

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SALEM COMMUNITY COLLEGE,

Public Employer,

-and-

Docket No. RO-83-8

PROFESSIONAL STAFF ASSOCIATION,
SALEM COMMUNITY COLLEGE, NJEA,

Employee Organization.

SYNOPSIS

The Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission and in agreement with a Commission Hearing Officer, finds a unit of counselors, coordinators, EOF specialists and student development specialists employed by Salem Community College to be an appropriate unit and remands the case to the Administrator of Representation for an election. Neither party filed exceptions to the Hearing Officer's Report.

P.E.R.C. NO. 85-20

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Employee Organization.

Appearances:

For the Public Employer, G. Thomas Bowen, Esq.

For the Employee Organization, Jerry Veldof,
UniServ Representative, NJEA

DECISION AND ORDER

On July 22, 1982, the Professional Staff Association, Salem Community College, NJEA ("Association") filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission. The Association seeks certification as the majority representative of a negotiations unit of counselors, coordinators, EOF specialists and Student Development specialists employed by Salem Community College ("College").

The College has declined to consent to an election in this unit, contending that the petitioned-for unit is inappropriate because it does not also include the Directors of Institutional Development, Instruction, Educational Services, and Student Services.

On November 10, 1982, the Director of Representation issued a Notice of Hearing.

On January 5 and 7, February 8, May 26 and September 19 and 20, 1983, Commission Hearing Officer Charles A. Tadduni conducted a hearing. The parties examined witnesses and introduced exhibits. Neither party submitted a post-hearing brief.

On July 11, 1984, the Hearing Officer issued his report and recommended decision. H.O. No. 85-1, 10 NJPER ____ (¶ ____ 1984). He found that the petitioned-for unit was appropriate and recommended that an election be directed.

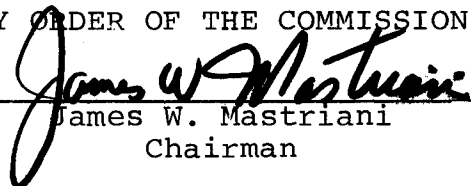
The Hearing Officer served a copy of his report on the parties and informed them that exceptions, if any, were due on or before July 24, 1984. Neither party filed exceptions or requested an extension of time.

Pursuant to N.J.A.C. 19:11-8.8 and N.J.S.A. 34:13A-6(f), the full Commission has transferred this case to itself and has delegated authority to me to issue a decision in the absence of exceptions. I have reviewed the record. The Hearing Officer's findings of fact (pp. 6-18) are accurate. I adopt and incorporate them here. Based on these findings, and in the absence of exceptions, I agree with the Hearing Officer that the petitioned-for unit is appropriate and that an election should be conducted.

ORDER

This case is remanded to the Administrator of Representation for further proceedings consistent with this opinion.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

DATED: Trenton, New Jersey
August 31, 1984

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

In the Matter of

SALEM COMMUNITY COLLEGE

Public Employer,

-and-

Docket No. RO-83-8

PROFESSIONAL STAFF ASSOCIATION,
SALEM COMMUNITY COLLEGE, NJEA.

Employee Organization.

SYNOPSIS

A Commission Hearing Officer recommends that the Commission determine that a petitioned-for unit of college administrators -- specialists and coordinators -- is an appropriate unit for collective negotiations and direct that a representation election be conducted therein. The Hearing Officer rejected the position of the College that College Directors be included in the petitioned-for unit. More specifically, the Hearing Officer concluded that the Director of Institutional Development is a managerial executive; that the Directors of Instruction, Educational Services and Student Services are supervisors within the meaning of the Act and that the inclusion of the Directors of Educational Services and Student Services in the petitioned-for unit would engender impermissible conflicts of interest. Accordingly, the Hearing Officer found that the positions of Director of Institutional Development, Director of Instruction, Director of Educational Services and Director of Student Services should not be included in the petitioned-for unit.

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

STATE OF NEW JERSEY
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

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Employee Organization.

Appearances:

For the Public Employer
G. Thomas Bowen, Esq.

