

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BELVIDERE BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-79-326-11

BELVIDERE EDUCATION ASSOCIATION
and SUSAN CAMARDA,

Charging Parties.

SYNOPSIS

The Commission in a decision in an unfair practice case filed by the Association and Susan Camarda adopts the Hearing Examiner's findings of fact, conclusions of law and recommended order substantially for the reasons stated in the Hearing Examiner's Recommended Report and Decision. More specifically, the Commission concludes that the Board violated N.J.S.A. 34:13A-5.4(a)(1) when Board representatives warned Leading Association activists to stop engaging in Association activities and informed these individuals that their performance would be carefully examined to establish grounds to discipline or terminate them. Moreover, the Commission concluded that subsection (a)(1) was also violated when the Board harrassed Camarda for her Association activities by forcing her to appear before the Board concerning an incident relating to unsigned student work and subsequently placed a letter of reprimand in her file, notwithstanding that the particular issue had already been resolved to the satisfaction of the complainants.

The Commission further concluded that the Charging Parties had not sustained their burden of proof that the Board's abolition of Susan Carmarda's position as a tenured art teacher at the close of the 197801979 school year was discriminatorily motivated. The Commission noted that the record evidence as summarized by the Hearing Examiner set forth ample support for the Board's proffered educational reasons for a cutback in the elementary school art education program as well as other programs within the district. The Commission found that there was nothing in the record to indicate that these business reasons were pretextual and determined that the Charging Parties did not prove that the Board acted as it did in RIFing Carmarda because of anti-union animus.

By way of remedy, for the 5.4(a)(1) violations found to have been committed, the Commission ordered that the Board expunge the letter of reprimand from Camarda's personnel file, and in accordance with her re-employment rights under the Education Law, place her on a preferred eligible list and re-employ her upon the first vacancy for art teacher without loss of her previous years of service, other benefits or privileges. As a remedy tailored to the adverse effect upon the exercise of Association rights by elementary teachers as a result of the Board's warnings and intimidation, the Commission ordered that in addition to requiring the Board to post a remedial notice, it also inform all of its employees individually of their statutory rights to be free from interference, coercion and restraint by mailing a copy of the signed notice to their homes.

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Charging Parties.

Appearances:

For the Respondent, Green, Koenig & Dzwilewski, Esqs.
(Allan P. Dzwilewski, Esq., of Counsel)

For the Charging Parties
(Stephen E. Klausner, Esq.)

DECISION AND ORDER

On June 5, 1979 an Unfair Practice Charge was filed by the Belvidere Education Association and Susan Camarda ("Charging Parties" or "Association" and "Camarda," respectively) alleging that the Belvidere Board of Education ("Board") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. ("Act"). Specifically the Charging Parties alleged that the Board through its representatives violated N.J.S.A. 34:13A-5.4(a)(1) and (3) by issuing warnings and threats to Camarda, commencing on or about May 1977, to cease engaging in Association activity by attempting during the 1978-79 school year to reduce in force ("RIF") Camarda and other teachers who were Association activists; and by subsequently RIFing Camarda by the abolition of her position. The Charging Parties added that the above-cited actions had a chilling

effect upon the exercise by other elementary school employees of their right to assist the Association under the Act.

It appearing that the allegations of the Unfair Practice Charge, if true, might constitute an unfair practice within the meaning of the Act, a Complaint and Notice of Hearing was issued on June 29, 1979. Hearings were held on August 30, September 18, September 24, September 25, September 28 and October 12, 1979 before Robert T. Snyder, Hearing Examiner of the Commission, at which time both parties were represented by counsel and were given the opportunity to present evidence, to examine and cross-examine witnesses and to argue orally. Subsequent to the close of the hearing the parties submitted post-hearing briefs, the final one being received on November 28, 1979.

On January 28, 1980 the Hearing Examiner issued his Recommended Report and Decision,^{1/} which included findings of fact, conclusions of law and a recommended order. The original of the report was filed with the Commission and copies were served upon the parties. A copy of the report is attached hereto and made a part hereof.

Exceptions to the Hearing Examiner's Report along with supporting memoranda were filed by the Board and the Charging Parties on February 21, 1980 and February 22, 1980, respectively. The Board subsequently filed a letter response, dated March 4, 1980, to the Charging Parties' exceptions. Subsequent to the filing of exceptions the parties argued orally before the Commission on

^{1/} H.E. No. 80-29, 6 NJPER 82 (¶11043 1980).

April 3, 1980, pursuant to N.J.A.C. 19:14-8.2. The Charging Parties filed an additional letter submission with the Commission; dated May 15, 1980.

The Hearing Examiner recommended that the Commission find that the Board violated N.J.S.A. 34:13A-5.4(a)(1) when its agents warned leading Association adherents to cease engaging in organizational activities and informed them that their work would be closely scrutinized to develop grounds to discipline or terminate them. However, the Examiner found that Camarda, one of the teachers so threatened, failed to sustain her burden of proof that the Board's abolition of her position as tenured art teacher at the close of the 1978-79 school year was discriminatorily motivated. He credited evidence proffered by the Board that it faced serious budgetary difficulties and that the elimination of the elementary art program, among other choices available to it, was least destructive of the basic instructional program. Accordingly, the Examiner recommended the dismissal of the 5.4(a)(3) allegation. The Hearing Examiner concluded that Camarda did sustain her burden that a warning letter placed in her personnel file relating to her exercise of disciplinary authority in the classroom concerning unsigned work (the "Mullener" incident) was designed to intimidate her and was in furtherance of the warning that the Board was seeking to create a record warranting her termination. The Hearing Examiner also found that the Charging Parties had demonstrated that the threats and harassment directed against the Association leadership, in particular against Camarda, had led to an unwillingness on the part of elementary teachers, in general, to seek Association office.

By way of remedy, for the 5.4(a)(1) violations found to have been committed, the Hearing Examiner recommended that the Board expunge the warning letter from Camarda's personnel file, and in accordance with her re-employment rights under the Education Law, place her on a preferred eligible list and re-employ her upon the first vacancy for art teacher without loss of her previous years of service, other benefits or privileges. As a remedy tailored to the adverse effect upon the exercise of Association rights by elementary teachers as a result of the Board's warnings and intimidation, the Examiner recommended that in addition to requiring the Board to post a remedial notice, it also be required to inform all of its employees individually of their statutory rights to be free from interference, coercion and restraint by mailing a copy of the signed notice to their homes. The Examiner lastly recommended that the section of the Complaint alleging that the Board violated N.J.S.A. 34:13A-5.4(a)(3) by abolishing Susan Camarda's position as an elementary art teacher be dismissed.

