

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

NORTH BERGEN BOARD OF EDUCATION,

Public Employer,

-and-

COUNCIL OF ADMINISTRATORS AND
SUPERVISORS, NJEA,

DOCKET NO. RO-83-40

Petitioner,

-and-

NORTH BERGEN FEDERATION
OF TEACHERS, LOCAL 1060, AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation adopts the findings and recommendations of a Hearing Officer and directs an election among department chairpersons to determine whether a majority desire to be represented for the purposes of collective negotiations by the Petitioner within the existing unit of supervisory personnel. The Director finds no actual or potential substantial conflict of interest arising from the possible evaluative function of the High School Principal over department chairpersons as members of the same unit.

Supervisors, New Jersey Education Association ("Association") seeking to add 11 department chairpersons who are employed by the North Bergen Board of Education ("Board") to a unit of administrators and supervisors which it represents. The department chairpersons are currently represented by the North Bergen Federation of Teachers, Local 1060, AFL-CIO ("Federation") in an existing unit of teachers and other professional staff. Pursuant to N.J.A.C. 19:11-2.7, the Federation requested and was granted intervenor status. Pursuant to a Notice of Hearing dated January 3, 1983, a hearing was held before Commission Hearing Officer Arnold H. Zudick, on March 2, 1983, at which time all parties were given an opportunity to present evidence, to examine and cross-examine witnesses and to argue orally. Post-hearing briefs were submitted by the parties, the last of which was received April 7, 1983. ^{1/}

The Hearing Officer issued his Report and Recommendations on July 21, 1983, a copy of which is attached. On July 27, 1983, the Association filed exceptions to the Hearing Officer's Report objecting only to certain dicta set forth in footnote 9. Neither the Board nor the Federation filed exceptions.

The undersigned has considered the entire record herein, including the Hearing Officer's Report and Recommendations, the transcript, the exhibits and the Association's Exceptions and finds and determines as follows:

1. The North Bergen Board of Education is a public employer within the meaning of the New Jersey Employer-Employee

^{1/} The Federation did not file a brief.

Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

2. The Council of Administrators and Supervisors, New Jersey Education Association and the North Bergen Federation of Teachers, Local 1060, AFL-CIO are employee representatives within the meaning of the Act and are subject to its provisions.

3. The Association seeks a secret ballot election to add department chairpersons to its existing unit of supervisors. ^{2/} It argues the department chairpersons are supervisors within the meaning of the Act and may not appropriately be included in the existing Federation unit of nonsupervisory teachers and other professional staff. ^{3/}

The Federation and the Board agree with the Association that department chairpersons are supervisory employees. However, the Board opposed the inclusion of the chairpersons in the Association's unit of administrators and supervisors because, purportedly, an actual or potential substantial conflict of interest exists between chairpersons and the high school principal who is included in the supervisor's unit. According to the Board, the latter is

^{2/} The Association's unit includes 7 principals, 6 vice principals, 4 school psychologists, 1 reading coordinator, 1 math supervisor, 1 principal special services, and 1 director state compensatory education.

^{3/} The Federations unit as set forth in the Recognition clause of its 1981-83 collective agreement with the Board includes: teachers, librarians, nurses, athletic directors, disciplinarians, all guidance personnel with the exception of the director, learning disability consultant, social workers, ESL coordinator, gifted and talented coordinators, SCE/title I teachers, summer school teachers and department chairpersons.

responsible for the preparation of performance evaluations of department chairpersons. The Association argues that a conflict does not exist; the Federation has not taken a position on the issue.

4. The Hearing Officer did not find the existence of an actual or potential substantial conflict of interest between the high school principal and the department chairpersons. He found that the high school principal, while nominally responsible for evaluating department chairpersons, had not performed this function since the 1979-1980 school year. The evidence, further, did not establish the likelihood that this function would be resumed. The Hearing Officer, noting that the issue presented related to supervisors of fellow supervisors, as opposed to supervisors of nonsupervisors, recognized that the performance of some evaluative function, per se, would not establish the circumstances that would demonstrate the need to separate different levels of supervisors. Bd. of Ed. W. Orange v. Wilton, 57 N.J. 404 (1971); Edison Tp. Bd. of Ed., D.R. No. 82-8, 7 NJPER 560, (¶ 12248 1981); Lakewood Bd. of Ed., D.R. No. 78-44, 4 NJPER 212 (¶ 4105 1978).