For the Employee Organization
Jerry Veldof, Uniserv Representative, NJEA

HEARING OFFICER'S
REPORT AND RECOMMENDATIONS

A Petition for Certification of Public Employee Representative (the Petition; Docket No. RO-83-8), accompanied by an adequate showing of interest, was filed with the Public Employment Relations Commission (the Commission) on July 22, 1982 by the Professional Staff Association, Salem Community College, NJEA (the Association). Through its Petition, the Association seeks certification as the statutory majority representative of an employee negotiations unit comprised of certain administrative employees employed by Salem Community College (the College). The College has declined to consent to an election herein, contending that the petitioned-for unit is inappropriate under the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the Act). Pur-

suant to a Notice of Hearing, a hearing was held before the undersigned Hearing Officer on January 5, 7, February 8, May 26, September 19 and September 20, 1983, at which all parties were given an opportunity to examine and cross-examine witnesses, to present evidence and argue orally. ^{1/} No briefs were submitted by the parties. Upon the entire record in this proceeding, the Hearing Officer finds:

1) Salem Community College is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the Act), is subject to its provisions and is the employer of the employees who are involved herein.

1/ The procedural history of the instant matter is worth noting at this point. As previously indicated, the Petition was filed on July 22, 1982. After unsuccessful attempts by a Commission staff attorney at achieving an informal resolution of the matter, the Director of Representation issued a Notice of Hearing on November 10, 1982. Hearings were then scheduled for (and conducted on) January 5 and 7 and February 8, 1983. Thereafter, additional hearing dates proved necessary and were scheduled for March 8, 1983. On March 4, both parties called the Hearing Officer and requested an adjournment so as to continue their then-active attempts to reach an informal resolution of this matter. On March 29, having been informed that settlement attempts had been unsuccessful, the Hearing Officer scheduled hearing dates on April 20 and 21, 1983. The College then requested an adjournment of those dates and the hearing was rescheduled for May 26 and June 9, 1983.

At the May 26 hearing, the parties entered into a tentative settlement agreement on the record, needing only the formal approval of their respective principals. The Association's Uniserv Representative and the College's Counsel and its President indicated that they would present the Settlement Agreement to their respective principals that evening and inform the Hearing Officer on May 27 of the result. The Association approved the Agreement; the College requested more time to study the Agreement. At the then-next regular meeting of the College Board of Trustees (June 23, 1983), the College rejected the Settlement Agreement. The hearing was then rescheduled for September 26 and 27, 1983. On August 18, 1983, the College requested adjournment of these dates. The Hearing Officer granted the adjournment and set peremptory hearing dates one week earlier, on September 20 and 21, 1983.

2) The Professional Staff Association, Salem Community College, NJEA is an employee organization within the meaning of the Act and is subject to its provisions.

3) The Association having petitioned for certification as majority representative in a negotiations unit comprised of coordinators and specialists and the College having declined to consent to an election therein, there is a question concerning representation and the matter is properly before the Hearing Officer for a Report and Recommendations.

I Positions of the Parties

The Association has petitioned for a collective negotiations unit comprised of all coordinators and specialists employed by the College. Said unit is to exclude all other employees of the College. The College contends that the petitioned-for unit is inappropriate and argues that the appropriate unit for representation would be one which includes all coordinators, specialists and directors of the College. The College argues that this group comprises all of its non-management administrators, that most of the employees therein perform similar administrative and supervisory duties and accordingly, should be maintained as one grouping of employees.

The Association objects to the inclusion of the College Directors in the negotiations unit of coordinators and specialists because (a) the directors lack a sufficient community of interest with the other unit employees; (b) the directors are management employees; (c) inclusion of the directors in the unit with coor-

dinators and specialists would engender impermissible conflicts of interest. Thus, the issue for determination herein is whether the unit proposed by the Petitioner (coordinators and specialists) is an appropriate unit within the meaning of the Act.

II Discussion of Law

N.J.S.A. 34:13A-3(f) defines managerial executives as those "...persons who formulate management policies and practices and persons who are charged with the responsibility of directing the effectuation of such management policies and practices, except that in any school district this term shall include only the superintendent or other chief administrator, and the assistant superintendent of the district." N.J.S.A. 34:13A-5.3 excludes managerial executives from protections and rights afforded by the Act to public employees.

