P.E.R.C. NO. 80-100

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY SPECIAL SERVICES SCHOOL DISTRICT,

Respondent,

-and-

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

Docket No. CO-78-183-80

Charging Parties,

-and-

SPECIAL SERVICES CUSTODIAL AND MAINTENANCE ASSOCIATION,

Party in Interest.

SYNOPSIS

In an unfair practice proceeding, the Chairman of the Commission, in the absence of exceptions, adopts the Hearing Examiner's findings of facts, conclusions of law and recommended order for the reasons cited by the Hearing Examiner. The Chairman agrees that the charging parties failed to prove that the Board terminated the employment of one of the custodians because he engaged in statutorily protected activities. However, the Chairman does agree that the Board violated the Act by assisting in the formation of a second employee organization and granting recognition to and negotiating with that organization at a time when it had recognized another association. The Board was ordered to cease and desist from its improper action and to negotiate in good faith with the previously recognized Association.

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

Docket No. CO-78-183-80

Charging Parties,

-and-

SPECIAL SERVICES CUSTODIAL AND
MAINTENANCE ASSOCIATION,

Party In Interest.

Appearances:
For the Respondent, Kessler, Tutek and Gottlieb, Esqs.
(Mr. Myron H. Gottlieb, of Counsel)

For the Charging Parties, Joel S. Selikoff, P.A.

DECISION AND ORDER

On February 22, March 10, and August 2, 1978, the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. (the "Association") and William Horn filed an original, amended and supplemental unfair practice charges, respectively, with the Public Employment Relations Commission alleging that the Burlington County Special Services School District (the "District") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act (the "Act").

Specifically, the Charging Parties allege that Respondent: 1) commencing in or about the first week of December 1977, through

its Superintendent of Schools and Board Secretary, assisted in the organization of the Special Services Custodial and Maintenance Association ("Second Association") resulting in the circulation and signing of a petition by a majority of the unit employees disaffiliating from the Charging Party Association, and thereupon recognized and commenced collective negotiations with the Second Association at a time when it had recognized and was in the process of negotiating with the Charging Party Association as exclusive representative of its custodial and maintenance employees; 2) on or about December 12, 1977, refused to continue negotiations with Charging Party Association until insubordination charges against its negotiations representative, Charging Party Horn, were resolved; 3) on or about January 11, 1978, executed a collective negotiations agreement with the Second Association and refused to maintain recognition of or negotiate with the Association, all in violation of N.J.S.A. 34:13A-5.4(a)(1), (2), (5) and (7). The Charging Parties further allege that the Respondent: 4) in or about the second week of June 1977, by its Superintendent and Secretary, threatened Charging Party Horn with reprisals because of his organizational activities on behalf of the Association; 5) on or about January 23, 1978, suspended Horn for two weeks without pay and placed him on probation because of the same activities; and 6) on or about June 1, 1978, terminated Horn's employment, effective June 30, 1978, because of his activities recited above and because he was the only unit employee who did not withdraw support from the Association, in violation of N.J.S.A. 34:13A-5.4(a)(1) and (3).

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 the original and amended charges on June 5, 1978, later amended at the first day of hearing to include the supplemental charge.[1/] By Answer served and filed on July 3, 1978, and by amended Answer made orally at the hearing, Respondent denied the material allegations of the original, amended and supplemental Complaint and, in particular, in its written Answer denied that the Charging Party Association was affiliated with the N.J.E.A., admitted that it had executed a collective negotiations agreement on or about January 11, 1978, but averred that the employee organization party thereto was the Charging Party Association.[2/]

Seventeen days of hearing were held between September 12, 1978 and July 5, 1979[3/] before Hearing Examiner Robert T. Snyder

1/ Charging Parties' application for interim relief was denied in an Interlocutory Decision of Stephen B. Hunter, Special Assistant to the Chairman, dated June 14, 1978, P.E.R.C. No. 78-79, 4 NJPER 268 (¶4137 1978).

2/ This defense, essentially that the Charging Party and Second Association were the same, identical employee organization, was later acknowledged during the hearing by a main Respondent witness to be incorrect and this change in position was recognized by Respondent in its post-hearing brief.

3/ The long period of time from first to last day of hearing was due in part to continuing efforts by the parties with the assistance of the Examiner to resolve the many issues presented without the necessity of a formal determination. These efforts began early in the hearing and were renewed near its conclusion. While underway, there were expectations that they would prove successful. That they did not does not detract from the worthy public interests served by the attempt or the good will of counsel and parties manifested in the process.

at which time the parties were given an opportunity to present evidence, to examine and cross-examine witnesses and to argue orally. Post-hearing briefs were filed by both parties, the final one being received October 31, 1979. The Hearing Examiner issued his Recommended Report and Decision on December 31, 1979, H.E. No. 80-25, 5 NJPER ___ (¶_____ 1979), a copy of which is attached hereto and made a part hereof. The report was served upon the parties and the case was transferred to the Commission. See N.J.A.C. 19:14-7.1. Neither party has filed exceptions to the Hearing Examiner's Recommended Report and Decision. See N.J.A.C. 19:14-7.3 which, in part, provides that any exception which is not specifically urged shall be deemed to have been waived.

The Commission, pursuant to N.J.S.A. 34:13A-6(f), has delegated to the undersigned, as Chairman of the Commission, the authority to issue a Decision and Order in unfair practice cases on behalf of the entire Commission when the parties have not filed any exceptions to the Hearing Examiner's Recommended Report and Decision.[4/]

The Hearing Examiner found that the District had engaged in unfair practices in violation of N.J.S.A. 34:13A-5.4(a)(1), (2) and (5). The finding of these violations was based on three acts or courses of conduct by the District. First, the District illegally

4/ One of the reasons the Commission granted this authority to the Chairman is evidenced by this case. Where, as here, there is a lengthy hearing and no exceptions are filed, administrative convenience and economy indicate that the Commission can function most effectively by authorizing the Chairman to issue a Decision and Order. This also permits a more expeditious disposition than might otherwise be possible.

suspended negotiations with the Association and its representative, William Horn, on December 12, 1977. Second, the District (a) had illegally encouraged support for, recognized, entered into negotiations, and executed and implemented an agreement with the Second Association at a time when the District was negotiating with the Association and (b) had illegally withheld payment of the normal salary increase due to the employees during the pendency of negotiations. Finally, the District illegally assisted unit employees in the preparation of letter affidavits advising the Commission of the lack of the District's involvement or responsibility of their disaffiliation from the Association. Additionally, the Hearing Examiner dismissed the allegations that the District violated N.J.S.A. 34:13A-5.4(a)(1) and (3) by suspending and subsequently terminating William Horn. The recommended order consisted of a cease and desist order, an affirmative order and an order to post a notice.

The affirmative order requires the District to recognize and resume negotiations with the Association and to cease from recognizing or negotiating with the Second Association unless and until such time as that organization has been duly certified by the Commission. It was also recommended that the recognition bar be extended nine months since the Association did not have the one-year insulated period in which to negotiate an agreement.[5/]

5/ See, NLRB v. Brooks, 348 U.S. 96, 35 LRRM 2158 (1954) and In re Jersey City Bd. of Ed., P.E.R.C. No. 79-15, 4 NJPER 455 (¶4206 1978). In the instant matter, the Association and the District negotiated from September 1977 to December 12, 1977, a period of three months. The Commission's Rules provide a twelve-month "recognition bar" or closed period. See N.J.A.C. 19:11-2.8(b).

After careful consideration of the entire record herein and noting the lack of exceptions filed, the undersigned adopts the findings of fact, conclusions of law[6/] and recommended order for substantially the reasons cited by the Hearing Examiner.

ORDER

Upon the entire record in this proceeding, IT IS HEREBY ORDERED that the Burlington County Special Services School District

1. Cease and desist from:

a. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act by refusing to recognize and negotiate in good faith with the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. and its designated representatives concerning terms and conditions of employment of all custodial and maintenance employees for the period commencing July 1, 1977, if the said Association so requests.

6/ One comment, immaterial to the remedy, is in order with regard to the Hearing Examiner's conclusions of law. In conclusion of law #5, the Hearing Examiner lists as one of the factors which led to his recommendation that a violation of N.J.S.A. 34:13A-5.4(a)(1), (2) and (5) occurred, the Board's withholding of the salary increase which would normally have been paid on July 1, 1977. In the discussion portion of his report, the Hearing Examiner had held that, regardless of the merits of the Association's argument, the unilateral withholding of the wage increase could not constitute a separate violation of the Act because the events alleged to constitute the violation had all occurred more than six months prior to the filing of the amendment to the charge which alleged these facts. N.J.S.A. 34:13A-5.4(c). The undersigned does not pass upon any inference that the July 1, 1977 salary increase could have been considered as an automatic salary increment. See Galloway Twp. Bd. of Ed. v. G.T.E.A., 78 N.J. 25 (1978); Hudson Cty. Bd. of Chosen Freeholders v. Hudson County PBA Local 51, P.E.R.C. No. 78-48, 4 NJPER 87 (¶4041 1978), aff'd App. Div. Docket No. A-2444-77 (4-9-79). The violations found do not depend upon the Board's failure to pay any salary increase on July 1, 1977.

b. Encouraging or assisting employees in the support of the Special Services Custodial and Maintenance Association [Second Association].

c. Granting recognition to or negotiating with the said Second Association unless and until it has been duly certified by the Commission as exclusive representative of all custodial and maintenance employees.

