties.

SYNOPSIS

A Hearing Examiner issues an Order joining in the proceeding as a party in interest an alleged employee organization, Special Services Custodial and Maintenance Association, that the Charging Party, Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A., claims has unlawfully received the assistance of the Respondent School District at a time when the N.J.E.A. affiliate charges it was the exclusive negotiating representative of the School District's custodial employees.

The Examiner had initially denied the Charging Party's motion for mandatory joinder of the Association. Then, at a pre-hearing conference conducted between the parties various documents pre-marked for inclusion in evidence in the soon to be conducted hearing disclosed the alleged conduct of the Association in demanding and receiving recognition by the School District as exclusive representative and the approval by the District of a collective negotiation agreement at a time when the N.J.E.A. affiliate charged it had received recognition and was in collective negotiations with the School District. Upon filing by the Charging Party of a motion for reconsideration, the Examiner now reconsiders his earlier ruling. He now concludes that the determination of the instant proceeding will affect the Association's rights in the contract and its status as negotiating representative. Accordingly, he orders the Association joined in the proceeding as an indispensable party with right to participate fully with respect to those issues affecting it.

Under the Commission Rules, the Hearing Examiner's ruling on this motion shall not be appealed directly to the Commission except by special permission of the Commission, but shall be considered by the Commission in reviewing the record, if exceptions to the ruling is included in the statement of exceptions filed with the Commission to the Hearing Examiner's Recommended Report and Decision issued after hearing.

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY SPECIAL SERVICES
SCHOOL DISTRICT,

Respondent,

- and -

Docket No. CO-78-123-80

BURLINGTON COUNTY SPECIAL SERVICES CUSTODIAL
AND MAINTENANCE ASSOCIATION, a/w N.J.E.A.
and WILLIAM HORN,

Charging Party.

ORDER GRANTING MOTION FOR
RECONSIDERATION TO JOIN PARTY

The undersigned Hearing Examiner, by ruling dated July 27, 1978, having denied the original application of the Charging Parties to join the Special Services Custodial and Maintenance Association ("Association") as a party in interest because of a failure to show in its pleading or moving papers that the Association is an indispensable party warranting mandatory joinder in the proceeding; and

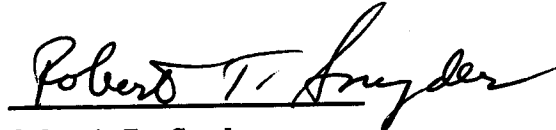
A pre-hearing conference having been held on August 3, 1978 attended by Joel S. Selikoff, Esq., on behalf of the Charging Parties and Myron H. Gottlieb, Esq., on behalf of the Respondent, at which various documents pre-marked for entry into evidence by stipulation at the hearing clarified the Charging Parties' allegations that the Association is an independent employee organization which received assistance from the Respondent including execution of a three year collective negotiations agreement at a time when the Respondent owed a continuing negotiations obligation regarding the same unit employees to the Charging Party employee organization; and,

Charging Parties now having filed by motion dated August 24, 1978, application for reconsideration of the July 27, 1978 ruling denying joinder, above described, with proof of service upon Myron H. Gottlieb, Esq., attorney for the Respondent; and upon the Association, c/o George Grigaitas, and Respondent, by Myron H. Gottlieb, Esq. having filed in opposition to the grant of the said motion;

NOW THEREFORE, it appearing that the rights of the Association as an alleged independent employee organization, including rights in a collective negotiations agreement entered into with the Respondent will be directly affected by

a determination on the merits of the instant complaint and the issues joined by Respondent's answer thereto, thereby establishing the Association as an indispensable party, the Hearing Examiner hereby issues the following Order:

The Special Services Custodial and Maintenance Association be, and the same hereby is, joined as a party in interest in the instant proceeding and provided full rights to examine and cross-examine witnesses, to present evidence and to argue orally and otherwise with respect to those portions of the unfair practice Complaint which charge Respondent with refusing to negotiate in good faith with the Charging Party employee organization and with unlawfully assisting the Association, in violation of N.J.S.A. 34:13A-5.4(a)(1), (2), (5) and (7).



Robert T. Snyder
Hearing Examiner

DATED: Newark, New Jersey
August 30, 1978