In In re Borough of Montvale, P.E.R.C. No. 81-52, 6 NJPER 507 (¶11259 1980) aff'g D.R. No. 82-32, 6 NJPER 198 (¶11097 1980), the Commission, applying the definition of managerial executive contained in §3(f), determined:

A person formulates policies when he develops a particular set of objectives designed to further the mission of the governmental unit and when he selects a course of action from among available alternatives. A person directs the effectuation of policy when he is charged with developing the methods, means and extent for reaching a policy objective and thus oversees or coordinates policy implementation by line supervisors. Simply put, a managerial executive must possess and exercise a level of authority and independent judgment sufficient to affect broadly the organization's pur-

poses or its means of effectuation of these purposes. Whether or not an employee possesses this level of authority may generally be determined by focusing on the interplay of three factors: (1) the relative position of that employee in his employer's hierarchy; (2) his functions and responsibilities; and (3) the extent of discretion he exercises.

N.J.S.A. 34:13A-5.3 provides in part that "...nor except where established practice, prior agreement or special circumstances dictate the contrary, shall any supervisor having the power to hire, discharge, discipline or effectively recommend the same have the right to be represented in collective negotiations by an employee organization that admits non-supervisory personnel to membership."

N.J.S.A. 34:13A-6(d) states that "...except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes (1) both supervisors and non-supervisors."

The Commission has determined that the Act, in effect, defines supervisor as one having the authority to hire, discharge, discipline, or to effectively recommend any of the foregoing.

In Board of Education of West Orange v. Wilton, 57 N.J. 404 (1971), the Supreme Court examined the factors attendant upon the structuring of negotiations units consistent with the purposes of the Act. The Court stated:

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

N.J.S.A. 34:13A-6(d) further provides that the Commission shall determine the appropriate unit for negotiations.

N.J.S.A. 34:13A-5.3 states that negotiations units shall be defined with due regard for community of interest.^{2/} However, pursuant to the decision of the New Jersey Supreme Court in State of New Jersey v. Prof. Assn. of the New Jersey Dept. of Education, 64 N.J. 231 (1971), giving due regard to community of interest does not require exclusive reliance be placed thereon.

The Commission has generally considered broad-based unit structures to be preferable, insofar as such units eliminate the potential for fragmentation and unit proliferation. However, as was recognized in In re New Jersey State College of Medicine & Dentistry, D.R. No. 77-17, 3 NJPER 178 (1977), proliferation is a relative consideration depending upon the circumstances in which it arises.

III Findings of Fact and Conclusions of Law

The personnel of the College are as follows: the Board of Trustees, the President, the Board Secretary, the administrators (four deans, four directors, seven coordinators and nine specialists), four administrative secretaries (confidential employees), faculty (30 employees) and support staff (ten secretarial employees, ten maintenance employees, one general aide). Both the faculty and the support staff are organized and are contained (separately) in two negotiations units. It is the position of the College that its management group is comprised of the Board of Trustees, the President and the Deans.

^{2/} A number of factors have been identified as useful indicators of community of interest. See generally, West Orange Bd. of Educ. v. Wilton, 57 N.J. 404, 420 (1971).

Coordinators and Specialist Positions --

In general, these are non-instructional administrative positions with some varying (but minor) supervisory components.

During 1983, the average annual salary for Coordinators was \$17,900; for Specialists \$13,500. In the Student Development/ Student Services Division, several specialists testified concerning their job responsibilities and employment conditions. During the hiring process, Specialist Vangieri was interviewed by the Dean of Student Development, the Director of Student Services and the person who formerly filled the Student Development Specialist position for which he was applying. Specialist Sebok was interviewed by the Dean, the Director and the Coordinator of Student Development. Although at the time of the hearing neither employee had yet been evaluated by the College, their job descriptions indicated they would be evaluated by the Director of Student Services. ^{3/} Specialist Vangieri is directed by the Dean and the Director; Specialist Sebok reports to and is directed by the Dean. Specialist Vangieri has participated (as an interviewer) in two employment interviews to fill the position of financial aid specialist. He also evaluates student aides. Both Specialists Vangieri and Sebok are primarily involved in student counseling and administrative tasks. Mr. Sebok was once verbally criticized by the Director of Student Services. Mr. Vangieri was disciplined by the Dean (a formal letter of reprimand was placed in his permanent personnel file) as a direct result of actions initiated and carried through by the Director of Student Services.