The Hearing Officer recommended that a secret ballot election be conducted to determine whether the department chairpersons wish to be represented by the Association.

5. The Association excepts solely to the Hearing Officer's note that if new or additional evidence of conflict arising from the high school principal's evaluative function vis-

a-vis department chairpersons were presented in a subsequent Petition, "the Board would be entitled to have the department chairpersons removed from the unit." The Association states that the existence of new facts would require a separate hearing and findings, including appropriate recommendations regarding the composition of the supervisory unit; and that the instant decision cannot be interpreted to limit the recommendations of a fact-finder in a future proceeding on different circumstances.

6. After a review of the entire record, and noting the absence of any exceptions concerning the substance of the Hearing Officer's Report, the undersigned adopts the Hearing Officer's finding of fact and conclusions of law.

The Supreme Court, in Wilton, supra, stated:

... If performance of the obligations or powers delegated by the employer to a supervisory employee whose membership in the unit is sought creates an actual or potential substantial conflict between the interests of a particular supervisor and the other included employees, the community of interest required for inclusion of such supervisor is not present. While a conflict of interest which is de minimis or peripheral may in certain circumstances be tolerable, any conflict of greater substance must be deemed opposed to the public interest. (Citations omitted) Id. at 425

The record in the instant matter regarding the inter-relationship of the concerned supervisory employees does not present a circumstance in which an actual or potential substantial conflict may be discerned. The Hearing Officer properly applied the factual context of the instant matter to the relevant case law.

In Lakewood, supra, in circumstances similar to those of the instant matter, the undersigned found appropriate the inclusion of the principals, assistant principals, and department chairpersons in the same collective negotiations unit.

... The Board's suggestion that the evaluation of Department Chairpersons by Principals produces a conflict of interest is discounted by record evidence that the similar evaluation by Principals of Assistant Principals, who are undisputed unit members, has not evidenced a conflict of interest. Id. at 213

Again, in Edison, supra, the undersigned found appropriate the inclusion of principals and vice principals in a supervisory unit, pointing out that:

... the Board has misperceived the basis of the Hearing Officer's conclusion. The Hearing Officer did not find that the responsibility to evaluate would result only in de minimis conflict; rather, he concluded that the evidence placed in the record concerning the principal's evaluations of vice principals could not support a finding other than that of a de minimis conflict. Had the Court in Wilton believed that the mere finding of a evaluative function would necessarily result in a finding of actual or potential substantial conflict of interest, the Court would not have remanded the Wilton matter to the Commission for a full review of this issue. Id. at 560-562.

Accordingly, for the above reasons, the undersigned adopts the Hearing Officer's recommendation that no actual or potential substantial conflict of interest exists between department chairpersons and other members of the Association's supervisory

unit which would prevent them from being represented in the same collective negotiations unit. ^{4/} Therefore, the undersigned shall direct the conduct of an election.

Accordingly, the undersigned finds that the appropriate unit is: all principals, vice principals, school psychologists, reading coordinator, math supervisor, principal special services, director of state compensatory education and department chairpersons employed by the North Bergen Board of Education, but excluding the Superintendent and Assistant Superintendent of Schools, nonadministrative and nonsupervisory professional personnel, confidential employees, managerial executives, police and craft employees, and all other employees.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the department chairpersons no later than thirty (30) days from the date set forth below.

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date 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. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned

^{4/} With regard to the Association's exceptions concerning the Hearing Officer's dicta, the undersigned does not read the Hearing Officer's footnote 9 as mandating a particular result in any future unit clarification proceeding. The Hearing Officer merely notes that a procedure is available to consider anew the structure of the unit if circumstances change.