The Charging Parties in their exceptions maintain that the Hearing Examiner's determination that the threats and harassment directed against the Association leadership resulted in the "pervasive fear of retaliation among elementary school teachers" and led to the "silencing and frightening of a substantial segment of the teaching staff" mandated the conclusion that the Board's action in RIFing Camarda was "inherently destructive" of protected rights under the Act and in violation of N.J.S.A. 34:13A-5.4(a)(3). The Charging Parties conclude that pursuant to the U.S. Supreme Court decision in NLRB v. Great Dane Trailers, Inc. 388 U.S. 26, 65 LRRM 2465 (1967)

if it can reasonably be concluded that an employer's discriminatory conduct was inherently destructive of important employee rights, no proof of an anti-union motivation is needed and the NLRB can find an unfair labor practice even if the employer introduces evidence that the conduct was motivated by business considerations, e.g. economic factors.

Alternatively the Charging Parties argue that they established that notwithstanding the Board's proffered business justifications, i.e. that it had major budgetary difficulties and RIFed Camarda as the least senior art teacher among other personnel actions as part of an effort to minimize the disruption of educational programs offered within the district, Camarda's termination was taken, at least in part, in retaliation for the employee's exercise of protected rights. Asserting that the Board's announced business justification for RIFing Camarda was pretextual, the Charging Parties argued that the Board by not expending to its CAP limits during the 1977-78 school year put itself in economic difficulty and by acquiescing to subsequent budget cuts manufactured a budgetary crisis to purge the Association of its leadership.

The Board excepted to the Hearing Examiner's conclusion that the Board's actions violated N.J.S.A. 34:13A-5.4(a)(1). More specifically the Board questioned how the "Mullener" incident concerning Camarda's grading policies could be relied upon to justify the Hearing Examiner's finding that the Board had illegally harassed Camarda for her Association activity while Camarda was accorded

due process in her hearing before the Board and was not thereafter disciplined. The Board submitted, moreover, that the Hearing Examiner had improperly deemed more credible the testimony of Association witnesses as opposed to the testimony of Board members in concluding that the Board violated N.J.S.A. 34:13A-5.4(a)(1) by improperly warning Association adherents to cease engaging in Association activities or face detrimental consequences.

The Commission, after careful consideration of the record and the exceptions, adopts the Hearing Examiner's findings of fact, conclusions of law, and recommended order substantially for the reasons stated in the Hearing Examiner's Recommended Report and Decision. Certain comments, however, are in order with regard to specific exceptions raised by the parties. The Charging Parties' exceptions will be considered first.

Consistent with N.J.S.A. 34:13A-5.4(c), the Commission has placed upon the shoulders of the charging party in (a)(3) discrimination matters the burden of proving its case by a preponderance of the evidence. Once the charging party has shown that an employee, who has been discriminated against, has engaged in protected activity and that the employer had knowledge of such activity and was hostile toward a union, a prima facie (a)(3) violation is made out. The burden then shifts to the respondent which must demonstrate that its actions were taken for legitimate reasons. If the evidence produced at hearing indicates that the rationale offered by respondent is merely pretextual, a violation of the Act may be found. However, if the evidence indicates that the respondent's justification is valid, then it becomes the obligation of the

trier of fact to determine, bearing in mind that the charging party has the burden of proof by a preponderance of the evidence, that the action was taken, at least in part, in retaliation for the employee's exercise of protected rights.^{2/}

Contrary to statements contained within the exceptions of the Charging Parties, the Commission has recognized that if it can reasonably be concluded that an employer's discriminatory conduct was "inherently destructive" of important employee rights, no specific proof of anti-union motivation is needed, and the Commission can find an unfair practice even if an employer introduces evidence that the conduct was motivated by business considerations.^{3/} The Commission, however, concludes that the incident relating to the RIFing of Susan Camarda does not rise to the level of an "inherently

^{2/} As to the shifting burdens of proof in section (a)(3) charges, see In re North Warren Regl Bd of Ed, P.E.R.C. No. 79-9, 4 NJPER 417 (¶4187 1978); In re Brookdale Community College, P.E.R.C. No. 78-80, 4 NJPER 243 (¶4123 1978), affmd App. Div. Docket No. A-4824-77 (1/9/80); In re North Brunswick Twp Bd of Ed, P.E.R.C. No. 79-14, 4 NJPER 451 (¶4205 1978), affmd App. Div. Docket No. A-698-78 (4/11/79); In re Lakewood Bd of Ed, P.E.R.C. No. 79-17, 4 NJPER 459 (¶4208 1978), affmd App. Div. Docket No. A-580-78 (9/24/79) and In re Cape May City Bd of Ed, P.E.R.C. No. 80-87, 6 NJPER 45 (¶11022 1980).

^{3/} The standard for determining a violation of N.J.S.A. 34:13A-5.4(a)(3) often extracted from In re Haddonfield, P.E.R.C. No. 77-36, 3 NJPER 71 (1977) states as follows: "A violation... should be found if it is determined that a public employer's discriminating acts were motivated in whole or in part by a desire to encourage or discourage an employee in the exercise of rights guaranteed by the Act or had the effect of so encouraging or discouraging employees in the exercise of those rights." P.E.R.C. No. 77-36 at 4, 3 NJPER at 72. See also Brookdale Community College v. George Abel, supra.

The underlined portion of this standard was specifically intended by the Commission to accommodate the concept of "inherently destructive action", i.e. acts bearing their own indicia of intent. See also City of Hackensack v. Winner, P.E.R.C. No. 77-49, 3 NJPER 143, revd 162 N.J. Super. 1 (App. Div. 1978), affmd as mod. 82 N.J. 1 (1980).

destructive" action. We fail to find that a reduction in force in response to budgetary crises, and which affected several programs and teachers, apart from Camarda, can be deemed to be conduct that carries with it unavoidable consequences [the chilling of employees' protected rights] which the Board not only foresaw but which it must have intended. We conclude that the Hearing Examiner properly applied the relevant (a) (3) discrimination standards, i.e. whether the Board was motivated in whole or in part by a desire to encourage or discourage an employee in the exercise of protected rights, and correctly enunciated the parties' responsibilities concerning the shifting burdens of proof in (a) (3) discrimination cases.