During her application process, Specialist Dixon was interviewed by the College President, the Dean of Student Develop-

3/ See Exhibits J-3, J-12, J-19 and P-2.

ment, the Director of Student Services and the Coordinator of Financial Aid. Specialist Dixon perceives the Coordinator of Financial Aid not as a supervisor but as a peer and lead employee in the financial aid subsection. Specialist Dixon receives some work from the Financial Aid Coordinator, some from the Director and some from the Dean. Requests for time off are submitted to the Coordinator and must be approved by the Dean. Specialist Dixon has never been disciplined or criticized by the Coordinator. Ms. Dixon has been evaluated on three occasions from 1979-81: twice by the Dean and once by the Coordinator. In the most recent evaluation period (1980-81) she received two evaluations; she received a less favorable evaluation from the Dean than she had received from her Coordinator. The Dean's evaluation prevailed.

The Financial Aid Coordinator administers and coordinates the College's financial aid program. Coordinator Jones indicated that she considered the other employees in the financial aid subsection to be her associates, not subordinates. She indicated that she does not supervise the other financial aid employees -- rather, she works with them. Coordinator Jones has never hired, discharged or disciplined any employees. ^{4/} Although Jones indicated she was told that she would be responsible for evaluating the three specialists, one secretary and one student aide in the financial aid office, through the date of hearing, she had performed only one evaluation and that appears to have been subsequently vitiated by a separate evaluation done by the Dean. Further, in the lengthy

^{4/} There is a reference in the record of Ms. Jones having confronted an employee regarding the untimely completion of certain work. However, it does not appear that any discipline resulted therefrom and it stands as an isolated incident. Clearly, the undersigned would not consider this incident as one rising to the level of discipline within the meaning of N.J.S.A.
34:13A-5.3.

and detailed five-page job description for the Coordinator of Financial Aid, there is no reference to any duties concerning such supervisory functions as hiring, discipline or evaluation.

The Coordinator of Campus Operations is responsible for the coordination and general supervision of building and grounds maintenance services, security services, switchboard services, mail and duplication services, meal and refreshment services and physical plant emergencies. The Campus Operations Coordinator reports to the Dean of College and Community Services. The Coordinator has no authority to hire, discharge or discipline employees, nor has he ever done so. The Coordinator of Campus Operations works with the Facilities and Equipment Specialist, Switchboard Operator, Central Services Clerk and the General Services Aide. The latter three employees are included in the support staff negotiations unit; the Facilities and Equipment Specialist is one of the positions included in the instant Petition. Coordinator Sheriffs indicated that he is responsible for directing and evaluating the work of the above employees. However, the Coordinator's job description makes no reference to such duties. Mr. Sheriffs also noted that the Facilities and Equipment Specialist was responsible for evaluating the College's four maintenance employees.

The Learning Resources Center Coordinator (LRC Coordinator) essentially is the librarian. When Coordinator White was hired, the only person who interviewed her was the Director of Educational Services. The Director of Educational Services offered Ms. White the position with the College for which she had applied. The Director of Educational Services evaluates Coordinator White. Ms.

White has challenged one of her evaluations from the Director. The Director must approve requests for time off, etc. The Coordinator evaluates her secretary and student aides. She has never been involved in disciplining any employees.

Testimony provided by the Coordinator of Accounting Services (E. Taylor) concerning the responsibilities of his position indicates that there are no supervisory responsibilities being performed by that Coordinator.

Based upon the record herein, the undersigned determines that none of the coordinators and specialists have or have exercised the authority to hire, discharge or discipline employees, or to effectively recommend the same. The record indicates only an intermittent, peripheral involvement in the hiring process (for certain non-student employees). Clearly, this involvement is insufficient to qualify those few coordinators and specialists involved in that process as supervisors within the meaning of the Act.