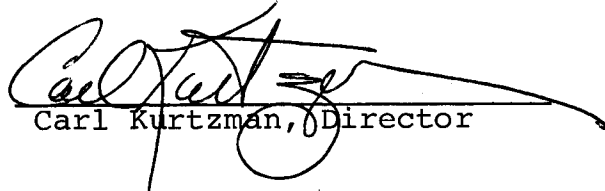
or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the North Bergen Board of Education is directed to file with the undersigned and with the Council of Administrators and Supervisors, NJEA, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with the Association with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Council of Administrators and Supervisors, NJEA, in its existing negotiations unit.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: September 2, 1983
Trenton, New Jersey

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

In the Matter of

NORTH BERGEN BOARD OF EDUCATION,

Public Employer,

- and -

COUNCIL OF ADMINISTRATORS AND
SUPERVISORS, NJEA,

Petitioner,

Docket No. R0-83-40

- and -

NORTH BERGEN FEDERATION OF
TEACHERS, LOCAL 1060, AFL-CIO,

Intervenor.

SYNOPSIS

In a Petition for Certification of Public Employee Representative a Hearing Officer of the Public Employment Relations Commission recommends that an election be directed to determine whether or not department chairpersons wish to be included in a negotiations unit including principals, vice principals, and other supervisory employees. The Hearing Officer concluded that although the high school principal may evaluate the department chairpersons that no actual or potential substantial conflict of interest existed between those titles which would prevent the department chairpersons from being included in the unit. The Hearing Officer found that under the facts and history of this case, even if the high school principal performs the evaluations, nothing more than a de minimis conflict would exist with department chairpersons.

A Hearing Officer's Report and Recommendations is not a final administrative determination of the Public Employment Relations Commissions. The report is submitted to the Director of Representation who reviews the Report, any exceptions thereto filed by the parties and the record, and issues a decision which may adopt, reject or modify the Hearing Officer's findings of fact and/or conclusions of law. The Director's decision is binding upon the parties unless a request for review is filed before the Commission.

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

In the Matter of

NORTH BERGEN BOARD OF EDUCATION,

Public Employer,

- and -

COUNCIL OF ADMINISTRATORS AND
SUPERVISORS, NJEA,

Petitioner,

Docket No. R0-83-40

- and -

NORTH BERGEN FEDERATION OF
TEACHERS, LOCAL 1060, AFL-CIO,

Intervenor.

Appearances:

For the Public Employer
Greenberg & Covitz, Esqs.
(John C. McGlade of counsel)

For the Petitioner
Bucceri and Pincus, Esqs.
(Louis P. Bucceri of counsel)

For the Intervenor
Sauer, Boyle, Dwyer & Canellis
(Amy Rudolph of counsel)

HEARING OFFICER'S
REPORT AND RECOMMENDATIONS

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission ("Commission") on October 7, 1982, by the Council of Administrators and Supervisors ("Petitioner") seeking to add eleven (11) department chairpersons 1/ employed by the North Bergen Board of Education ("Board") into its

1/ There are actually 12 department chairpersons, but since the Music Department Chairperson does not possess a supervisors certificate, the Petitioner is not seeking to include that individual in this Petition at this time. (Transcript "T" p. 33).

existing unit. 2/ The department chairpersons are currently included in a unit represented by the North Bergen Federation of Teachers, Local 1060, AFL-CIO ("Intervenor") which intervened herein. 3/

The Board seeks dismissal of the Petition and argues that the petitioned for unit is inappropriate because a conflict of interest exists between the department chairpersons and the high school principal. The Petitioner argued that no such conflict exists, and the Intervenor took no position on the entire matter.

Pursuant to a Notice of Hearing dated January 3, 1983, a hearing was held in this matter on March 2, 1983 in Newark, New Jersey, at which all parties were given the opportunity to examine and cross-examine witnesses, present evidence and argue orally. The Petitioner and the Board filed post hearing briefs the last of which was received on April 7, 1983. 4/

2/ The Recognition clause of the Petitioner's 1980-82 collective agreement (Exhibit J-1) includes the following titles. Secondary school principals, elementary school principals, secondary school vice principals, elementary school vice principals, director of student personnel services, and school psychologists.

However, prior to and during the hearing the parties agreed to the following titles and numbers of employees in the Petitioner's unit as follows: (1) High School Principal, (1) Principal Special Services, approximately (6) Elementary Principals, (4) High School Vice Principals, (2) Elementary Vice Principals, (1) Director of Student Personnel Services, (1) Director State Compensatory Education, (4) School Psychologists, (1) Math Supervisor, and (1) Reading Coordinator. (T. pp. 15,33).