In the present case, the Hearing Examiner found that although the Charging Parties had proven that the Board had actual knowledge of Camarda's protected activities on behalf of the Association, and moreover that the Board had evinced hostility toward the Association through the warnings, harassment and surveillance imposed upon Camarda and other Association representatives, the Board had demonstrated that its actions in RIFing Camarda were taken for legitimate educational and economic reasons. The burden of proof thus remained with the Association to establish that the actions complained of were taken at least in part in retaliation for Camarda's exercise of protected rights, i.e. that the Board was influenced by a discriminating motive -- anti-union animus. The Hearing Examiner found, as do we, that the Charging Parties did not prove that the Board acted as it did in RIFing Camarda because of anti-union animus.

The record evidence, as summarized by the Hearing Examiner, sets forth ample corroborative and testimonial support for the

Board's proffered reasons for a cutback in the elementary school art education program, and we conclude that there is nothing to indicate that these reasons were pretextual. We agree with the Hearing Examiner's conclusion that the Charging Parties' theory that the Board created a serious financial crisis in the school district by not spending to its "CAP" limits in the 1977-78 year and ultimately forced itself to go into debt ^{4/} for the sole purpose of manufacturing a legitimate reason to eliminate the elementary art program, among other programs, and thereby reduce in force Camarda is "rather far fetched." We find that the Board's financial and educational rationale for eliminating the elementary art program was persuasive. After an independent examination of the record, we conclude that the Association did not prove its (a)(3) discrimination charge by a preponderance of the evidence.

The Commission also concludes that the Board's exceptions concerning the Hearing Examiner's finding that the Board had violated N.J.S.A. 34:13A-5.4(a)(1) be dismissed. The Hearing Examiner found that the Board violated the Act by warning leading Association activists to stop engaging in Association activities and informing them that their performance would be carefully examined to establish grounds to discipline or terminate them. The Hearing Examiner also concluded that subsection (a)(1) was violated when the Board harassed Camarda for her Association activities by forcing her to appear before the Board concerning the Mullener matter and subsequently placing a letter of reprimand in her file, notwithstanding that the issue had already been resolved to everyone's satisfaction.

^{4/} It is uncontroverted that the Board had to borrow \$50,000 to finish the 1978-79 year.

We conclude that there is substantial evidence to support the Hearing Examiner's recommendations that the Commission find that the Board interfered with, restrained and coerced Association leaders in the exercise of protected rights under the Act. The Board essentially disputes the Hearing Examiner's credibility determinations in this area contending that the Board witnesses were more worthy of belief than Association witnesses with reference to testimony concerning the Association's allegations that certain members of the Board had issued orders to principals in the district to collect data against Association activists that could serve as a pretext for justifying the dismissal of these individuals including Camarda. The Commission has repeatedly stated that it is for the trier of fact to weigh the evidence and the testimony, and the Commission, absent compelling evidence to the contrary, will not substitute its second-hand reading of a transcript for the Hearing Examiner's judgment based upon observations of demeanor and the like. The Commission, finding a lack of such contrary evidence, adopts the Hearing Examiner's credibility determinations.^{5/}

We additionally conclude that there is sufficient record evidence concerning the "Mullener" incident to support the conclusion that the Board's handling of that matter, including placing a letter of reprimand^{6/} in Camarda's file after a Board hearing,

^{5/} See, e.g., In re City of Trenton, P.E.R.C. No. 80-90, 6 NJPER 49 (¶11025 1980); In re Hudson Cty Bd of Chosen Freeholders, P.E.R.C. No. 78-48, 4 NJPER 87 (¶4041 1978); In re City of Hackensack, P.E.R.C. No. 78-30, 4 NJPER 21 (¶4011 1977) and In re Long Beach Bd of Ed, P.E.R.C. No. 77-70, 3 NJPER 300 (1977).

^{6/} The Commission in the past has determined that placing a letter of reprimand in an employee's file relating to, in retaliation for, or to discourage the exercise of protected rights is an unfair practice. See In re City of Hackensack, P.E.R.C. No. 78-71, 4 NJPER 190 (¶4096 1978) affirmed in an unreported decision of the Appellate Division. App. Div. Docket No. A-2562-77 (1979). In re Hamilton Township Board of Education, P.E.R.C. No. 79-59, 5 NJPER 115 (¶10068 1979).

amounted to an illegal harassment of Camarda for her Association activities. No Board witness could explain why this matter came before the Board in the first place and why Camarda received a letter of reprimand when the Mullener incident had apparently been resolved to everyone's satisfaction through the intervention of the elementary school principal. The timing of the Mullener incident is also important in analyzing this matter. The Mullener case arose several months after Camarda had served as the "Radio Spokesperson" for the Association during a period of difficult and occasionally acrimonious negotiations between the Association and the Board. Perhaps more significantly, that spring, only two or three months after the Mullener incident, Camarda was warned by her principal that the Board was not happy with her activities on behalf of the Association. Although the principal, Donald Tshudy, denied that he had been told by Board members to observe her carefully to collect grounds for her dismissal, he did admit telling Camarda that her union activities were causing some concern to the Board. The statements of Tshudy and the timing of the Mullener incident clearly support the Hearing Examiner's determination that the Board had acted to harass Camarda for her Association activities in violation of N.J.S.A. 34:13A-5.4(a)(1).^{7/}

^{7/} The Hearing Examiner and the parties address this incident, plus the actions of the Board, other than the RIF of Camarda, only as a violation of N.J.S.A. 34:13A-5.4(a)(1), not as a violation of subsection (a)(3). That subsection is discussed only with regard to Camarda's dismissal. Since the independent violation of subsection (a)(1) constitutes ample basis for the order against the Board on those aspects of the Complaint which have been proven, we do not deem it necessary to determine if this conduct would also constitute a violation of N.J.S.A. 34:13A-5.4(a)(3).

ORDER

For the foregoing reasons and upon the entire record herein, it is hereby ORDERED that the Belvidere Board of Education

1. Cease and desist from:

(a) Interfering with, restraining or coercing Susan Camarda or other employees in the exercise of the rights guaranteed to them by the Act by threatening them with reprisals for activities undertaken on behalf of the Association, including holding Association office and by harassing or surveilling for the purpose of collecting grounds for their dismissal.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Expunge from employee Susan Camarda's personnel file, if not already done so, a letter or written warning for her exercise of disciplinary authority in the classroom designed to harass and intimidate her from assisting the Association and engaging in lawful Association activities.