Several of the coordinators and specialists are involved in evaluating other employees within their respective offices. However, the evaluation functions of these coordinators and specialist have been shown to be of limited effect in this proceeding. Further, many coordinators and specialists have no evaluation functions whatever. Other than the Coordinator of Financial Aid and Coordinator of Campus Operations, all other Coordinators and Specialists having any evaluative responsibilities were charged with evaluating employees who are not included in the petitioned-for unit. Hence, there can be no conflict of interest generated from such activities vis-a-vis the proposed negotiations unit.

As regards the evaluation activities of the Coordinators of Financial Aid and Campus Operations, the undersigned would make the following observations. Coordinators are at the fifth hierarchical level of the College table of organization (College Board of Trustees, President, Deans, Directors, Coordinators). Coordinators are at a level in the table of organization roughly similar to that of the faculty -- measured in terms of "organizational distance" from the public employer. Personnel recommendations emanating from this hierarchical level are subject to review at four higher levels within the institution. ^{5/} There is no indication in the record that coordinators or specialists have any input (and certainly no effective input) into decisions concerning renewal/non-renewal or promotion of employees. The involvement in the evaluation function by Coordinators of Financial Aid and Campus Operations is a relatively new development. No instance of an actual or potential substantial conflict of interest has been demonstrated herein. Even assuming arguendo that some conflict of interest is perceived to exist herein, under the circumstances of this matter, the undersigned would conclude that such conflict is of a de minimis nature.

Director Positions --

Directors would appear to comprise the fourth level of the College table of organization (Board of Trustees, President, Deans and Directors).

On a day-to-day basis, the four Deans and the Director of Institutional Development report to and work directly with the

^{5/} In fact, the testimony of Financial Aid Specialist Dixon would appear to raise some question concerning the effectiveness of the evaluation given to her (Dixon) by the Coordinator of Financial Aid.

President. The Directors of Instruction, Educational Services, and Student Services each report to and work with their respective Deans. During 1983, the average annual salary for Directors was \$25,500.

The Director of Educational Services reports to the Dean of Academic Affairs and is evaluated by him. Director Brennan oversees the library operation and works with faculty to coordinate their use of LRC resources. She hires adjunct faculty members. She also has solicited for candidates to fill the LRC Coordinator's job, interviewed the candidates, made the hiring selection of Coordinator White and offered Ms. White the position of LRC Coordinator. While the undersigned notes that she did consult with the Dean regarding the hiring of White, the hiring process for the Coordinator position was completely dominated by Director Brennan. Ms. Brennan also hired the LRC Clerk. Director Brennan supervises and evaluates Coordinator White. ^{6/}

In the testimony of LRC Coordinator White, it is clear that she does not perceive Director Brennan as a co-equal employment associate or even as a senior employee. The Coordinator correctly perceives Director Brennan as her supervisor.

Based upon all of the foregoing -- and particularly her role in the hiring process -- the undersigned concludes that the Director of Educational Services is a supervisor within the meaning of the Act. The undersigned further concludes that inclusion of the Director in the petitioned-for unit would give rise to impermissible conflicts of interest.

^{6/} Coordinator White has challenged evaluations given to her by Director Brennan. See Tr 2/80-84.

The Director of Student Services administers and supervises the Division of Student Services, functions as the College Registrar, maintains all student files, performs academic advising and is the College Affirmative Action Officer. On a daily basis, Director Licciardello supervises the Coordinator of Student Development, the Student Development and Counsellor Specialists, (3) the Division Secretary and several student aides. While none of the Specialists from this Division who testified had yet received an evaluation from the College, the Director's job description (Exhibit J-3) indicates "...Responsible for supervision and evaluation of staff persons assigned to the Division under the College structure chart." ^{7/} J-3 further indicates that in the absence of the Dean, the Director of Student Services is responsible for the operation and supervision of the entire Division. The Director of Student Services fully participates in the hire/interview process for specialists.