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

a. Upon demand by the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A., negotiate in good faith concerning terms and conditions of employment.

b. Withdraw and withhold recognition from the Special Services Custodial and Maintenance Association [Second Association] as the exclusive representative of its custodial and maintenance employees for the purposes of collective negotiations unless and until the said Association has been duly certified by the Commission as exclusive representative of said employees.

c. Post copies of the attached notice marked "Appendix A". Copies of such notice on forms to be provided by the Commission shall, after being duly signed by the District's representative, be posted by the District immediately upon receipt thereof, and maintained by it 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 the District to ensure that

such notices are not altered, defaced or covered by any other material.

d. Notify the Chairman within twenty (20) days of receipt of this order what steps it has taken to comply herewith.

It is FURTHER ORDERED that the recognition bar for Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. be extended for a period of nine (9) months from the date of this Order.

And it is FURTHER ORDERED that those allegations in the Complaint alleging violations of N.J.S.A. 34:13A-5.4(a)(3) and (7) are hereby dismissed.

BY ORDER OF THE COMMISSION

Jeffrey B. Tener

DATED: Trenton, New Jersey
February 14, 1980

"APPENDIX A"

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 cease and desist from refusing to negotiate in good faith with the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. and its designated representatives concerning terms and conditions of employment of our custodial and maintenance employees.

WE WILL cease and desist from granting recognition to or negotiating with any organization of our custodial and maintenance employees other than the above Association for a period of nine months from the issuance of this decision and we will not recognize or negotiate with the unaffiliated Special Services Custodial and Maintenance Association at any time unless said Association is duly certified by the Commission.

WE WILL cease and desist from encouraging or assisting employees in the support of any employee organization.

WE WILL, upon demand by the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A., negotiate in good faith concerning terms and conditions of employment.

WE WILL withdraw and wihhold recognition from the Special Services Custodial and Maintenance Association [Second Association] as the exclusive representative of its custodial and maintenance employees for the purposes of collective negotiations unless and until the said Association has been duly certified by the Commission as exclusive representative of said employees.

BURLINGTON COUNTY SPECIAL SERVICES SCHOOL DISTRICT
(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.

H.E. No. 80-25

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

In the Matter of

BURLINGTON COUNTY SPECIAL SERVICES
SCHOOL DISTRICT,

Respondent,

- and -

Docket No. CO-78-183-80

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

Charging Parties,

- and -

SPECIAL SERVICES CUSTODIAL AND
MAINTENANCE ASSOCIATION,

Party In Interest.

SYNOPSIS

A Public Employment Relations Commission Hearing Examiner, after lengthy hearing, sustains several charges filed by the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. claiming that the Burlington County Special Service School District had interfered with its representative functions, ceased after three sessions to negotiate with it and subsequently negotiated and implemented a contract with an organization unaffiliated with N.J.E.A., though composed of the same members as the Charging Party Association save one. The Examiner concluded that a unilateral withholding of an annual wage increase, itself time-barred in this proceeding, was a major factor in the employee's attempt to disaffiliate from the Association and negotiate for themselves. The Examiner further sustained a charge of assistance by the District to this Second Association. The Examiner recommends dismissal of other allegations that the District suspended and later terminated the employment of William C. Horn for his organizing activities on behalf of and continued support of the affiliated Association.

To remedy the violations found, the Examiner recommends that the Commission order the School District to resume negotiations with the N.J.E.A. affiliated Association, and withdraw support for and recognition of the nonaffiliated Association. The Examiner further recommends extension of the recognition bar for nine months from issuance of a final order to compensate the affiliated Association for the period during which the District refused to continue negotiations with it. In order to restore the status quo ante, and at the affiliated union's option, negotiations with the District may be made retroactive to July 1, 1977, the date from which the affiliated Association had originally sought to bargain. Pending completion of such negotiations, all existing terms and conditions of employment embodied in the current agreement with the assisted Association shall continue in

effect. After the nine month period, the District is ordered not to recognize or negotiate with the assisted nonaffiliated Association unless and until it is certified by the Commission.

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.

H.E. No. 80-25

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
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SCHOOL DISTRICT,

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

Charging Parties,

- and -

SPECIAL SERVICES CUSTODIAL AND
MAINTENANCE ASSOCIATION,

Party In Interest. 1/

Appearances:

For the Respondent
Kessler, Tutek and Gottlieb, Esqs.
(Myron H. Gottlieb, Esq., Of Counsel)

For the Charging Parties
Joel S. Selikoff, Esq.

HEARING EXAMINER'S RECOMMENDED
REPORT AND DECISION

On February 22, March 10 and August 25, 1978 the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. ("Charging

1/ By Order dated August 30, 1978, upon motion filed by Charging Parties seeking reconsideration of my Ruling Denying Motion To Join Party dated July 26, 1978 (CO-5, H.E. No. 79-7), and over Respondent's opposition, I joined the Special Services Custodial and Maintenance Association ("Second Association") as a party in interest in the instant proceeding and formally served a copy of the Order on it. The Order recites that a determination on the merits of certain issues joined herein will directly affect its rights (CO-9, H.E. No. 79-11). The Second Association did not appear or participate in the hearings which followed, although its named representative, employee George Grigaitas, did appear as a witness called by the Respondent.

Party Association" or "Association") and William Horn filed an original, amended and supplemental unfair practice charge, respectively, with the Public Employment Relations Commission ("Commission") alleging that the Burlington County Special Services School District ("Respondent" or "District") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act ("Act"), as amended, N.J.S.A. 34:13A-1 et seq. Specifically, the Charging Parties allege that Respondent: (1) commencing in or about the first week of December, 1977, through its Superintendent of Schools and Board Secretary, assisted in the organization of the Special Services Custodial and Maintenance Association ("Second Association") resulting in the circulation and signing of a petition by a majority of the unit employees disaffiliating from the Charging Party Association, and thereupon recognized and commenced collective negotiations with the Second Association at a time when it had recognized and was in the process of negotiating with the Charging Party Association as exclusive representative of its custodial and maintenance employees; (2) on or about December 12, 1977, refused to continue negotiations with Charging Party Association until insubordination charges against its negotiations representative, Charging Party Horn, were resolved; (3) on or about January 11, 1978, executed a collective negotiations agreement with the Second Association and refused to maintain recognition of or negotiate with the Association, all in violation of N.J.S.A. 34:13A-5.4(a)(1)(2)(5) and (7). [2/] The Charging Parties further allege that Respondent: (4) in or about the second week of June, 1977, by its Superintendent and Secretary, threatened Charging Party Horn with reprisals because of his organizational activities on behalf of the Association; (5) on or about January 23, 1978, suspended Horn for two weeks without pay and placed him on probation because of the same activities; and (6) on or about June 1, 1978, terminated Horn's employment, effective June 30, 1978, because of his activities recited above and because he was the only unit employee who did not with-

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; (2) Dominating or interfering with the formation, existence or administration of any employee organization; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative; (7) Violating any of the rules and regulations established by the commission."

draw support from the Association, in violation of N.J.S.A. 34:13A-5.4(a)(1) and (3). 3/

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 the original and amended charges on June 5, 1978, later amended at the first day of hearing to include the supplemental charge. 4/ By Answer served and filed on July 3, 1978, and by amended Answer made orally at the hearing, Respondent denied the material allegations of the original, amended and supplemental Complaint and, in particular, in its written Answer denied that the Charging Party Association was affiliated with the N.J.E.A., admitted that it had executed a collective negotiations agreement on or about January 11, 1978, but averred that the employee organization party thereto was the Charging Party Association. 5/

Hearings were held on September 12, 13, November 8, 9, December 12, 13, 1978, January 23, 6/ 25, 26, March 26, 27, 28, May 8, 9, 10, June 25 and July 5, 1979. 7/

3/ This subsection prohibits public employers, their representatives or agents from: "(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.

4/ Charging Parties' application for interim relief was denied in an Interlocutory Decision of Stephen B. Hunter, Special Assistant to the Chairman dated June 14, 1978, P.E.R.C. No. 78-79, 4 NJPER par. 4137.

5/ This defense, essentially that the Charging Party and Second Association were the same, identical employee organization, was later acknowledged by a main Respondent witness to be incorrect during hearing (see infra, p.15) and this change in position was recognized by Respondent in its post-hearing brief.

