

P.E.R.C. NO. 85-116

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WATCHUNG HILLS REGIONAL HIGH
SCHOOL BOARD OF EDUCATION,

Public Employer-Petitioner,
-and-

Docket No. CU-80-36

WATCHUNG HILLS REGIONAL
EDUCATION ASSOCIATION,

Employee Representative.

SYNOPSIS

The Public Employment Relations Commission clarifies a negotiations unit to exclude all department chairpersons from a negotiations unit represented by the Watchung Hills Regional Education Association. The Commission finds, in agreement with a Commission Hearing Officer, that an actual conflict of interest exists between the department chairpersons and the other members of the unit and that the supervisory duties of the chairpersons have increased since 1968.

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EDUCATION ASSOCIATION,

Employee Representative.

Appearances:

For the Public Employer-Petitioner, Buttermore, Mullen &
Jeremiah, Esqs. (William J. Jeremiah, II, of Counsel)

For the Employee Representative, Klausner & Hunter, Esqs.
(Stephen B. Hunter, of Counsel).

DECISION AND ORDER

On November 26, 1976, Watchung Hills Regional High School Board of Education ("Board") filed a clarification of unit petition with the Public Employment Relations Commission. The Board's petition seeks to exclude all department chairpersons from the negotiations unit represented by the Watchung Hills Regional Education Association ("Association").

On April 18, 1980, the Director of Representation issued a Notice of Hearing. On August 5, 6, October 20, 21, and November 17, 1980, Hearing Officer Joan Kane Josephson conducted a hearing. The parties examined witnesses and introduced exhibits. The Board submitted a post-hearing brief on September 10, 1982 and moved to supplement the record.

On June 22, 1983, Hearing Officer Josephson granted the Board's motion to supplement the record. She then conducted further hearings on June 22, 1983 and July 8, 1983. On January 3, 1984, the Association filed its post-hearing brief.^{1/}

The record was then reopened to admit a stipulation that the department chairpersons are supervisors within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq ("Act"). The record was closed on August 6, 1984.

On September 25, 1984, Hearing Officer Stuart issued his report and recommendation. H.O. No. 85-4, 10 NJPER 580 (¶15271 1984). The Hearing Officer recommended that the department chairpersons be removed from the Association's negotiations unit. He found that:

- (1) The stipulated finding of an established past practice is partially negated by an increase in the overall number of supervisory-type duties and generally changed circumstances, subsequent to July 1, 1976, and
- (2) instances existed of both actual conflict and a continued potential for conflict, each substantial in nature, negating an adequate community of interest between department heads and other non-supervisory teaching personnel....

^{1/} Hearing Officer Joan Kane Josephson left the employ of the Commission on October 14, 1983, and, Marc F. Stuart was designated to issue the Hearing Officer's report and recommendation pursuant to N.J.A.C. 19.11-6.4.

On October 24, 1984, after receiving an extension of time, the Association filed its exceptions. It contends that the pre-1968 negotiations history warrants a continuation of the existing unit, that the duties of the department chairpersons have not been significantly upgraded since then, and that no actual conflicts of interest exist which would warrant the exclusion of the department chairpersons from the existing unit.

We have reviewed the record. The Hearing Officer's findings of fact are accurate (pp. 3 to 12). We adopt and incorporate them here.

We agree that the record establishes that an actual conflict of interest exists and that the supervisory duties of department heads have increased since 1968. Specifically, the Hearing Officer found an actual conflict exists between department heads and other teaching staff members in the following areas:

department heads' evaluative and disciplinary functions; preparation and implementation of PIPs; the non-retention of non-tenured teaching staff members based, in part, on input from department heads; the functioning of department heads as the first step in the negotiated grievance procedure; department heads' participation in cabinet meetings for the purpose of formulating policy for all teaching staff members; the occurrence of a 1976 job action leading to the formation of a picket line by unit members which resulted in two department heads having to cross the picket line in order to enter their work place; department heads' recommendations for cuts in staff due to fiscal exigencies; at least one instance of a grievance filed by a department member against his department head; another grievance by the association president involving his own department head; instances of disagreement over a

newly implemented grading procedure in the Science Department; and instances of general conflict over the formation and implementation of departmental policy by the department head on behalf of the departmental teaching staff.

Additionally, the Hearing Officer noted the following instances of substantially changed circumstances:

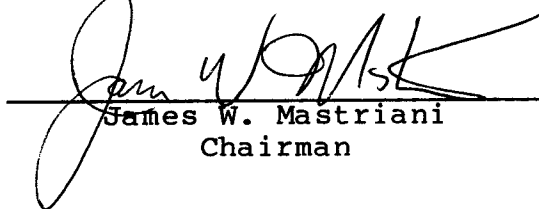
the introduction and the implementation of the PIP procedure; the department heads' responsibility as effective evaluators of teaching staff members based upon the 1978 legislation requiring supervisory certification; the substantial shift in certain supervisory and evaluative duties from vice principals to department heads; a substantial increase in the number of personnel over the years; a substantial increase in department heads' responsibility for budget formulation within their respective departments.