(b) Place employee Susan Camarda, whose position of art teacher was abolished at the conclusion of the 1978-79 school year, upon a preferred eligible list for reemployment whenever the first vacancy occurs for teacher of art, the position for which she is qualified, and reemploy Camarda upon such vacancy, giving full recognition to previous years of service, in accordance with the provisions of N.J.S.A. 18A:28-12 and without loss of benefits or privileges previously employed.

(c) Post immediately in plain sight at the administrative offices of the Belvidere Board of Education and at each school building within the Belvidere School District, copies of the

attached notice marked "Appendix A." Copies of said notice on forms to be provided by the Commission shall, after being duly signed by Respondent Board's representative be posted by Respondent immediately upon receipt thereof, and maintained by them for a period of at least sixty (60) consecutive days thereafter in conspicuous places including all places where notices to its employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that such notices are not altered, defaced or covered by any other material.

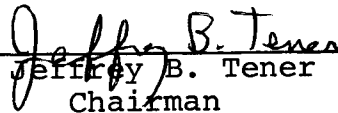
(d) Mail a copy of the attached notice marked "Appendix A", duly signed by Respondent Board's representative, to each employee in the negotiating unit represented by the Association. Mailing shall be by regular mail to the resident address of each employee as appears on the files of the Respondent.

(e) Notify the Chairman of the Commission, in writing, within twenty (20) days of receipt of the Commission's Order, what steps the said Respondent has taken to comply herewith.

IT IS FURTHER ORDERED that the section of the Complaint alleging that the Belvidere Board of Education has engaged in violation arising under N.J.S.A. 34:13A-5.4(a)(3) with regard to its abolishing Susan Camarda's position as art teacher in the

elementary school be dismissed in its entirety.

BY ORDER OF THE COMMISSION


Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Hartnett and Parcels voted to dismiss the N.J.S.A. 34:13A-5.4(a)(3) allegation; Commissioner Graves voted against the decision and Commissioners Hipp and Newbaker abstained.

Chairman Tener and Commissioner Hartnett voted to uphold the N.J.S.A. 34:13A-5.4(a)(1) allegation; Commissioner Parcels voted against the decision and Commissioners Graves, Hipp and Newbaker abstained.

DATED: Trenton, New Jersey
July 10, 1980
ISSUED: July 14, 1980

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL NOT interfere with, restrain or coerce Susan Camarda or other employees in the exercise of the rights guaranteed to them by the Act by threatening them with reprisals for activities undertaken on behalf of the Association, including holding Association office and by harassing or surveilling for the purpose of collecting grounds for their dismissal.

WE WILL expunge from employee Susan Camarda's personnel file, if not already done so, a letter or written warning for her exercise of disciplinary authority in the classroom designed to harass and intimidate her from assisting the Association and engaging in lawful Association activities.

WE WILL place employee Susan Camarda, whose position of art teacher was abolished at the conclusion of the 1978-79 school year, upon a preferred eligible list for reemployment whenever the first vacancy occurs for teacher of art, the position for which she is qualified, and reemploy Camarda upon such vacancy, giving full recognition to previous years of service, in accordance with the provisions of N.J.S.A. 18A:28-12 and without loss of benefits or privileges previously employed.

BELVIDERE BOARD OF EDUCATION

(Public Employer)

Dated _____

By _____
(Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with Jeffrey B. Tener, Chairman, Public Employment Relations Commission, 429 East State, Trenton, New Jersey 08608 Telephone (609) 292-9830.

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

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Respondent,

- and -

Docket No. CO-79-326-11

BELVIDERE EDUCATION ASSOCIATION and
SUSAN CAMARDA,

Charging Parties.

SYNOPSIS

A Hearing Examiner recommends that the Public Employment Relations Commission find that the Board violated section 5.4(a)(1) of the New Jersey Employer-Employee Relations Act when its principals warned leading Association adherents to cease engaging in organizational activities and that their work would be closely scrutinized to develop grounds to discipline or terminate them. The Examiner also recommends that Camarda, one of the teachers so threatened, failed to sustain her burden of proof that the Board's abolition of her position as tenured art teacher at the close of the 1978-79 school year was discriminatorily motivated in the face of evidence of serious budgetary difficulties and its consistent rationale that the elimination of the elementary art program, among other choices available to it was least destructive of the basic instructional program. Accordingly, the Examiner recommends dismissal of the 5.4(a)(3) allegation. Camarda did sustain her burden that a warning letter placed in her personnel file relating to her exercise of disciplinary authority in the classroom, was designed to intimidate her and in furtherance of the warnings that the Board was seeking to create a record warranting her termination. The Charging Parties demonstrated, also, that the threats and harassment directed against the Association leadership, in particular against Camarda, had led to an unwillingness on the part of elementary teachers, in general, to seek Association office.

By way of remedy, the Hearing Examiner recommends that the Board expunge the warning letter from Camarda's personnel file, and in accordance with her re-employment rights under the Education Law, place her on a preferred eligible list and reemploy her upon the first vacancy for art teacher without loss of her previous years of service, other benefits or privileges. As a remedy tailored to the adverse effect upon the exercise of Association rights by elementary teachers as a result of the Board's warnings and intimidation, the Examiner recommends that in addition to requiring the Board to post a remedial notice, it also be required to inform each of its employees individually of their statutory rights to be free from interference, coercion and restraint by mailing a copy of the signed notice to their homes.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law.

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Appearances:

For the Respondent, Green, Koenig and Dzwilewski, Esqs.
(Allan P. Dzwilewski, Esq., Of Counsel)

For the Charging Parties
(Stephen E. Klausner, Esq.)