6/ During hearing, a Motion to further amend the Complaint to add an allegation that subsequent to its recognition of Charging Party Association, on or about July 1, 1977, Respondent unilaterally altered a past practice of granting annual wage increases to unit employees by determining to withhold them pending completion of negotiations with the Association, in violation of N.J.S.A. 34:13A-5.4(a)(3) and (5), was granted over Respondent's objection that the amendment was time barred (Tr. 924-934). On further reflection, I have decided to reconsider this ruling. My revised ruling, denying the amendment, but taking the record facts relating to this allegation into consideration in determining whether the Act has been violated as alleged in the Complaint, appears, infra at pages 18 and 19.

7/ The long period of time from first to last day of hearing is due in large measure to continuing efforts by the parties with the assistance of the Examiner to resolve the many issues presented without the necessity of a formal determination. These efforts began early in the hearing and were renewed near its conclusion. While underway, there were expectations that they would prove successful. That they did not, does not detract from the worthy public interests

(continued next page)

Both parties filed post-hearing briefs, the Respondent on September 20, 1979, the Charging Party on October 19, 1979, and the Respondent filed a reply memorandum on October 31, 1979, 8/ 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:

FINDINGS OF FACT

Charging Party Horn had been employed by Burlington County Special Services School District as a custodian since July 1, 1973. At the time the original unfair practice charge was filed, he had been employed by Respondent longer than any other custodian. In 1976 Mr. Horn began to organize the approximately nine custodians and maintenance workers at the District (Tr. 60). On May 13, 1976, he met with James R. George, a field Representative for N.J.E.A. George gave Horn several authorization cards bearing the NEA logo. Between November 1976 and February 1977 at least seven of these cards were signed. 9/ Two members of the unit testified that they had asked Horn not to hand in their signed cards to the Superintendent and to hold the cards until July 1, 1977 at which time the new yearly contracts would be offered (Tr. 716, 812). The practice since the inception of the District had been to increase the custodial and maintenance salaries with each contract renewal in July (Tr. 2421). The increases had been substantial in comparison to salaries for these job classifications and the men were primarily concerned that the salaries continue to be significantly augmented. (See R-5, a-e; Tr. 723, 762).

Denying any such understanding about holding back the cards, Horn claims to have handed them in to Carmen DeSopo, the Superintendent, on February 22, 1977. (Tr. 389, 399-400). This appears to be unlikely since several of the cards are

7/ (continued)

served by the attempt or the good will of counsel and parties manifested in the process. The extraordinary length of the hearing is a reflection of the number and complexity of the issues. From time to time, counsel were instructed to shorten or eliminate proposed lines of direct or cross examination. In spite of this, the hearing was marked by vigorous and full examination of many witnesses.

8/ The parties were requested to file replies to each other's main brief. Charging Parties' reply memorandum was rejected because it was received outside the fixed time schedule to which counsel had agreed.

9/ The card signed by George J. Grigaitas dated February, 1976 was in fact signed February, 1977. Both Horn and Grigaitas testified to this (Tr. 562 and 937).

dated after February 22, 1977. Horn testified that he handed in cards on only one occasion and that he kept in his possession only Grigaitas' card (Tr. 570). Horn often appeared to be confused about dates (Tr. 393, 398-400). DeSopo testified that the cards were turned in sometime after he received a letter from Horn dated April 11, 1977 (J-1) stating that the Association had in its possession majority support and requesting recognition. I find Mr. DeSopo's version to be more accurate and that Mr. Horn did not hand the cards in on February 22, 1977. 10/ Horn asserts that upon handing in the cards he was immediately threatened by DeSopo with the loss of his job. DeSopo admitted that he may have asked why they could not work things out informally without a union (Tr. 2266).

Horn further testified that some weeks after the meeting at which he turned in the authorization cards, the Board Secretary, Charles A. Tier, called him in and told him that he could be terminated for his part in having the cards signed (Tr. 402). 11/ Tier subsequently spoke to other employees, telling them that he was disappointed with their decision to organize (Tr. 1111). He questioned them about who was active or sympathetic to the union (Tr. 1208). DeSopo conceded that some of the things said by Tier, who was personally affronted by the organizing (Tr. 2260-2263), could be seen as unfair labor practices. On May 6, 1977 Horn called George's office and left a message that the men were being harassed by the Board Secretary, Tier. George contacted DeSopo who promptly saw to it that Tier's interviews with the men ceased. No unfair practice charge was then filed and the issue is thus time-barred in the present proceeding. George, who had prior dealings with the Superintendent on behalf of the teachers organized in a separate negotiating unit, described DeSopo as a "cooperative, open-minded" person whom he felt free to call to discuss any problems in the District (Tr. 57).

On May 27, 1977 DeSopo sent a letter to Horn to inform him that he, DeSopo, would recommend recognition of the Association to the Board. DeSopo did

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10/ Another custodian-maintenance worker testified that he found out in April, 1977 that Horn had handed in the cards. Charging Party in its brief (p. 94) seems to concede that DeSopo only learned of the organizing activity in Spring 1977.

11/ Assuming that the cards were handed in by Horn in April, 1977, this discussion with Tier may be what Charging Parties refer to in Count Two, paragraph 4 of their original complaint as interference occurring in June, 1977. Horn's response to Tier included an explanation of laws designed to protect the working man, mentioning the Taft-Hartley amendment in particular. Tier admitted Taft-Hartley had been brought up by Horn in their discussion. See page 13 of this report for further discussion of Tier's interrogation.

so, and on June 16, 1977, by formal resolution, the Board recognized the Association as the sole bargaining representative for custodial and maintenance employees in the School District (J-4). Including Horn's card but not Grigaitas', six signed cards were turned over to DeSopo. This represented majority support at the time in a unit of 9 employees (Tr. 530). No representation election was demanded. 12/ On July 1, 1977 DeSopo recommended that Horn's contract be renewed for the third time.

The custodial and maintenance staff did not receive the anticipated July raise. DeSopo placed responsibility for the decision to withhold the funds previously allocated for salary increases for custodial and maintenance workers on the District and its counsel. The employees testified that Tier made clear to them that the resumption of raises depended on conclusion of negotiations (Tr. 922). Tier also informed them that the continuation of negotiations had become dependent on the resolution of insubordination charges against Horn (Tr. 832) discussed, infra. In its post-hearing brief, Respondent concedes that this unilateral withholding of wage increases during negotiations is an unfair practice but Respondent preserves its objection to the inclusion of this allegation in the amended charge on grounds that it is time-barred.

Negotiations between the Association and the Board took place on three occasions in the Fall of 1977: September 26, October 17 and November 28. Mr. Robert L. Gary, a negotiation consultant for N.J.E.A. and Horn were present for the Association. Mr. Donald P. Gaydos, an attorney, negotiated for the District. Little progress was made in these sessions. 13/

The supervision of "work study" students by custodians and maintenance workers was a past practice, as Charging Parties conceded (Tr.163). Horn had speculated for some time whether or not this was a proper job for custodians and, alternatively, whether there should be extra compensation for taking these children with them on the job. Horn made inquiries on this matter to N.J.E.A. which had not yet responded as of November 28, 1977 (Tr. 507). On that date Horn refused to

12/ DeSopo surprised Tier by saying, in reference to the number of signed authorization cards, "It's close, let them have the union." (Tr. 1135).

13/ No refusal to negotiate can be found in the infrequency of negotiation meetings since the N.J.E.A. did not object at the time and, more importantly, Charging Parties have made no allegation of any violation as to this matter.

take a work study child. He told the teacher who brought the student to him that he had to refuse because participation by custodians in the work study program was under negotiation (Tr. 491-493). The teacher, Lynda J. Crim, testified that the child was quite upset [14/] and that upon reporting the incident to her principal, Mr. McGough, she was told not to take any more children to Horn at least until the matter was straightened out.

Two days after the incident, Horn was formally evaluated by the principal of his school, Mr. Robert Huzinec. Huzinec testified that the evaluation, however negative, did not reflect anything resulting from Horn's refusal to take the work study child. Huzinec was not directly involved with the administration of the work study program (Tr. 2609). Huzinec's evaluation of Horn was based upon his performance of custodial work itself; the merits of the evaluation as they relate to a charge of discrimination is discussed infra.

A hearing before Mr. DeSopo, the Superintendent, was held on December 7, 1977 to investigate the charge of insubordination made against Horn by reason of his refusal to take work study students. Through a misunderstanding, George was not present to represent Horn for the N.J.E.A. The hearing proceeded and Horn refused to offer any assurance that he would not continue his stance on the work study program, i.e., that he would not participate until the issues of its propriety and proper compensation were settled in negotiations.or at least until he was formally advised by the N.J.E.A. on the matter. [15/]

DeSopo recommended to the District that Horn be terminated (CP-3). Horn exercised his right to a hearing before the District which took place on January 11, 1978. The Superintendent claimed that he felt compelled to intervene on Horn's behalf after speaking with George, who was present for this hearing. The minutes for the District meeting (J-12(b)) held in executive session do not disclose any such intervention on the part of the Superintendent. Nevertheless, the District voted to reduce the disciplinary action from dismissal to a ten day suspension without pay

14/ The child, like many in special services school districts, was emotionally disturbed.