Director Licciardello also functions as the College Affirmative Action Officer. The Director drafted the College's current affirmative action policy. She monitors overall College hiring and submits periodic reports concerning same to the President. She also attends and participates in meetings of the President's Cabinet when affirmative action concerns are being discussed. Director Licciardello was interviewed and hired by the College President and is evaluated by the President and the Dean of Student Development.

The Director of Student Services has been directly involved in the disciplining of employees within the Student Services

^{7/} The undersigned notes that Director Licciardello testified that she has not evaluated the specialists and the coordinators but that in the past the Dean has done such evaluations.

subdivision. She has verbally criticized Specialist Sebok and she has taken actions which resulted in the issuance of a letter of reprimand by the Dean of Student Development to Specialist Vangieri. Further, Specialist Vangieri indicated that he considered Director Licciardello to be his supervisor.

Based upon the foregoing, the undersigned concludes that the Director of Student Services is a supervisor within the meaning of the Act. Even assuming arguendo that the Director is not a statutory supervisor, the undersigned finds that the inclusion of said Director in a unit with coordinators and specialists would give rise to impermissible conflicts of interest.

The primary function of the Director of Instruction is to supervise and evaluate the faculty. Director Bachmann is charged with monitoring and reviewing faculty professional development and college and community service contributions. The Director of Instruction reports to the Dean of Academic Affairs. The Director participates in the faculty hire/interview process and has an effective input into faculty hiring decisions, which are finally made by the Dean. ^{8/} Director Bachmann is responsible for administering the formal faculty evaluation process. He is the primary faculty evaluator. The faculty evaluation process is a multi-step process: (1) pre-classroom observation conference between the evaluator and faculty member (2) classroom observation(s) (3) post observation conference (4) subsequent conference wherein the formal, written

^{8/} The undersigned is aware that final decisions of hire or discharge are formally made by the public employer herein, which is the Salem Community College Board of Trustees. However, the effective recommendations upon which such decisions are based almost always emanate from management and/or supervisory levels within the employer's hierarchy.

At the time of this hearing, Director Bachmann had been at the College a comparatively short length of time (8-9 months). However, he had by then already participated in the hiring of one faculty member (Tr. 3, 32-42).

annual evaluation is presented to the faculty member by the evaluator.

Director Bachmann discusses certain faculty observations and evaluations with the Dean of Academic Affairs (Guy Altieri) -- particularly those evaluations in which performance is assessed as, comparatively speaking, unsatisfactory or needing improvement (where none has been forthcoming), where a faculty member raises objections to Director Bachmann's evaluation, or where a faculty member is being considered for tenure. Under such circumstances, Dean Altieri is likely to perform (and has performed) separate observations of those faculty members. During Director Bachmann's nine months with the College (up to the time of this hearing), Dean Altieri performed classroom observations upon five faculty members whom Director Bachmann had previously observed.

One of those five faculty members was non-renewed. Director Bachmann had performed a classroom observation of that faculty member and discussed his observations and the faculty member's overall performance with Dean Altieri on several occasions. (Dean Altieri also observed the faculty member.) Dean Altieri's assessment of the faculty member was in essential agreement with Director Bachmann's. The faculty member's contract was not renewed. ^{9/}

Several of Director Bachmann's faculty evaluations have engendered challenges by the evaluated faculty persons. One of those reached the level of a formal grievance. ^{10/} Director Bachmann is the first step of the faculty grievance procedure and has

^{9/} See Exhibits J-21, J-22 and Tr. 3/66-79. See generally, Tr. 3/42-85.

^{10/} See Exhibits J-23 and J-24.

processed at least one formal grievance. ^{11/} Director Bachmann has also issued a formal letter of reprimand to a faculty member. ^{12/}

Based upon all of the foregoing, the undersigned determines that Director Bachmann has an effective role in hiring faculty, is the primary faculty evaluator and, in connection with the latter role, has an effective role in renewal/non-renewal decisions. The Director is also a step in the faculty grievance procedure and is involved in the formal disciplinary process. Accordingly, the undersigned concludes that the Director of Instruction is a supervisor within the meaning of the Act.