3/ The Intervenor's unit is set forth in the Recognition Clause of its 1981-1983 collective agreement (Exhibit J-2) and includes teachers, librarians, nurses, and several other titles in addition to the department chairpersons.

4/ The Intervenor did not file a brief herein.

Based upon the entire record in this proceeding the Hearing Officer makes the following:

FINDINGS OF FACT

1. The North Bergen Board of Education is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:14A-1 et seq. ("Act"), is the employer of the employees involved herein, and is subject to the provisions of the Act.
2. The Council of Administrators and Supervisors, and the North Bergen Federation of Teachers, are public employee representatives within the meaning of the Act and are subject to its provisions.
3. The Petitioner seeks a secret ballot election to add department chairpersons to its existing supervisory unit. The Board opposes the Petition alleging that a conflict of interest exists between department chairpersons and principals. The Intervenor neither opposed nor approved the Petition. Since the parties have been unable to agree upon the appropriateness of the inclusion of department chairpersons into the Petitioner's unit, a question concerning representation exists regarding that title, and the matter is appropriately before the undersigned for Report and Recommendations.
4. The parties stipulated that the department chairpersons are supervisors within the meaning of the Act. The record shows that department chairpersons are only located in the high school and only have contact with the high school principal, and with no other principals in the Petitioner's unit. The only potential conflict alleged by the Board was between the department chairpersons and the high school principal.

5. Although the job description for principals (Exhibit J-4a and J-4b) includes the supervision and evaluation of staff members, and, although vice principals are included in the high school staff, none of the principals actually evaluate any of the titles included in the Petitioner's unit, including vice principals. The record shows that only the Superintendent evaluates the employees presently included in the Petitioner's unit (T. p. 16). However, Leo Gattoni, an Assistant Superintendent since 1979, but who served as Acting Superintendent from September 1982 until March 1, 1983, testified that he evaluated only the three non-tenured employees in the Petitioner's unit. The remaining employees in that unit were tenured and were not evaluated.

6. The evidence regarding the department chairpersons shows that all of them are tenured, and that the high school principal did evaluate them in the 1979-80 academic year while they were included in the Intervenor's unit. However, none of the department chairpersons were evaluated during the 1980-81, and 1981-82 academic years. But, in September 1982, in response to a Board directive, Gattoni required the high school principal to evaluate department chairpeople by the end of the 1982-83 academic year. 5/ As of the hearing in this matter, however, no evaluations of department chairpeople had been performed, and Gattoni admitted that he did not even know if his directive would be followed (T. p. 23). 6/

5/ Approximately 9 of the 11 department chairpeople who were evaluated in 1979-80 are still employed in the same title. (T. p. 24).

6/ English Department Chairman, Anthony Vecchionie, testified that neither he nor any department chairpeople had been evaluated for the 1982-83 academic year (T. p. 55).

7. The facts regarding the department chairperson evaluations shows that all of the 1979-80 evaluations and recommendations were good (T. pp. 23,40), and that no grievances were ever filed by department chairpersons against principals regarding those evaluations or for any other reason, (T. pp. 35,46,52). In addition, both Thomas Muir, the Principal who performed those evaluations, and Anthony Vecchionie, the English Department Chairperson, testified as to the lack of conflict between the high school principal and the department chairpersons. Finally, the evidence shows that there have been no strikes or job actions in this district in the last several years. (T. p. 25).

ANALYSIS

The undersigned has considered all of the instant facts and the relevant law and finds that under the current circumstances no conflict of interest exists between department chairpersons and the high school principal. Although the Act specifically prohibits the inclusion of supervisors within the meaning of the Act with non-supervisors, there is no such specific prohibition against including one level of supervisors with a higher or different level of supervisors. However, in Board of Education of West Orange V. Wilton, 57 N.J. 404 (1971), the New Jersey Supreme Court established a community of interest standard by which to measure the inclusion of certain supervisors with other supervisors. The Court reasoned that different levels of supervisors should not be placed in the same unit if there were an actual or potential substantial conflict of interest between them. The Court held that if such a conflict existed the community of interest

would be lacking.