15/ Horn testified that he had not yet received a "legal opinion" from N.J.E.A. when he took his stance (Tr. 507) although there was testimony that he claimed to have been advised on the matter by N.J.E.A. (Tr. 2191). Horn also claimed to have taken another work study child on November 29, 1977 which he did not mention at the December 7 hearing. Respondent's evidence rebuts this. (Tr. 1876-1878).

and probationary status for the remainder of the year. 16/

Between December 7, when Horn's hearing before the Superintendent took place, and January 11, when he was represented by George at the second hearing before the District, negotiations ceased between the Association and the Board. Horn's co-workers signed a document disaffiliating themselves from the N.J.E.A. and formed a "Second Association" comprised of the previous membership minus Horn who refused to sign CP-1, the disaffiliation statement. In it, reliance is placed on the lengthy negotiations, the Association's non-incorporation, the Association's lack of defense of Horn and lack of initiative. The custodial and maintenance workers testifying said that the long postponement of their raises, the granting of which were further delayed pending some resolution of the charges against Horn, motivated them to disaffiliate in an effort to get their salary increases as soon as possible (Tr. 708, 762, 826, 892, 1093). 17/ Negotiations with this second organization culminated in an agreement executed by the District and the Second Association on January 11, 1978, the same day on which Horn's hearing before the District was held. This chain of events is further detailed herein.

A fourth negotiation meeting between the District and Association had been scheduled for December 12, 1977. Before this meeting officially began, DeSopo informed Gaydos, the District's negotiator, of the charges being brought against Horn. Gaydos expressed to those present a desire to discontinue the negotiations with Horn as Association representative since there was a possibility that he would be terminated. Although discontinuance of negotiations was raised by Respondent, there is evidence in the N.J.E.A. negotiator Gary's report to George subsequent to the December 12 meeting that the cessation of negotiation was temporary and any problems would be worked out between the parties (Tr. 87). 18/ The N.J.E.A.

16/ The mitigating circumstances which the District considered in reaching this result concerned Horn's alleged advice from N.J.E.A. that he could refuse to participate in the work study program (R-10; see J-12(b), p. 5).

17/ The coming of the Xmas holidays and one may assume holiday expenses was an added factor in the urgency felt by the custodial-maintenance workers (Tr. 942).

18/ Charging Party Horn asserts that Gaydos unilaterally refused to negotiate at this session and at any future time (Tr. 453). Since the N.J.E.A. negotiator, Robert Gary, did not confirm this nor is there any evidence of this in his report to the N.J.E.A., I find that there was acquiescence by the Association to the discontinuance of the December 12 session, with the understanding that negotiations would continue at a later date.

subsequently informed its negotiator, Gary that the Board had no basis for its objections to Horn's participation in the negotiations (Tr. 355).

By this time the custodial workers had been without their raises for six months. Because their salaries were low and the anticipated raises comparatively substantial, this was a serious matter for them (Tr. 762; J-13, p. 9).

On December 19, 1977 George J. Grigaitas, a custodian, asked DeSopo's secretary to type a letter he had prepared to the N.J.E.A. Three days later after a custodial meeting, the men remained together after the supervisor left and all present but Horn signed the letter disaffiliating themselves from the N.J.E.A. (CP-1). Grigaitas sent a letter to DeSopo informing him of this action (R-6; Tr. 949-950). DeSopo told Grigaitas that he would ascertain the legality of meeting with the new group. However, Mr. Gordon L. Brown, a maintenance custodian, testified that DeSopo told him that if he wanted to start a union all he had to do was go ahead with it (Tr. 704, 731-733).

On December 28, 1977 and January 3, 1978 DeSopo did meet with Grigaitas and three other custodial-maintenance workers and the terms for a contract were agreed upon. The men were concerned primarily with thefastest possible access to their salary increases (Tr. 792). They made no attempt to meet with Horn or the N.J.E.A. to take over negotiations at the point where they had been suspended (Tr. 766).

In pre-hearing depositions DeSopo complained that Horn was "poisoning" the men by claiming that the earlier negotiations had won broader concessions from Respondent resulting in additional demands by the Second Association. 19/ The inclusion of some form of a grievance procedure was mentioned specifically. The contract was signed by representatives of the new group and Respondent on January 11, 1978 (Tr. 955-956). On that same evening the District held its hearing on DeSopo's recommendation to terminate Horn, discussed supra. DeSopo never informed the Board's negotiator, Gaydos, of the settlement reached with the new group since Gaydos apparently called DeSopo on January 25, 1978 to inquire about the resumption of the earlier negotiations.

An unfair practice charge was filed by the Association and Horn on February 22, 1978 in regard to his suspension and to the activities of Respondent and the Second Association. On that date DeSopo sent Horn a memo (CP-10) requesting

19/ No evidence of such actions by Horn was presented. This is of little relevance so long as Respondent perceived Horn's actions in this manner.

a meeting with him that afternoon. According to the testimony of DeSopo and Tier, the purpose of this meeting was to acknowledge personally the receipt of the unfair practice charges. DeSopo's secretary, who typed the memo, confirms that the memo was correctly dated and that the meeting took place. 20/

Mr. Horn asserted several times at the hearing that this meeting did not take place and that CP-10 was misdated both by DeSopo's secretary and by himself in his handwritten addendum to the memo. Horn asserts that the meeting requested in this memo took place in 1977 and concerned DeSopo's response to the authorization cards. At that meeting, allegedly in February, 1977, Horn claims that his job was threatened for his part in organizing the Association. Horn disputed that any meeting at all took place on February 22, 1978; he does not assert that his job was threatened again one year later to the day in regard to the unfair practice charge that he filed (Tr. 2087). I cannot credit Horn's testimony on this matter. 21/

In March, 1978 after the insubordination matter had been settled with the two week suspension, Horn attended a custodial-maintenance meeting after which he was told to leave by Grigaitas (Tr. 970). Horn claims that as he left, Tier and Mr. Donnelly, Tier's assistant, distributed a letter to Grigaitas and the other men and supervised their notarized signing of copies. These letters addressed to Stephen B. Hunter, Special Assistant to the Commission's Chairman (CP-14, a-j),

20/ Charging Parties attack the credibility of this secretary because when questioned about whether she might have been mistaken about the dates of CP-10 she answered at one point "I don't think so" (CP brief p. 38). I find this answer merely reasonable rather than demonstrative of any lack of conviction. Charging Parties continue in their brief to compare the secretary's testimony on this matter to that of Horn who though adamant on the question of dates was clearly wrong as Charging Parties all but concede in their brief.

21/ I find that Horn did not hand the cards in on February 22, 1977 for the reasons discussed at page 5. While it is possible that a secretary could make a typographical error on a date, I find it less than credible that anyone could hand copy such an error. Respondent maintains that Horn's testimony is willfully false. I note that at one point during the hearing Horn described his conclusion that the memo was incorrectly dated because he was "under the impression" that all these events were taking place in 1977 (Tr. 595). In view of the severe impediment which Horn's assertion creates for his credibility in general I find it difficult to conclude that it was willfully false. Horn gains no benefit by insisting that no meeting whatsoever took place on February 22, 1978 when he might have asserted that his job had been threatened in 1978 as well as 1977. I find it fair to conclude that Horn's testimony is not dependable or trust-worthy on some matters but in this particular situation I do not find willful falsity.

absolved Respondent of any responsibility for the disaffiliation from N.J.E.A. Tier testified that he had never seen these letters. Grigaitas claimed that he himself had been responsible for drafting, copying and distributing them. Grigaitas described his motivation when composing CP-14 as an effort to protect himself and the Second Association from involvement in the interim relief proceeding before the Commission. I do not discount Grigaitas' concern that involvement in unfair practice litigation would be burdensome to his organization. In view of the custodians' experience with protracted negotiations there may well have been a fear that any such litigation would have unwelcome effects upon their income or benefits. Nonetheless, I find the language of CP-14 suspicious both in its focus on the District's role and in the legal thoroughness of its language and analysis, unlike anything one might expect a lay person to produce in a short time before going to work (Tr. 971). There was no testimony that the attorney allegedly consulted when CP-1 was composed took part in the preparation of CP-14. Considering the formality of the document, its contrast in form with CP-1, 22/ and its clear objective to absolve the District of responsibility with regard to possible unfair practice charges, I find CP-14 to have benefited by some assistance from Respondent in its production, dissemination and notarization. 23/

Mr. Huzinec, as Principal, evaluated Horn for the second time on May 25, 1978. Finding no satisfactory improvement in the custodian's performance, Huzinec recommended that Horn's contract not be renewed. DeSopo relied on Huzinec's recommendation plus the total record that he was not a very productive employee (Tr. 2203), in obtaining Board decision to terminate Horn. On June 1, 1978 Tier and Donnelly personally gave Horn a notice of termination. 24/

22/ Contrast CP-1, a single copy bearing all signatures and listing in plain language the reasons why custodial-maintenance employees were dissatisfied with the N.J.E.A. affiliation.