HEARING EXAMINER'S RECOMMENDED
REPORT AND DECISION

An unfair practice charge was filed with the Public Employment Relations Commission ("Commission") on June 5, 1979 by the Belvidere Education Association and Susan Camarda ("Charging Parties" or "Association" and "Camarda", respectively) alleging that the Belvidere Board of Education ("Board") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. ("Act") in that commencing in or about May 1977 and continuing on specified dates thereafter the Board, by Donald Tshudy, the principal of its elementary school,^{1/} issued warnings and threats to Camarda to cease engaging in Association activity and that she would be watched closely, during school year 1978-79 attempted to reduce in force Camarda and other employees of the Board who were Association officers and adherents, and on April 10, 1979

^{1/} The Charging Parties identified Tshudy and other agents who were alleged to have acted on behalf of the Board in a list of particulars to the Complaint forwarded Respondent by letter dated July 16, 1979 after request had been made by Respondent counsel by letter dated July 3, 1979.

did reduce in force Camarda under the tenure law by abolition of her position, all of which had a chilling affect upon the exercise by other elementary school employees of their right to assist the Association under the Act, in violation of N.J.S.A. 34:13A-5.4(a)(1) and (3). ^{2/}

It appearing that the allegations of the charge, if true, may constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued on June 29, 1979. Respondent by answer filed August 9, 1979 denied each and every one of the material allegations of the Complaint, except it averred that it abolished the position of art teacher pursuant to N.J.S.A. 18A-28.9 for economic reasons, thereby terminating the employment of Camarda and pleaded as an affirmative defense that as the action complained of was taken under authority of the Education Law, jurisdiction lies with the Commissioner of Education with whom the Charging Parties have filed a Petition of Appeal challenging Respondent's action in abolishing Camarda's position. ^{3/}

Hearings were held on August 30, September 18, September 24, September 25, September 28 and October 12, 1979 at which time the parties were given an opportunity to examine witnesses, present relevant evidence and to argue orally. Both parties filed post-hearing briefs, the Charging Parties on November 26, 1979 and the Respondent on November 28, 1979, and they have been duly considered.

Upon the entire record in the case and from my observation of the witnesses and their demeanor I make the following:

^{2/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act; (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this Act."

^{3/} At the pre-hearing conference counsel advised the Hearing Examiner that a companion proceeding was indeed pending before the Commissioner of Education but that no conference or hearings had yet been held. As of the date of issuance of this report, I have been further advised by counsel that hearing in that proceeding before an Administrative Law Judge has been scheduled to commence sometime in February 1980. Neither party has introduced any evidence with respect to this related proceeding and Respondent did not press this defense at the hearing and has not briefed it in his post-hearing memorandum.

FINDINGS OF FACT

Charging Party Susan Louise Camarda was employed by the Board from 1973 to 1979 as the elementary school art teacher, eventually tenured. She was a member of the Belvidere Education Association, holding the office of Vice-President for 1977-78 and acting as a member of the Public Relations Committee for the 1977-78 and 1978-79 school years. The Public Relations Committee was intended to be a liason between the school, the Association and the community, functioning through neighborhood Coffee Klatches at which community members were encouraged to attend Board meetings. Camarda testified that she had been told by her principal, Tshudy, that the Board was not happy about these meetings which the members saw as causing dissention in the town against the Board (T. 50). Respondent was always informed by the Association of the identity of its officers and the membership of its various committees (see, e.g., CP-1). ^{4/}

Negotiations between the Board and the Association were far from a successful conclusion in September 1977. Camarda testified that there were difficulties in getting the Board to negotiate (T. 26) and that a job action which took place then was designed to force the Board to the negotiating table. ^{5/} During this dispute concerning the progress of negotiations, Camarda also served as "Radio Spokesperson" for the Association. In this capacity she prepared and gave to numerous radio stations statements of the Association's position. The Superintendent of Schools, Mr. Andrew M. Mark, acted as radio spokesperson for the Board. ^{6/}

Considerable time was devoted to exploring an incident between Camarda and a student, or more precisely, the reaction of the Board to a complaint by the

^{4/} Camarda testified that she had attended four such Coffee Klatches. Principal Tshudy testified that he and Superintendent Mark knew that Camarda and other teachers were involved in these community activities.

^{5/} By Job Action Camarda referred to the teachers concerted refusal to come to school for the first of September meetings before classes began.

^{6/} Respondent in brief asserts that these statements were not the least bit inflammatory and were unlikely to engender retaliation. Among the radio statements placed in the record are several charging Respondent with not negotiating in good faith (CP-1, 2 and 3) and one, CP-12, accusing Respondent of constant delays and refusal to meet with the Association, impliedly placing responsibility for the strike on Respondent. This is sufficient to infer that the radio statements augmented the friction between Respondent and the Association.

Mulleners, the parents of the student, concerning this incident. ^{7/} Despite the Principal's resolution of the matter on January 30, 1978 to the satisfaction of the parents, the parents were invited to a special session of the Board that same evening. On January 31, 1978 the Superintendent sent Camarda a memo requesting her appearance at a Board meeting to review the incident. ^{8/} No representatives for the Board at this hearing could give any explanation for this matter going before the Board after it had been resolved by the Principal.

The Board meeting was held on February 13, 1978 and resulted in a letter or reprimand being placed in Camarda's file to remain there for one year. The entire elementary school faculty protested this action in a letter to the Board (CP-11).

That spring Camarda was warned by Tshudy that the Board was not happy with her activities on behalf of the Association (T. 52-53). ^{9/} She further testified that Tshudy warned her that he had been instructed by certain Board members to observe her carefully in order to collect grounds for her dismissal. Tshudy denied that he had ever been so instructed by Board members, but he admitted discussing with Camarda certain actions on her part which were "causing some concern" to the Board. Tshudy admitted that he was referring specifically to union activities (T. 181-182). He described his motive in this discussion as

^{7/} Camarda's handling of unsigned student work was the basis of the complaint. She simply threw out anything unsigned, and this was not an unusual manner of dealing with the problem in this school. In this particular incident, the student insisted that she had signed the work and one of her friends corroborated it. Since Camarda had disposed of the item and could not show that it was indeed unsigned, the Principal resolved the issue in favor of the student, who was not required to redo the work.

^{8/} It was during this meeting, Charging Parties allege, that a Board member, Ainsworth Scott, interrupted the discussion to describe Camarda as a "rotten apple" in the elementary faculty (T. 47; 112).

^{9/} Tshudy also warned her about "making faces" and "sideways comments" to people at a Board meeting. Since it is unclear what subject was being discussed by the Board at the time and exactly what "faces" Camarda made or what she said during this incident, it is impossible to characterize her conduct as protected activity. ^{7/} It would be significant if she was mocking a poorly chaired meeting or if she was registering a protest about remarks concerning the Association. It might be even more significant if the record recited more precisely the nature of her gestures. Fortunately the parameters need not be discussed here. ^{7/}

a desire to call to Camarda's attention potential criticism and difficulties these might cause (T. 172-173). He further testified of telling her that "it would be well for her to be a little more careful, just what position she took and how she handles it." (T. 188-189). Tshudy appeared to think that his friendly intent distinguished his comments from those fairly categorized as "warnings" about Association activities. Although Camarda did not feel threatened by Tshude personally she did perceive his comments as a threat channeled through him from his superiors (T. 85-86).