If performance of the obligations or powers delegated by the employer to a supervisory employee whose membership in the unit is sought creates an actual or potential substantial conflict between the interests of a particular supervisor and the other included employees, the community of interest required for inclusion of such supervisor is not present. While a conflict of interest which is de minimis of peripheral may in certain circumstances be tolerable, any conflict of greater substance must be deemed opposed to the public interest. 57 N.J. at pp. 425-426.

However, the Court in Wilton did not establish an automatic ban on the inclusion of different levels of supervisors in the same unit, it merely required an examination of whether the titles in relationship to one another evidenced a conflict of interest.

In this case the only evidence of a possible conflict between the department chairpersons and the high school principal were the evaluations performed by the principal on the department chairpersons in 1979-80, and Gattoni's directive to the high school principal in September 1982 to once again evaluate department chairpersons. There is no evidence of there ever having been an actual conflict between those titles, but merely the Board's assertion that performing the evaluations then, and now, presents the potential for a substantial conflict of interest. The undersigned disagrees.

At best, even considering the 1979-80 evaluations, there is nothing more herein than a mere de minimis conflict between the principal and department chairpersons. With regard to the 1979-80 evaluations, there is no evidence to suggest that by performing those evaluations a conflict arose between the principal and department chairpersons.

Rather, the evidence shows that all of the evidence shows that all of the evaluations were good, and that department chairpersons have never filed grievances with respect to any actions of the high school principal. Under these circumstances the 1979-80 evaluations do not even rise to the level of a potential "substantial" conflict of interest.

With regard to the directive to perform evaluations for 1982-83, the evidence shows that no evaluations had been performed by March 2, 1983, the hearing date herein, and Gattoni admitted that he did not know whether the department chairpersons would comply with his directive. The lack of any new evaluations eliminates any possibility for a potential conflict of interest.

However, even assuming that the principal performs the evaluations as directed, that alone is neither actual nor potential "substantial" conflict of interest. Unlike the situation between supervisors and non-supervisors where the mere performing of the evaluation and effective recommendation requires separation of those titles because of the wording of the Act, the mere evaluation by one supervisor of another supervisor is not enough to warrant a finding of "substantial" conflict of interest. The Director of Representation has previously approved negotiations units which include different levels of supervisors even where one supervisor may supervise another supervisor within the meaning of the Act.

For example, in In re Borough of Fair Lawn, D.R. No. 79-30, 5 NJPER 165 (¶ 10091 1979), a unit including a deputy chief, captains, lieutenants and sergeants was found to be appropriate even though the higher titles evaluated the lower titles. ^{7/} In a case more similar

^{7/} See also In re Town of Kearny, D.R. No. 78-30, 4 NJPER 54 (¶ 4025 1988); and, In re Borough of So. Plainfield, D.R. No. 78-18, 2 NJPER 349 (1977).

to the instant matter, In re Lakewood Bd/Ed, D.R. No. 78-44, 4 NJPER 212 (¶ 4105 1978), a unit including department chairpersons, educational specialists, assistant principals and principals was found to be appropriate even though the principals evaluated the department chairpersons and other members of that unit. 8/ The important factor in those cases was that the mere evaluation responsibility did not establish a conflict of interest.

The undersigned finds support for the above analysis in another case similar to the instant matter, In re Edison Twp. Bd/Ed, D.R. No. 82-8, 7 NJPER 560 (¶ 12249 1981). That case involved, at least in part, the appropriateness of combining two supervisory titles, principals and vice principals, in the same unit. The Board, therein, argued that since principals evaluated vice principals the unit was inappropriate. With respect to the evaluation responsibilities the Director held that:

The mere finding of an evaluation responsibility does not, per se, give rise to the conclusion that there is a potential for substantial conflict. Had the Court in Wilton believed that the mere finding of an evaluative function would necessarily result in a finding of actual or potential substantial conflict of interest, it would not have remanded the Wilton matter to the Commission for a full factual review of this issue. 7 NJPER at pp. 561-562.