The Director of Institutional Development is the highest paid of the four Director positions, reports directly to the President and regularly works with the President. This Director position and its support staff (one secretary) are part of the Office of the College President. Director of Institutional Development Clarke is a member of the College President's Cabinet. Prior to the Wenzel Administration, Director Clarke was a regular participant in Cabinet meetings at least as far back as December 1981. Besides the President, the four Deans and the Director of Institutional Development, no other person or position at the College has been a regular member of and participant in Cabinet meetings.

The job description for the Director of Institutional Development indicates that the position is primarily involved with the development of various internal and external management programs for the College, resource development and grants administration (the planning, writing and processing of various types of grants on behalf

^{11/} See Exhibit J-54, Tr. 3/86.

^{12/} See Tr. 3/65-66.

of the College).

College policy is formally enacted by action of the College Board of Trustees, upon the recommendation of the President. The Office of the President periodically develops policy proposals for submission to the Board of Trustees. College policies are contained in a Policy Manual. Policies are periodically added, deleted or revised therein. The bulk of these policies were formulated and implemented during the administration of the first Salem College President (Herbert Donahey). President Donahey developed the policy proposals for submission to the Board of Trustees with a group which served as his cabinet and who were then known as "Senior Staff."

Currently, President Wenzel meets with his Cabinet (the four deans and the Director of Institutional Development) on a weekly basis. The Cabinet addresses a wide variety of issues which are of concern to the College. Occasionally, other persons are invited to portions of Cabinet meetings which focus upon specific topics -- for example, Director Licciardello has attended certain Cabinet meetings wherein affirmative action issues were considered. ^{13/}

Based upon the record herein and the foregoing discussion, the undersigned concludes that the Director of Institutional Development is a managerial executive. The record indicates that Director Clarke occupies a relatively high position in the College table of organization; he is a regular participant in meetings wherein College policy is developed; and his own job description sets forth

^{13/} The testimony indicated that the President also held weekly meetings with one or more of the Deans wherein single issue agendas are discussed. The Dean of Institutional Development usually does not attend these meetings.

examples of various management tasks for which he is responsible. His work performance -- particularly his involvements in policy development and the grants management process -- indicates an ability to "affect broadly the organization's purpose or its means of effectuation of those purposes." ^{14/}

Further, the undersigned concludes that based upon their various terms and conditions of employment -- most notably compensation, supervision and job responsibilities -- directors have little community of interest with coordinators and specialists. The undersigned would also note that there is little chance that unit proliferation would become a problem in this context, inasmuch as the record indicates the directors comprise the last remaining group of unorganized employees at the College.

IV Conclusions and Recommendations

Based upon the entire record in this proceeding and the foregoing discussion, the undersigned concludes and recommends as follows:

1) That the Director of Institutional Development is a managerial executive; that the Directors of Instruction, Educational Services and Student Services are supervisors within the meaning of the Act and that the inclusion of the Directors of Educational Services and Student Services in the petitioned-for unit would engender impermissible conflicts of interest.

2) That accordingly, the positions of Director of Institutional Development, Director of Instruction, Director of Educa-

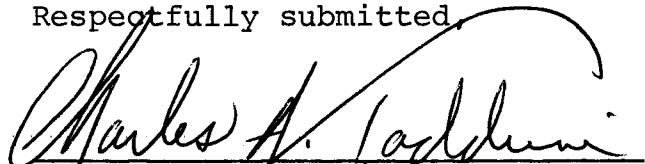
14/ See Exhibits J-4, P-5, E-1 and C-3.

tional Services and Director of Student Services should not be included in the petitioned-for unit.

3) That accordingly, the unit petitioned for herein is an appropriate unit for collective negotiations; more specifically, the appropriate unit is: all coordinators and specialists, excluding managerial executives, confidential employees, craft employees, police employees, fire employees, and supervisors within the meaning of the Act.

4) That pursuant to N.J.A.C. 19:11-2.6, the Commission direct that an election be conducted in the petitioned-for unit.

Respectfully submitted,



Charles A. Tadduni
Hearing Officer

Dated: July 11, 1984
Trenton, New Jersey