Linda Cain, another elementary school teacher testified that Camarda had been quite upset when she told her that Tshudy had warned her that the Board was not pleased with her and that she should "mend her ways." ^{10/} One factor in Cain's decision not to run for Association office was "what happened to Susan" Camarda. Cain "felt that it would be best to keep a low profile." (T. 147). ^{10a/}

Testimony on anti-union animus, threats and surveillance of Association members by the Board was also provided by the current and former presidents of the Association, Mr. Robert D. Dombloski and Mr. Robert Repko, respectively. Dombloski stated that he had received a warning similar to the one Camarda got from Tshudy about the antipathy her union activities were arousing. Dombloski testified that his principal, Mr. Frank Dragotta, told him that the Board had asked the principals to watch prominent Association members for opportunities to terminate them. Named specifically were Dombloski, Repko, Matla and Camarda (T. 94-97). ^{11/} One Board member, Mr. Dalio Ghetti, had, according to Dombloski, blamed the strike and ill will between the Board and Association on Camarda's radio statements. ^{12/} The former Association President, Repko, gave similar

^{10/} Whether this referred to her union activity was not specified, but Cain's explanation of her decision not to run for Association office supports an inference that she meant Camarda's union activity.

^{10a/} Every elementary school teacher was approached to hold Association office. All refused nomination, and all but one gave Camarda's situation as the reason for their refusal (T. 94-95; 157-159).

^{11/} Frank Matla was Grievance Chairman and the only Association activist with both tenure and sufficient seniority to protect him from a RIF.

^{12/} Ghetti voted against the abolition of the art program. Dombloski also testified that Ghetti had stated that he was more interested in getting rid of Dombloski and Repko than Camarda. Respondent asserts in its brief that Charging Parties' decision not to call Ghetti as a witness raises an inference that Ghetti's testimony would be unfavorable to them. To the contrary, a more appropriate inference would be that Respondent's failure to call Ghetti and allow him to deny the statements attributed to him support an inference that he had indeed made the statements evidencing hostility toward Camarda and others of the Association's leaders.

testimony and corroborated Ghetti's attitude toward Camarda's radio statements. He further testified that he had been warned about union activity as had Camarda and Dombloski. He attributed his decision to give up the office of president of the Association to the warnings and consequent fear for his job (T.117-119).

Respondent's witnesses denied all allegations of anti-union animus (with the exception of what may be inferred from Tshudy's testimony, who was called by both parties as a witness). Mark testified that Association activities, particularly the radio announcements, were never discussed by the Board. Board President Barbara Johnson stated that she was out of town at the time of the radio broadcasts and never heard Camarda's statements. Ainsworth Scott, a Board member alleged to be antagonistic toward Camarda, denied all statements attributed to him. ^{13/}

Negotiations between the Charging Parties and Respondent were underway in the summer of 1978 for the 1978-79 school year. Camarda was on the negotiating team and in September of 1978 she again acted as Radio Spokesperson for the Association. Camarda related that the Association was again having difficulties in getting the Board to the negotiating table (T. 53). This time a strike was called and the teachers refused to meet their initial classes.

In October of 1978 budget planning for 1979-80 began. The initial budget was \$114,000 over that permitted by the State for the District, including the "CAP" increase over the previous year's budget (T. 228). On April 5, 1979, the administration met with the entire elementary and high school faculty to announce that the Board was going to make a reduction in force (RIF) and was considering the elimination of several programs including elementary art, vocal music in the high school and such supplemental or extra curricular positions as the gifted and talented program. Earlier on that day, the Superintendent informed both Camarda and the vocal music teacher of what was to be announced at this meeting.

Respondent's consistent rationale for its decision to eliminate the art program in the elementary level was its belief that the regular classroom teachers would provide some art experience for children in these lower grades. Other

^{13/} In addition to the allegation that Scott termed Camarda a "rotten apple" during a Board meeting, Charging Parties also brought on a parent from the community who testified that Scott told her in April 1979 that he himself would like to see an art program but he felt that there was a personality problem with the art teacher (T. 502).

alternatives such as combining two first grade classes were deemed to be more destructive of the basic instructional program and were rejected (T. 177). 14/

ANALYSIS

I. Interference, Coercion and Restraint

Warnings about Association Activism

In its brief, Respondent asserts that the testimony presented by Charging Parties remains unproven and unverified. Admittedly, Respondent's witnesses contradicted the testimony of Charging Parties witnesses by their flat denials of, e.g., having asked the principals to collect data which would serve as grounds for dismissal for certain Association activists, having abolished the teacher Camarda but not the art program, and having knowledge of Camarda's activities on behalf of the Association. This however does not preclude a finding that Charging Parties' witnesses were generally more credible than those of Respondent's, or that the corroboration of items by Charging Parties' witnesses particularly of the warnings concerning Association activity, was more convincing than the series of denials by witnesses for Respondent. In particular, I discredit Mark's testimony that the radio announcements by Camarda were never discussed by the Board. When a strike is imminent and the Board, through Mark responds the Board must have been aware of the content of the statements and in some manner settled upon a proper response. Whether each and every Board member heard the statements and whether the discussion took place informally is of little relevance. Neither can I credit Board President Johnson's and member Scott's testimony that they did not know that Camarda was a Vice President of the Association and a member of the Public Relations Committee, since lists of the officers and committee memberships were always given to the Board.

The Charging Parties have made a convincing showing of anti-union animus on the part of the Board. This animus was directed against Camarda and others for their activities on behalf of the Association. In addition to corroboration by

14/ This decision was arrived at despite the recent expenditure, estimated by Camarda to between \$80,000-\$100,000 on a new art facility. This estimate remained uncontradicted by Respondent. This expenditure was apparently part of a building expansion involving both the high school and the elementary building (T. 140-141). By resolution of the Board made April 10, 1979 (R-2) the elementary art position, vocal music position in the high school and the part-time gifted and talented position and an assistant wrestling coaching position were all eliminated. Camarda was lowest in seniority of the two art teachers (R-1) and therefore was terminated subject to recall provisions of N.J.S.A. 18A:28-12.

members of the Association, the testimony of Tshudy was particularly significant as constituting an admission against the interest of himself and the Board, despite his denial that the Board directed him to collect damning information on Camarda and other activists. The warnings which he and the high school principal gave the Association activists, however friendly the intent, had the effect of halting the elementary teachers' participation in the Association (T. 94-95). The actions of Respondent through its agents in warning Camarda and other Association members that their union activities were endangering their job security are in violation of N.J.S.A. 34:13A-5.4(a)(1).