23/ CP-14 was a response to Commission notice of an Order to Show Cause seeking interim relief (R-7) sent to both counsel with a copy to Grigaitas (Tr. 990-991). Had CP-14 borne a resemblance to R-7 or to the Order to Show Cause to which R-7 referred, it would be a plausible explanation for the language therein. There is however, no corrolation in form or substance between the two documents.

24/ At the same time Huzinec was responsible for evaluation of three other custodians and two secretaries. The record shows that his evaluations of the other custodians were not positive. Nonetheless, Huzinec recommended renewal for the other custodians and his recommendation was accepted by the District. His own secretary he did not recommend for renewal and she was not offered a contract by the District.

DISCUSSION AND CONCLUSIONS

The Suspension, Threats and Interrogation

The Charging Parties assert that the District discriminated against Horn in violation of N.J.S.A. 34:13A-5.4(a)(3) by suspending him for two weeks and placing him on probation for the remainder of the year. The incident provoking the Board's action was Mr. Horn's refusal to provide a "work study station" for a child on November 28, 1977. The Charging Parties' position is that no disciplinary action should have been taken by the Board in view of Horn's misunderstanding of the effect of past practice and the N.J.E.A.'s possible contribution to his misunderstanding. I cannot agree. Horn is obliged to take responsibility for his stance. He could have notified his superiors of his decision in advance in order to avoid a discomforting scene for a vulnerable child. The manner in which Horn refused and the rigidity with which he held to his position at the first hearing on December 7, 1977 was sufficient to support a recommendation for dismissal. Whether Horn subsequently accepted another work study child - unlikely as it would appear that he would be sent one after his rejection of this child - is irrelevant since he refused at the December 7 hearing to make any assurance that this would not happen again. 25/ The Charging Parties point out that Horn was not disciplined for an earlier problem with a work study child. 26/ The situation was not analogous. Horn had not taken an inflexible position on the entire work study program; there was no reason to believe at that time that this would be a continuing problem with him (Tr. 2461-2462). The District did act with leniency at the second hearing on January 11, 1978 and reduced the recommended disciplinary action from dismissal to suspension when the N.J.E.A. agreed to take some responsibility for Horn's action.

25/ Mr. Horn asserts that he took a work study child immediately after the incident of November 28, 1977 at the insistance of Mr. Gough despite his position that he would not take any work study students until he received "legal" advice from the N.J.E.A. (Tr. 507). Respondent's testimony refuted the possibility that this second child named by Horn could have been brought to him at that time.

26/ Mr. Horn,displeased with a particular child's behavior,had told the child that he would not be permitted to continue to work with him (Tr. 521). Horn was informed that this was not within his power to decide and that he should report problems of this nature to the teacher or principal (CP-13).

The Charging Parties rely on the interrogation and coercion by Tier, the Board's Secretary, to show anti-union animus by Respondent from the time of Horn's organizing activity. In its brief the Charging Parties assert threats and interrogation of Horn and of other custodial-maintenance employees. Other than the actions of Tier, which DeSopo promptly ended and which are time-barred, the Charging Parties failed to prove by a preponderance of the evidence that any violation of N.J.S.A. 34:13A-5.4(a)(1) took place. Horn mentioned only one particular date (February 22, 1977) on which such threats were made. This date is clearly incorrect for the reasons discussed in the findings of fact. Horn's additional assertions were not particular enough to support a finding of an (a)(1) violation with regard to any subsequent date. 27/

It is significant that DeSopo was described by the N.J.E.A. Representative, George, as a "cooperative" man with whom he had successful dealings in the past (Tr. 57). When informed of Tier's interrogation of the custodial-maintenance workers, DeSopo immediately acted to put an end to them (Tr. 63-4, 2261). DeSopo chose not to require a formal representation proceeding or election when Horn turned the authorization cards over to him (Tr. 1135; J-3,5). The Charging Parties have thus failed to show by a preponderance of the evidence the existence of anti-union animus on the part of DeSopo at the time of Horn's refusal to take the work study child. Horn's action merited discipline and the District saw fit to reduce the recommended discipline to a two-week suspension and probationary status. Clearly, the suspension was neither retaliatory nor in violation of N.J.S.A. 34:13A-5.4(a)(1) or (a)(3).

The Termination

Horn's termination was based upon Principal Huzinec's recommendation of non-reappointment and Horn's "total record" (Tr.2203) as perceived by Superintendent DeSopo. The Charging Parties expended considerable time on cross-examination and in their brief attempting to point up flaws in Huzinec's evaluation and to attribute these to a discriminatory motive. Had the Charging Parties succeeded in making the evaluation appear arbitrary or unfair, this in itself would not support a charge of discrimination in the absence of a connection between the unfair evaluation and a discriminatory motive. Overall, Charging Parties' extensive cross-examination of Huzinec failed to show that the evaluations were unfair or arbitrary.

27/ Horn sometimes used "harassment" to describe the supervisor's efforts to get improved performance rather than as a reference to interference with union activity (Tr. 430).

It appears that Horn did not understand what Huzinec required of him and did not perform to the satisfaction of the Principal. For example, Horn testified that it was the school's policy to let the work study students do the work while the custodians observed them and supervised when necessary (Tr. 2717). Huzinec testified that it was school policy that custodians and work study students work side-by-side and that Horn persisted in allowing students to do all the work. Huzinec's concern with Horn's "method" of working with students appears in the May 25, 1978 evaluation (R-13). Much was made by Charging Parties of the fact that unavailability of tools made many tasks difficult for the custodians to perform. Huzinec never denied that this was a problem but rather wanted Horn to handle it on his own or try to, and not make his first step a complaint or excuse to the Principal (Tr. 2129-2133). (See also the evaluation of November 30, 1977, R-12). Horn, himself, testified that Huzinec never communicated that he was at fault for not having the materials necessary (Tr. 2682). Charging Parties' emphasis on the ultimate completion of Horn's tasks misses the point. Huzinec's concern was that Horn take the initiative in handling troublesome tasks rather than involve the Principal in their solution. (See for example Tr. 2590-2591) where Horn speculates that Huzinec may have found the necessary tool).

In sum, to assert that tasks were completed by Horn hardly invalidates the evaluation. Further, Horn's own record, allegedly kept in anticipation of his termination for union activity, reveals at best a spotty performance on the job. 28/

It is worth noting that Huzinec and Horn maintained a good personal relationship throughout this period. Huzinec never questioned Horn about the Association or the negotiations (Tr. 2065). He never harried Horn or made him feel uncomfortable (Tr. 2682).

Contrary to the Charging Parties' assumption that Huzinec should have taken Horn's seniority into account favorably, Huzinec testified that greater competency was expected from Horn because he had greater experience (Tr.1696). Overall, Huzinec's conclusion that Horn's performance was unsatisfactory is well supported by Huzinec's reasoning as elucidated during cross.

It is true, as the Charging Parties allege, that other custodians received evaluations which were far from positive. Charging Parties allege that this disparate treatment is evident in Huzinec's recommendation for renewal for two other

28/ At Tr. 2557, for example, Horn says he cut the grass twice a week during the summer but his own record shows that it was done once a week or less.

custodians who displayed shortcomings similar to Horn's. Charging Parties, however, fail to show that any disparate treatment by Huzinec was attributable to a discriminatory motive. Charging Parties' attempt to reveal anti-union animus on Huzinec's part consists of dubbing him an incredible witness and thus concluding that his denial of any such motive is ineffective. The argument is tautalogical. Charging Parties insist that Huzinec must have had specific knowledge of Horn's union activities and therefore Huzinec's denial of specific knowledge must be false. They assert that Huzinec's recollection was deliberately poor, and that he was therefore an uncooperative witness. To the contrary, I found Huzinec to be a credible witness, straight forward in his presentation, and no more uncooperative than any witness may appear who does not testify to what a cross examiner would like to hear. In sum, the Charging Parties showed no evidence of animus on the part of Huzinec. His decision not to recommend Horn for renewal despite some evidence of disparate treatment with regard to other custodians cannot be attributed to a discriminatory motive on this record.

The Charging Parties also assert that discrimination played a part in DeSopo's acceptance of Huzinec's recommendation (CP brief p. 68).

The issue of discrimination by DeSopo must be addressed separately from disparate treatment by Huzinec. Huzinec was a strong witness unshaken by extensive cross-examination who displayed no animosity for Horn nor was any union unimus clearly evident in his testimony. DeSopo, on the other hand, was a difficult witness whose demeanor was less than straight forward.