In a revelant but distinguishable matter, In re Cinnaminson Twp. Bd/Ed, D.R. No. 81-39, 7 NJPER 274 (¶ 12122 1981), the Director was

8/ See also In re Delaware Valley Regional H.S. Dist. Bd/Ed, D.R. No. 79-15, 4 NJPER 496 (¶ 4225 1978); and, In re Long Branch Bd/Ed, E.D. No. 47 (1974).

presented with a unique set of facts. Department chairpersons had been included in a non-supervisory teachers unit and the Board, therein, petitioned to remove them from that unit because it was about to require the department chairpersons to evaluate the teachers. The Board refused to give the department chairpersons their new evaluation duties until that title was removed from the unit because of the conflict of interest which would occur if they remained in the unit with the teachers while performing evaluations. The Director found that since the Board made a commitment to assign the department chairpersons the evaluation duties, and since such duties would make them supervisors within the meaning of the Act, that said title had to be removed from the non-supervisory unit.

Cinnaminson is similar to the instant matter in that it concerned evaluation duties which had not yet been performed, and where a conflict of interest was alleged based upon the mere performance of the evaluations. However, the instant matter is dissimilar and clearly distinguishable from Cinnaminson for several reasons. First, in Cinnaminson the Board made a firm commitment to require the department chairpersons to perform the evaluations. In the instant matter, however, Gattoni admitted that he did not know whether his directive would be followed and the undersigned perceived that some doubt exists as to whether the directive will be enforced. In addition, the facts show that the superintendent presently evaluates all of the titles in the Petitioner's unit, and the Board did not dispell to the undersigned's satisfaction the possibility that the superintendent might evaluate the department chairpersons if they too were part of the Petitioner's unit.

Second, the issue in Cinnaminson was whether or not department chairpersons were supervisors within the meaning of the Act. Since performing evaluations and making effective recommendations meets the definition of a supervisor within the meaning of the Act, and, since the Director determined therein that the department chairpersons would be performing such duties, the department chairpersons -- as supervisors -- could no longer remain in a non-supervisory unit and were removed therefrom. In the instant matter, however, the issue is not one of supervisory status, the parties stipulated the supervisory status. Rather, the issue is whether the performance of evaluations alone rises to the level of conflict of interest. In Cinnaminson the evaluation duty standing alone established a conflict because it involved supervisory and non-supervisory employees which is presumed inappropriate by the Act. But for the reasons stated hereinabove, evaluations of the instant department chairpersons by the high school principal do not automatically rise to the level of potential substantial conflict of interest. The Act does not automatically prevent a unit of different levels of supervisors, and there was no showing that the 1979-80 evaluations created a potential substantial conflict of interest as set for in Wilton, and there is no reason to suspect that the evaluation of department chairpersons by the high school principal in 1983 will create a substantial conflict of interest.

Accordingly, a review of the evidence presented to date, and the existing law, does not support a finding of actual or potential substantial conflict of interest between department chairpersons and

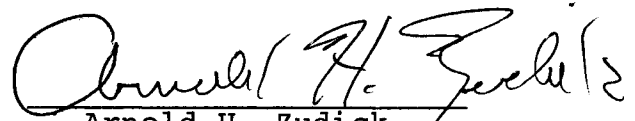
the high school principal. 9/ A secret ballot election should therefore be conducted to determine whether the department chairpersons wish to be represented by the Petitioner in its existing unit.

RECOMMENDATIONS

Based upon the foregoing discussion, the undersigned Hearing Officer recommends the following:

1. That no actual or potential substantial conflict of interest exists between department chairpersons and the high school principal which would prevent them from being represented in the same negotiations unit.
2. That a secret ballot election be directed so that department chairpersons can vote as to whether or not they wish to be represented by the Petitioner in its existing negotiations unit.

Respectfully Submitted


 Arnold H. Zudick
 Hearing Officer

DATED: July 21, 1983
Trenton, New Jersey

9/ The parties must be aware that the undersigned's decision does not prevent the Board from filing a CU petition at some point in the future based upon new or additional evidence of conflict between the department chairpersons and the high school principal. In particular, if the high school principal begins performing the evaluations of department chairpersons on a regular basis, and actual or potential "substantial" conflicts arise between those titles because of those evaluations, the Board would be entitled to have the department chairpersons removed from the unit.

The undersigned's determination herein is merely based upon the current circumstances which do not support a finding of conflict of interest.