Harassment

Respondent asserts that Camarda's "coffee klatch" activities and the "Mullener" incident concern unprotected activities unrelated to the Association. Since the record on the coffee klatches is insufficient, no findings of violation based on such conduct are warranted. ^{15/} However, the Mullener incident is fully detailed in this record. It is true that facially the matter concerned grading procedures unrelated to union activity. This is not the point of Charging Parties argument. Camarda, Dombloski and Repko all testified to being warned that the Board would try to collect grounds for their dismissal. Obviously these grounds could not concern union activity. The Mullener incident supports the assertions of these Association members. Witnesses for Respondent were given every opportunity to explain why this matter came before the Board and why Camarda received a letter of reprimand when the issue had already been resolved to everyone's satisfaction. No explanation was forthcoming. Significantly although Camarda's policy was not unusual, the Board did not promulgate a new policy on grading for unsigned student work. Since Respondent has not justified this unusual occurrence on grounds of educational policy, this harassment constitutes a form of interference, coercion and restraint in violation of N.J.S.A. 34:13A-5.4(a)(1). ^{16/} See New Jersey Sports Expo., P.E.R.C. No. 80-73, n. #1.

^{15/} There was no testimony on what transpires at these coffee klatches other than encouragement of parents to attend Board meetings. While it is acknowledged that the Board perceived them, generally, as causing dissention against it as a body, absent any evidence that Camarda's activities related to Association disputes with the Board or to her efforts to inform the public of Association concerns or positions, no conclusion favorable to Charging Parties regarding the effect of Camarda's participation in these meetings can be drawn. Compare In re Laurel Springs Board of Education, P.E.R.C. No. 78-4.

^{16/} Most, if not all, of the events upon which the (a)(1) violation is based took
(continued next page)

II. Discriminatory Discharge

The standard for determining a violation of N.J.S.A. 34:13A-5.4(a)(3) is most often quoted from In re Haddonfield, P.E.R.C. No. 77-36, 3 NJPER 71 (1977). ^{17/} The warnings, harassment and surveillance imposed upon Camarda as alleged and supported in this record create a prima facie showing that her discharge constitutes an (a)(3) violation. Charging Parties do not appear to recognize that this is not the end of the matter, since they have failed to address Respondent's financial justification for the discharge in their brief. Once a prima facie case is established, the burden of proof shifts to Respondent to demonstrate that the discharge was impelled by legitimate reasons. ^{18/} This Respondent has demonstrated without serious challenge by Charging Parties. At hearing Charging Parties appeared to dispute the necessity of the budget cuts implemented by the Board. Charging Parties did not assert that other alternatives in budget cuts were more logical and has been passed over in order to eliminate Camarda. Charging Parties initially pointed to the recent expenditure, estimated by Camarda to be between \$80,000 and \$100,000 for a new art facility to show, presumably that there was no budget crisis, and that the art program had never been on any potential cut list. Charging Parties then attempted to show that various "savings" created by, e.g., the change from a full-time position to a part-time or the substitution of a new employee for an employee whose salary was scheduled for increase, were sufficient to cover the continuation of Camarda's salary. Testimony on the financial aspects of personnel changes by

16/ (continued)

place outside the six-month statute of limitations concerning filing of said charges. Respondent never raised the issue of time-bar, and thus has waived this defense. A.H. Belo Corp. v. NLRB, 71 LRRM 2437 (5th Cir. 1969); Shumate v. NLRB, 78 LRRM 2905 (4th Cir. 1971); Cf. Kaczmarek v. New Jersey Turnpike Authority, 77 N.J. 329, 339-340. The introduction of evidence on the allegations of interference, restraint and coercion was necessary and proper even had Respondent raised time-bar since these allegations were directly related to the (a)(3) charge which had been filed timely.

17/ A violation of N.J.S.A. 34:13A-5.4(a)(3) should be found if it is determined that a public employer's discriminatory acts were motivated in whole or in part by a desire to encourage or discourage an employee in the exercise of rights guaranteed by the Act or had the effect of so encouraging or discouraging employees in the exercise of those rights. P.E.R.C. No. 77-36 at 4, 3 NJPER at 72. See Brookdale Community College v. George Abel and PERC N.J. Super ____ (App. Div. Docket No. A-4824-77, 1/9/80).

18/ North Warren Regional Board of Education and North Warren Regional Ed. Assn., P.E.R.C. No. 79-9 at 5.

Roland T. Gibbs, the Board Secretary, effectively rebutted this by pointing out the additional expenditures to which these savings had already been applied. Gibbs testified that the Board had to borrow \$50,000 to finish the 1978-79 year (T. 339). Charging Parties then asserted that the financial crisis had been brought about by the Board itself the previous year when it did not spend the full amount permitted it, thus creating a less than maximum monetary base from which the current year's budget plus CAP would be figured. Charging Parties apparently would have the inference drawn that the Board created this financial crisis and ultimately forced itself to go into debt for the purpose of manufacturing a legitimate reason to eliminate the art program for elementary students and thereby eliminate Camarda. This is rather far fetched. Charging Parties have put forward nothing in this record to tie the decision not to spend to "CAP" limits in the 1977-78 year to union animus, or to animus directed to Camarda. Charging Parties presented no testimony rebutting the financial situation as presented by Gibbs and Mark nor were they successful in refuting Gibbs' testimony on cross examination. Charging Parties have not attacked the financial data in any way in their brief; they merely describe the testimony on the economic crisis faced by the Board as a "Rationalization." This is insufficient to show that the Board's financial difficulties were merely pretextual. The Board in such a situation is within its rights in abolishing a position. In re East Orange Board of Education, P.E.R.C. No. 79-62 Charging Parties have not argued discriminatory selection when a RIF is necessary. Even had they so argued, such selection is extremely difficult to prove in the case of a specialty teacher. ^{19/} Respondent consistently explained why it chose to eliminate the art program. Its financial and education rationale was persuasive. Even resolving Scott's ambiguous reference to Camarda's "personality" problem in favor of Charging Parties, this is insufficient to overcome the business justification for her discharge presented by Respondent. Charging Parties have thus failed to show either that the financial crisis did not exist or that the Board chose to eliminate Camarda's position for reasons concerning union activity rather than for the educational considerations presented by the Board. Accordingly, no discrimination in violation of N.J.S.A. 34:13A-5.4(a)(3) can be found and I will recommend dismissal of that allegation.