In pre-hearing deposition DeSopo stated that he was unaware that Charging Party Association was affiliated with the N.J.E.A. The evidence to contradict his statement is overwhelming. When pressed at hearing, DeSopo did not stand by his statement given in deposition (Tr. 2317) and Respondent ultimately did not contest the fact that DeSopo was fully aware of the affiliation from the very start of Charging Party Association.

DeSopo claimed to have urged leniency to the District at the January 11, 1978 hearing on Horn's refusal to take the work study child. Only his persuasion, he asserts, saved Horn's job (Tr. 2355). The Board secretary's notes (J-12B), although not the equivalent of transcript, were thorough (Tr. 1194; 1302). They reveal no such urging by DeSopo. Recall that Charging Parties failed to prove the existence of anti-union animus on the part of DeSopo at least until the time Horn refused to take the work study child and DeSopo recommended his termination. Despite animus alleged from the time of the organization of the Association

DeSopo recommended renewal of Horn's contract at the end of the 1976-77 year. As to events subsequent to the resolution of the work study incident of November, 1977, the Charging Parties have produced certain evidence that DeSopo became hostile towards Horn, not because of his prior organizing activity, but because of Horn's continued support of the Association, and his alleged goading of other custodial-maintenance employees to make additional demands in their negotiations similar to those made by the N.J.E.A. affiliate. 29/

At depositions DeSopo testified about Horn's interactions with the Second Association:

> "I heard that Mr. Horn is going around complaining and poisoning and pushing a couple of the guys saying he has gotten this, this and this. So what's happened is we had to include some of the things that they were already discussing as far as the grievance procedures and these kinds of things." (Tr. 2410).

DeSopo's effort to explain this phraseology, particularly the "poisoning", by attributing the words and the sentiments to the custodians is simply not believable. The custodians either would be receptive to Horn's suggestions or they would not; they had no reason to see themselves as being "poisoned". Nor is it relevant, as Charging Parties point out in their brief (CP brief p. 97), that no evidence was presented that Horn actually engaged in such pressuring of the other employees since DeSopo clearly believed that he had done so. 30/

Overall, the credibility of DeSopo is not so solid as that of Huzinec nor as free of all taint of animus. The suspicion is raised that discrimination may have influenced DeSopo's view of Horn's "total record" as weighed in his recommendation to the Board. 30a/

Charging Parties compare situations of two custodians and a teacher who were rehired despite negative recommendations to support their claim of disparate

29/ Charging Parties failed to allege a violation of N.J.S.A. 5.4(a)(4) derived from Horn's filing of the original unfair practice charges. This matter was not fully litigated and therefore no violation as a response to the filing alone may be found. This does not preclude a finding on the (a)(3) charge regarding Horn's general continued support for the original N.J.E.A. affiliated Association.

30/ See Laurel Springs Board of Education, P.E.R.C. No. 78-4, 3 NJPER 228 (1974).

30a/ Such a phrase is ambiguous at best and alone is insufficient to support a finding of violation. See North Brunswick Twp. Bd. of Ed., P.E.R.C. No. 80-69 (1979), at page 8.

treatment by DeSopo. Two criteria for decisions in such situations are consistently mentioned by DeSopo: the quality of work done and the potential for improvement by the employee. In the case of the teacher (who was new on the job) and of one custodian, DeSopo felt that improvement was possible. Another custodian (Borota) was rehired despite serious behavior problems, more serious than anything attributed to Horn, assert Charging Parties. Borota, however, was described as a good worker by DeSopo whose problems might be eliminated by a transfer. DeSopo consistently emphasized the importance of keeping a clean building over any other concerns about custodians. Horn, he clearly thought inadequate on this score and unlikely to improve. 31/ DeSopo was complimentary in his communications to Horn informing him of earlier recommendations to renew, and his insistance that Horn was never a good worker must be given little credit. Nonetheless, DeSopo's rationale for accepting Huzinec's recommendation is plausible and legitimate.

In conclusion, the suspicion that DeSopo may have treated Horn differently from other employees whom he ultimately recommended for renewal despite initial evaluations and recommendations by the Principal is not given substance in this record. DeSopo's explanation of his statement on "poisoning" and his denial of anti-union animus as regards Horn would not alone rebut a charge of disparate treatment were there substantial evidence in the record to support the charge. As the record stands, Charging Parties were unable to do more than raise a question of disparate treatment. To an extent, Charging Parties answered the question to their own detriment by submission of Horn's own work record. An inference that DeSopo's actions (and consequently the District's) were influenced by anti-union bias arising well after the initial organizing activities may be overcome by a record substantiating the legitimate justifications for the Superintendent's and the District's decision. No. Warren Regional Bd. of Ed., P.E.R.C. No. 79-9 (1978). I will therefore recommend dismissal of this allegation. Although the matter is not entirely free from doubt, in the last analysis, the Charging Parties have failed to sustain their required burden of proof.

The Unilateral Withholding of the Wage Increase

In its brief Respondent concedes that its unilateral withholding of an

31/ Charging Parties attempted throughout the hearing and in their brief to contradict Respondent's judgment on Horn's work. Charging Parties submitted Horn's calendar of tasks which he had recorded in anticipation of this litigation. Oddly, in view of the admitted purpose of the calendar, it is a record incomplete at best and more realistically evidence of Horn's failures to complete tasks.

annual increase for custodial and maintenance workers pending the conclusion of negotiations with Charging Party Association constitutes an unfair practice citing NLRB v. Katz, 396 U.S. 736, 50 LRRM 2177 (1962) and Hillside Township, H.E. No. 77-8, 3 NJPER 1 (1976), adopted P.E.R.C. No. 77-47, 3 NJPER 98 (1977).

Respondent appears to limit its concession to a violation of N.J.S.A. 34: 13A-5.4(a)(5), asserting that the instant situation is distinguishable from Hillside Township, supra. In that case, the Hearing Examiner found violations of (a)(3) as well as (a)(5) in that the withholding of a benefit until negotiations were concluded:

> "...had the natural, foreseeable consequence which the Township must be presumed to have intended of discouraging the (union) and the unit employees from exercising fully their rights to negotiate." 3 NJPER at 8.

Respondent maintains that since negotiations between it and Charging Party Association continued after the unlawful withholding,that the circumstances are not analogous (Respondent brief,p. 70-71) and such action was not responsible for the loss of support for Charging Party Association. Respondent advances the nevel theory that the unlawful actions of an employer have the natural consequence of solidifying support for a union and are not impediments to the exercise of employee rights (Respondent brief, p. 71). This innovative analysis, apart from ignoring the facts in the particular case, would free all employers of responsibility for their unlawful actions since these would generously benefit unions by bringing about a surge of righteous exercise of employee rights.

Two of the custodial-maintenance workers gave clear testimony to the effect that the withholding of the regular wage increase had on their support for Charging Party Association (Tr. 723; 762; 892; 921). There can be no doubt that Respondent's withholding of the wage increase until negotiations should be concluded was the single most important factor in the loss of support for Charging Party Association and would constitute a violation of N.J.S.A. 13A-5.4(a)(3) and (5) had charges been timely made and properly amended to the Complaint.

In addition to its argument on the merits, Respondent asserts that the issue of its unlawful withholding of the wage increase is time-barred. In reconsidering the ruling made at hearing on the timeliness of the Charging Parties' amendment of the charge alleging unilateral withholding of the increment (Tr. 929-930), I note that although the violation was a continuing one, it had ceased in or about February, 1978, some 11 months prior to the requested amendment when

Respondent granted the wage increase retroactively to July, 1977. In these circumstances, it is necessary that the amendment have sufficient nexus to the matters charged, Allied Industrial Workers, 94 LRRM 1699; NLRB v. Braswell Motor Freight, 84 LRRM 2435 (7th Cir. 1973); NLRB v. Central Power and Light Co., 74 LRRM 2271 (5th Cir. 1970). Charging Parties' original complaint focused on Respondent's alleged refusal to continue negotiations on a specific date and its subsequent allegation of assistance in the formation of the Second Association. On reconsideration, I conclude that the allegation of unilateral withholding of a wage increase by Respondent is insufficiently related to create a proper exception to the six month time-bar.

Although the matter of Respondent's unlawful withholding of wage increases therefore will not constitute a separate violation of (a)(3) or (a)(5), the facts as adduced at hearing by Respondent from its own witnesses will be properly considered as they relate to the analysis of other charges. 32/

The Suspension of Negotiations Between Charging Party Association and Respondent on December 12, 1977

Count two of Charging Parties' original Complaint alleges that Respondent refused to continue negotiations on December 12, 1977. As recited in the findings of fact, DeSopo brought up the possibility of Horn's termination just before the session was to commence and Gaydos, negotiator for Respondent, suggested that bargaining be suspended until Horn's status was settled. There is sufficient evidence to warrant characterizing this suggestion as a demand. See, e.g., Gaydos' deposition quoted at Tr. 1396. Respondent contends that the Charging Party Association's negotiating representative Gary acquiesced in the suspension. Gary insisted at the hearing that he had not acquiesced but rather demanded that negotiations continue. That the suspension of negotiations was understood to be temporary is clear from the testimony of both Gary (Tr. 327, 274) and of George (Tr. 87).