Upon the foregoing, and upon the entire record in this case, the Hearing Examiner makes the following:

19/ In re Cape May City Board of Education (Loper), P.E.R.C. No. 80-87 (1980).

CONCLUSIONS OF LAW

1. The Respondent Board has violated N.J.S.A. 34:13A-5.4(a)(1) by engaging in a course of conduct including warnings and threats of termination, and harassment of employees by fulfilling a warning of closely observing work performance in order to create a record warranting termination, tending to interfere with, restrain and coerce employees in the exercise of rights guaranteed by the Act and which have had the intended effect of discouraging employees in the exercise of those rights.

2. The Respondent Board has not violated N.J.S.A. 34:13A-5.4(a)(3) by abolishing the position of art teacher, Susan Camarda.

REMEDY

In view of the fact that the letter regarding the Mullener incident placed in Camarda's file has been found to be part of a course of conduct designed and tending to interfere with Camarda's exercise of rights protected by the Act, as affirmative relief, I will recommend that Respondent be required to expunge that document from her file, if it has not already done so. Because these same warnings and harassment have not been withdrawn and may continue to have effect in futuro at a point when Camarda may be able to assert her statutory reemployment rights, I will incorporate these rights in the recommended order herein for the additional protection a Commission order will afford her. ^{20/} Finally, because of the strong evidence of pervasive fear of retaliation among elementary school teachers causing them to refrain from seeking or holding Association office - justifiable, based upon the record in this case - I will recommend that the Commission order Respondent to mail to each employee in the negotiations unit represented by the Association, as well as post copies of the remedial notice. Under the circumstances of this case, the serious violation of the Act committed by the Respondent which have had the disturbing result of silencing and frightening a substantial segment of the teaching staff requires a remedy tailored to the unfair practices committed by Respondent and something more than the usual posting of notices. Respondent shall thus be obliged to take steps to inform each employee individually of his statutory right to be free from interference, coercion and restraint. ^{21/}

20/ Cf. Galloway Tp. Bd. of Ed. v. Galloway Tp. Ed. Assn., 78 N.J. 25, 34-37.

21/ See H. W. Elson Bottling Co., 155 NLRB No. 63, LRRM 1381 (1965).

RECOMMENDED ORDER

For the foregoing reasons and upon the entire record herein, IT IS HEREBY ORDERED that the Belvidere Board of Education, its representatives and agents:

1. Cease and desist from:

(a) Interfering with, restraining or coercing Susan Camarda or other employees in the exercise of the rights guaranteed to them by the Act by threatening them with reprisals for activities undertaken on behalf of the Association, including holding Association office.

(b) Discouraging their employees in the exercise of the rights guaranteed to them by this Act by harassing or surveilling for the purpose of collecting grounds for their dismissal in retaliation for their Association activities or sympathies.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Expunge from employee Susan Camarda's personnel file, if not already done so, a letter or written warning for her exercise of disciplinary authority in the classroom designed to harass and intimidate her from assisting the Association and engaging in lawful Association activities.

(b) Place employee Susan Camarda, whose position of art teacher was abolished at the conclusion of the 1978-79 school year, upon a preferred eligible list for reemployment whenever the first vacancy occurs for teacher of art, the position for which she is qualified, and reemploy Camarda upon such vacancy, giving full recognition to previous years of service, in accordance with the provisions of N.J.S.A. 18A:28-12 and without loss of benefits or privileges previously employed.

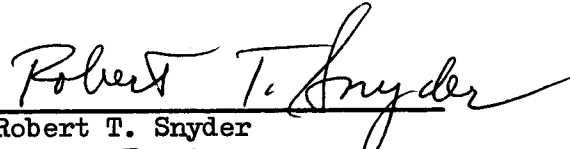
(c) Post immediately in plain sight at the administrative offices of the Belvidere Board of Education and at each school building within the Belvidere School District, copies of the attached notice marked "Appendix A." Copies of said notice on forms to be provided by the Commission shall, after being duly signed by Respondent Board's representative be posted by Respondent immediately upon receipt thereof, and maintained by them for a period of at least sixty (60) consecutive days thereafter in conspicuous places including all places where notices to its employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that such notices are not altered, defaced or covered by any other material.

(d) Mail a copy of the attached notice marked "Appendix A", duly signed by Respondent Board's representative, to each employee in the negotiating unit represented by the Association. Mailing shall be by regular mail to the resident address of each employee as appears on the files of the Respondent.

(e) Notify the Chairman of the Commission, in writing, within twenty (20) days of receipt of the Commission's Order, what steps the said Respondent has taken to comply herewith.

IT IS FURTHER ORDERED that the section of the Complaint alleging that the Belvidere Board of Education has engaged in violation arising under N.J.S.A. 34:13A-5.4(a)(3) with regard to its abolishing Susan Camarda's position as art teacher in the elementary school be dismissed in its entirety.

DATED: January 28, 1980
Newark, New Jersey


Robert T. Snyder
Hearing Examiner

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL NOT interfere with, restrain or coerce our employees in the exercise of the rights guaranteed to them by the New Jersey Employer-Employee Relations Act by threatening them with reprisals for activities taken on behalf of and assistance rendered to the Belvidere Education Association.

WE WILL NOT discourage our employees from exercising the rights guaranteed to them by the New Jersey Employer-Employee Relations Act by harassing or surveilling them for the purpose of collecting grounds for their dismissal in retaliation for their Association activities or sympathies.

WE WILL expunge from employee Susan Camarda's personnel file, if we have not already done so, a letter or written warning for her exercise of disciplinary authority in the classroom placed there in order to harass her and in retaliation for her Association activities and sympathies.

BELVIDERE BOARD OF EDUCATION
(Public Employer)

Dated _____

By _____

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with Jeffrey B. Tener, Chairman, Public Employment Relations Commission, P.O. Box 2209, Trenton, New Jersey 08625 Telephone (609) 292-6780