In arguing that the December 12 meeting concluded by mutual agreement, Respondent questions why Charging Parties did not demand an immediate resumption of negotiations. It appears that Gary was unsure of the illegality of Respondent's interference with a representative. He learned from George that Respondent could

32/ This reasoning parallels that of the Charging Parties in their presentation of Tier's interrogation of custodial-maintenance employees on the question of anti-union animus despite the time-bar preventing any charges arising from the interrogations themselves. See Local Lodge 1424 v. NLRB (Bryan Mfg. Co.), 362 U.S. 411, 45 LRRM 3212 (1960).

not make such a demand (Tr. 87). By that time the issues had grown more complex with the attempted disaffiliation of the custodial-maintenance workers. The unfair practice charges filed with regard to the December 12 meeting and the disaffiliation were well within time.

Charging Parties cannot be deemed to have waived their right to protest said interference and refusal to bargain. Such waiver would have to be explicit and Respondent has submitted no such evidence. Even where a union continues negotiations to completion without participation of a representative with whom an employer refuse to meet, one may not imply a waiver of the union's right to assert an unfair practice, Lufkin Telephone Exchange, Inc., 191 NLRB 856 (1971).

Charging Parties maintain and it is well supported by the record that the postponement of negotiations was a major factor in the loss of support suffered by Charging Party Association. Although Charging Parties must bear some responsibility for the loss of support in view of their failure to protest the withholding of the wage increase and infrequency of negotiations sessions conducted during the unlawful withholding, this will not relieve Respondent of liability for its actions on December 12, 1977. I conclude that by its interference with the selection of a negotiating representative and in its concomitant refusal to negotiate with Horn, Respondent violated N.J.S.A. 34:13A-5.4(a)(1) and (5).

Refusal to Negotiate, Interference with and Assistance to the Second Association

The unusual length of this hearing was compounded by the submission of unusually substantial briefs. The final issues of interference and assistance as they relate to the Second Association will be dealt with as concisely as possible, not only to bring this matter to an ultimate conclusion, but also because these issues were barely disputed. Indeed, Respondent's brief does not address them at all.

As may be inferred from an earlier discussion comparing CP-1, the disaffiliation statement, with CP-14, the letters absolving the Board of responsibility for the formation of the Second Association, Charging Parties have not carried their burden of proof as to Respondent's involvement in the preparation of CP-1. (See p. 11). There is no significant evidence of anti-union animus at the time that the custodial-maintenance workers chose to disaffiliate from N.J.E.A. 33/ The testimony of the workers on their dissatisfaction with the Association was

33/ The evidence of Tier's animus was offset by the testimony on DeSopo's attitude and his actions to end Tier's interrogations.

consistent and rationale. Charging Parties have not alleged that the infrequency of the negotiating sessions, surely a contributing factor in the employee's dissatisfaction, was a manifestation of anti-union animus. 34/ I conclude that CP-1 was a spontaneous response on the part of the custodial-maintenance workers to the negotiations as conducted by Respondent and Charging Parties and its creation will not support a finding of an independent violation of N.J.S.A. 34:13A-5.4 (a)(1)(2)(5) or (7). 35/ Neither was its preparation a violation of the Act. I find the testimony of the secretary, Mrs. DiMartino, that she typed CP-1 as a favor to Mr. Grigaitas, plausible. As discussed in footnote 20, Charging Parties' attack on the credibility of Mrs. DiMartino was rather flimsy.

As to events after the formation of the Second Association, Charging Parties allegation of interference and assistance are better supported by the record.

In their brief, Charging Parties argue that the one year "certification bar" should apply where Respondent has entered into negotiations with one employee organization and within 12 months recognized a second, despite any demonstrable loss of support for the original Association. 36/ NLRB v. Brooks, 348 U.S. 96,

34/ To the contrary, Charging Parties seem to think the protracted sessions attest to the validity of their relationship with Respondent as compared to that manifested by the swiftly concluded negotiations with the Second Association.

35/ Mr. Brown's statement (p.9) that DeSopo told him that if he wanted to start a union all he had to do was start it, was not connected to the production of CP-1, the disaffiliation statement, in this record. The statement was made in the context of DeSopo's attempt to confirm information from Horn that a union, presumably distinct from Charging Party Association, was forming. Obviously, at the time of this exchange the Second Association had taken shape at least to the extent of the employees signing the disaffiliation statement, since Horn would have had no knowledge of this until after the fact. DeSopo's remark does relate to the willingness of Respondent to negotiate with the Second Association once it was in existence and may be construed as encouragement to the employees to pursue such negotiations after disaffiliation. Since the conduct of these negotiations is found to be in violation of (a)(2) and (5), supra, I find this remark to be part and parcel of these violations rather than an independent transgression of the Act.

36/ Respondent, as noted at page 15, did not dispute that Charging Party Association and the Second Association were distinct organizations after its initial refusal to stipulate to Charging Party Association's affiliation with N.J.E.A.

35 LRRM 2158 (1954). Where an employer acts voluntarily and recognizes a union without an election and the certification process, Charging Parties maintain that a similar "recognition bar" must apply, requiring the employer to refrain from recognizing or bargaining with any other organization for a reasonable period. NLRB v. Frick, 73 LRRM 2889 (3rd Cir. 1970); NLRB v. San Clemente Publishing Corp., 70 LRRM 2677 (9th Cir. 1969). 37/ Charging Parties further argue that substantial compliance with N.J.A.C. 19:11-3.1 is sufficient to bring into operation a full year bar to recognition of any other employee organization. All procedural steps for recognition of Charging Party Association by Respondent were complied with save the notice and posting requirements. 38/

More significant than Charging Parties substantial compliance with N.J.A.C. 19:11-3.1 in creating a bar sustaining an employer's obligation to continue to negotiate in the face of a union's loss of support is the employer's unfair practices contributing to such loss of support. The issues of a "recognition bar" and the obligation to continue bargaining arising when membership no longer favors its representative must include an examination of responsibility for the loss of support. An employer's contribution to such loss weighs decisively in finding a bar to the recognition of another employee organization. An employer's unfair practices can justify an extension of a bar to give the union, previously hobbled by the unfair practices, a full opportunity to represent its membership in collective bargaining. NLRB v. Big Three Industries, Inc., 86 LRRM 3031 (5th Cir. 1974). An inquiry into possible unfair practices is equally appropriate when recognition voluntarily extended is withdrawn upon the loss of majority support. Brennan's Cadillac, 231 NLRB 34, 96 LRRM 1004 (1977). Where a union, disadvantaged by an employer's unfair practices has not had a full and fair opportunity to merit the support of its members, such opportunity must be afforded it even if the failure of opportunity is not entirely attributable to the actions of the employer. 39/ To

37/ A validly recognized representative is accorded the same freedom from competing demands as a certified representative for a 12 month period under the Commission Rules. N.J.A.C. 19:11-2.8(b); see Galloway Tp. Bd. of Ed. v. Galloway Tp. Ass'n. of Ed. Sec., 78 N.J. 1 (1978).

38/ Charging Parties assert in their brief that the absence of any competing union at the time of recognition bears favorably in a finding of substantial compliance despite the failure to meet notice and posting requirements.

39/ Galloway, supra at footnote 37 at 18.

do otherwise would reward the employer for its unlawful activities contributing to the erosion of the union's power. In such a situation, I find it unnecessary to define precisely the limits of "substantial compliance" with the recognition procedure. Respondent has conceded that it acted unlawfully in withholding regular wage increases pending negotiations. It is clear on the record that this was a major factor in the custodial-maintenance workers' decision to dissafiliate from Charging Party Association. In this particular circumstance, Respondent may not assert procedural deficiences in the recognition process to thwart the purpose of the recognition bar. Nor, I must add, has Respondent so asserted.

To conclude, I find that Respondent's recognition of the Second Association, and consequently its negotiations with this Second Association, the ultimate bargaining agreement and continued implementation thereof constitute unlawful refusals to negotiate with Charging Party Association in violation of (a)(1) and (5). I further find that such recognition, negotiations and the conclusion and implementation of said agreement with an organization, the Second Association, which did not represent an uncoerced majority of employees in an appropriate unit, also constitute violations of N.J.S.A. 34:13A-5.4(a)(1) and (2) as alleged by Charging Parties. 40/

As suggested earlier, I find that this Second Association benefited by some assistance from Respondent at or about the time CP-14 was prepared and disseminated. While the record will not permit a specific finding on precisely what assistance Respondent rendered, it is not necessary to speculate on whether such assisance was advisory or extended to actual typing and xeroxing of CP-14. Where an employer makes facilities or services liberally available without cost to a union and also provides some advice or guidance to it, there is sufficient evidence to establish interference and assistance. Duquesne University of the Holy Ghost, 198 NLRB 891, 81 LRRM 1091 (1972). The very substance of CP-14, as discussed at page 11, attests to some advisory function by Respondent at the very minimum in the production of CP-14, in violation of N.J.S.A. 34:13A-5.4(a)(1) and (2). 41/

40/ Emco Steel, Inc., 227 NLRB 989 (1977).

41/ It should be clear that none of the evidence of illegal support and assistance rendered to the Second Association is so extensive as to warrant a finding that Respondent created or dominated the assisted employee organization.

CONCLUSIONS OF LAW

1. The Burlington County Special Services School District is a public employer within the meaning of the Act.

2. The Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. is an employee organization and majority representative of employees in an appropriate unit, all custodial and maintenance employees employed by the School District, within the meaning of the Act.

3. The Special Services Custodial and Maintenance Association is an employee organization within the meaning of the Act.

4. By its conduct in suspending negotiations with the Charging Party Association and its representative, Charging Party William Horn, on December 12, 1977, Respondent District has engaged in unfair practices in violation of N.J.S.A. 34:13A-5.4(a)(1) and (5).

5. By its conduct thereafter in encouraging support for, recognizing, entering negotiations and executing and implementing an agreement with, the Second Association, and refusing to continue to recognize or negotiate with the Charging Party Association at a time when it had validly recognized and had been negotiating with the Charging Party Association as exclusive representative of its custodial and maintenance employees and had withheld payment of the normal salary increase due said employees during the pendency of said negotiations, Respondent District has engaged in and is engaging in unfair practices within the meaning of N.J.S.A. 34:13A-5.4(a)(1)(2) and (5).

6. By its conduct in assisting unit employees in the preparation of letter affidavits executed and notarized on March 22, 1978, advising the Commission of the lack of District involvement in or responsibility for their disaffiliation from the Charging Party Association and reaffirming their membership in the Second Association, Respondent has engaged in unfair practices within the meaning of N.J.S.A. 34:13A-5.4(a)(1) and (2).

7. By its conduct in suspending the employment of Charging Party William Horn, Respondent has not engaged in unfair practices within the meaning of N.J.S.A. 34:13A-5.4(a)(1) or (3).

8. Charging Parties have failed to prove by a preponderance of the evidence that Respondent engaged in unfair practices within the meaning of N.J.S.A. 34:13A-5.4(a)(1) or (3) by terminating the employment of Charging Party William Horn.

9. By virtue of the time bar contained in N.J.S.A. 34:13A-5.4(c), Respondent has not engaged in any other unfair practices interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the Act or discriminating in regard to hire or tenure of employment or any term or condition of employment to discourage employees in the exercise of the rights guaranteed to them by the Act, within the meaning of N.J.S.A. 34:13A-5.4 (a)(1) or (3).

10. In the absence of any evidence adduced in support thereof, Respondent has not engaged in any unfair practices in violation of N.J.S.A. 34:13A-5.4(7).

THE REMEDY

Having found that the Respondent has engaged in, and is engaging in unfair practices within the meaning of (a)(1)(2) and (5) of the Act, I will recommend that the Commission order the Respondent to cease and desist therefrom and to take certain affirmative action.

Having found that the January 19, 1978 agreement with the Second Association was made at a time when the Second Association did not represent an uncoerced majority of the unit employees and Respondent owed a duty to continue negotiations with the Charging Party Association, I will recommend that Respondent cease recognizing or negotiating with the Second Association, [42/] unless and until such time as the said Association has been duly certified by the Commission as the exclusive negotiations representative of the custodial and maintenance employees. [43/]

I will also recommend that the Respondent recognize and resume negotiations with Charging Party Association concerning terms and conditions of employment of the unit employees from the point at which they were suspended on December 12, 1977 and reduce to writing and sign any agreement resulting therefrom. These undertakings shall not be interpreted to require the Respondent to rescind any benefits already granted to the employees pursuant to the January 12, 1978 agreement. [44/] In fact, Respondent will be required to continue in effect all terms

42/ Inasmuch as the Second Association as an indispensable party to the instant proceeding has been provided notice and full standing to participate herein, its bargaining status and contractual rights may be effectively rescinded. The Second Association chose not to appear or participate with the risk that it would be bound absent its participation. See New Jersey Civil Practice Rules, R. 4:27-1(b).

43/ Duquesne University, supra.

44/ Eastern Industries, 217 NLRB No. 118, 89 LRRM 1134 (1975).

and conditions of employment embodied in the present agreement pending conclusion of impasse procedures, if any, arising from the required negotiations with Charging Parties, Galloway Tp. Bd. of Ed. v. Galloway Tp. Ed. Assn., 78 N.J. 25 (1978).

Such negotiations may, at the option of the Charging Parties, pertain to terms and conditions of employment of unit employees retroactive to July 1, 1977, [45] and, if the said Association demands such retroactivity, the Respondent shall be required to negotiate for the period commencing July 1, 1977.

The objective here is to restore the status quo which prevailed before the District's unlawful conduct commenced. Charging Party Association is entitled to restoration to its prior status as exclusive representative, to negotiate a collective agreement and attempt to regain the support of the unit employees. Inasmuch as the Charging Party Association had an opportunity during the three months from commencement of negotiations in September, 1977 to their suspension in December, 1977, to negotiate as exclusive representative, I conclude that a nine month extension of a recognition bar period is appropriate during which time the Charging Party Association may enjoy the status of exclusive representative insulated from rival organizational petitions or claims. This nine month period represents the balance of a recognition year during which the Respondent refused to negotiate. [46] If at the conclusion of the nine month period no agreement has been entered with the Charging Party Association (which would normally serve as a bar to rival or decertification petitions) [47] and if a segment of the unit employees do not wish to have the Charging Party Association continue to act as their majority representative, they will be free to institute the appropriate representation proceeding to challenge that status.

RECOMMENDED ORDER

Upon the basis of basis of the foregoing recommended Findings of Fact, Conclusions of Law and Remedy, it is hereby ORDERED that Respondent, Burlington County Special Services School District, shall:

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[45] This was the beginning of the first contract year for the employees following the said Association's formal recognition by the District and was the beginning of the period for which the said Association sought agreement (See J-7, p. 16).

[46] This has been found to be the appropriate remedy even where a union has lost majority support during the course of negotiations. In the Matter of Jersey City Bd. of Ed. and Jersey City Teachers Aides Ass'n., JCEA, P.E.R.C. No. 79-15 4 NJPER par. 4206 (1978).

[47] N.J.A.C. 19:11-2.8(c).

1. Cease and desist from:

a. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act by refusing to recognize and negotiate in good faith with the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. and its designated representatives concerning terms and conditions of ~~employment~~ of all custodial and maintenance employees for the period commencing July 1, 1977, if the said Association so requests.

b. Encouraging or assisting employees in the support of the Special Services Custodial and Maintenance Association /Second Association/.

c. Granting recognition to or negotiating with the said Second Association unless and until it has been duly certified by the Commission as exclusive representative of all custodial and maintenance employees.

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

a. Upon demand by the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A., negotiate in good faith concerning terms and conditions of employment.

b. Withdraw and withhold recognition from the Special Services Custodial and Maintenance Association /Second Association/ as the exclusive representative of its custodial and maintenance employees for the purposes of collective negotiation unless and until the said Association has been duly certified by the Commission as exclusive representative of said employees.

c. Post at its administrative offices copies of the attached notice marked Appendix "A". Copies of such notice on forms to be provided by the Commission shall, after being duly signed by the District's representative, be posted by the District immediately upon receipt thereof, and maintained by it 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 the District to ensure that such notices are not altered, defaced or covered by any other material.

d. Notify the Chairman within twenty (20) days of receipt of this order what steps it has taken to comply herewith.

It is further ORDERED that the recognition bar for Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. be extended

for a period of nine (9) months from the date of this ORDER.

And it is further ORDERED THAT those allegations in the complaint alleging violations of N.J.S.A. 34:13A-5.4(a)(3) and (7) are hereby dismissed.

Robert T. Snyder

Robert T. Snyder
Hearing Examiner

Dated: December 13, 1979
Newark, New Jersey

APPENDIX "A"

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 cease and desist from refusing to negotiate in good faith with the Burlington County Special Services Custodial and Maintenance Association, a/w N.J.E.A. and its designated representatives concerning terms and conditions of employment of our custodial and maintenance employees.

WE WILL cease and desist from granting recognition to or negotiating with any organization of our custodial and maintenance employees other than the above Association for a period of nine months from the issuance of this decision and we will not recognize or negotiate with the unaffiliated Special Services Custodial and Maintenance Association at any time unless said Association is duly certified by the Commission.

WE WILL cease and desist from encouraging or assisting employees in the support of any employee organization.

BURLINGTON COUNTY SPECIAL SERVICES SCHOOL DISTRICT
(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