The foregoing circumstances warrant removing the department heads from the unit notwithstanding their existence in the unit before 1968. Bd. of Ed. of West Orange v. Wilton, 57 N.J. 404 (1971); Ramapo-Indian Hills High School Regional District Bd. of Ed., D.R. No. 81-26, 7 NJPER 119 (12048 1981); In re West Paterson Bd. of Ed., P.E.R.C. No. 77 (1973).

ORDER

The negotiations unit represented by the Association is clarified to exclude department heads.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Butch, Suskin and Wenzler voted in favor of this decision. Commissioner Graves was opposed. Commissioner Hipp abstained.

DATED: Trenton, New Jersey
May 15, 1985
ISSUED: May 16, 1985

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

In the Matter of

WATCHUNG HILLS REGIONAL HIGH
SCHOOL BOARD OF EDUCATION,

Public Employer-Petitioner,

- and -

Docket No. CU-80-36

WATCHUNG HILLS REGIONAL
EDUCATION ASSOCIATION,

Employee Representative.

SYNOPSIS

A Hearing Officer of the Public Employment Relations Commission recommends that Department Heads employed by the Watchung Hills Regional High School Board of Education are supervisors with the meaning of the Act and therefore should be removed from the Watchung Hills Regional Education Association's unit. Despite a pre-Act bargaining history, the Hearing Officer finds that the combination of actual conflicts of interest plus the presence of changed circumstances since 1968, collectively, warrant the Department Heads' removal from the 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.

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Appearances:

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(William J. Jeremiah, II, of counsel)

For the Employee Representative
Klausner & Hunter, Esqs.
(Stephen B. Hunter, of counsel)

HEARING OFFICER'S
REPORT AND RECOMMENDATIONS

STATEMENT OF CASE

On or about November 26, 1976, the Watchung Hills Regional High School Board of Education ("Board") filed a Clarification of Unit Petition with the Public Employment Relations Commission ("Commission") (C-1). ^{1/} The Board's petition seeks to exclude all department chairpersons ("Department Heads") from a negotiations unit represented by the Watchung Hills Regional Education Association ("Association").

^{1/} Exhibit designations are designated as follows: C indicates Commission exhibits; J indicates Joint exhibits; PE indicates Petitioner exhibits; and R indicates Respondent exhibits. Transcript designations are as follows: TA refers to the transcript of August 5, 1980; TB refers to the transcript of August 6, 1980; TC refers to the transcript of October 20, 1980; TD refers to the transcript of October 31, 1980; TE refers to the transcript of November 17, 1980; TF refers to the transcript of June 22, 1983; and TG refers to the transcript of July 8, 1983.

Pursuant to a Notice of Hearing issued April 18, 1980, a hearing was conducted on August 5, 6, October 20, 21, November 17, 1980, June 22 and July 8, 1983 before Hearing Officer Joan Kane Josephson. ^{2/} At the hearing, the parties were given the opportunity to examine witnesses, present evidence and argue orally. The Board submitted a post-hearing brief on September 10, 1982. In a decision dated June 21, 1983, Commission Hearing Officer Joan Kane Josephson granted Respondent's motion to supplement the record in this matter. Thereafter, following the June 22, 1983, and July 8, 1983, hearing dates, the Association filed its post-hearing brief on January 3, 1984. Finally, both the Board and the Association entered into a joint stipulation which was received by the Commission on August 6, 1984. The record was reopened in order to admit this joint stipulation into evidence (see exhibit J-2). Ultimately, on August 6, 1984, the record was closed.

The parties have stipulated to a pre-Act bargaining history (TA-4-5), and have stipulated that the department heads employed by the Board are supervisors within the meaning of the Act and have been since prior to 1968 (J-2). The Board maintains that department heads should be excluded from the Association's unit based upon assertions of changed circumstances and conflict of interest. The Association disputes the Board's position.

Therefore, a controversy exists concerning the composition of a collective negotiations unit and the matter is appropriately

^{2/} Hearing Officer Joan Kane Josephson left the employ of the Commission on October 14, 1983, and, thus, the undersigned has been designated to issue a report and recommendation on the record pursuant to N.J.A.C. 19:11-6.4.

before the undersigned Hearing Officer for Report and Recommendation.
(See footnote no. 2).

ISSUE

Assuming statutory supervisory status and a pre-Act bargaining history, does the presence of changed circumstances and/or actual conflicts of interest warrant the removal of the department heads from the Association's unit?

FINDINGS OF FACT

Based upon the entire record, the undersigned makes the following findings of fact:

1. Watchung Hills Regional High School Board of Education is a public employer within the meaning of the Act, is the employer of the employees who are the subject of this petition, and is subject to the provisions of the Act (TA-6).
2. Watchung Hills Regional Education Association is an employee representative within the meaning of the Act and is subject to its provisions (TA-6).
3. There are nine department heads employed by the Board (TA-8). Generally, the responsibilities of the department heads are subject to Board policy (TA-8). Since 1967 many of the department heads' duties have remained basically the same; they have participated in the prescreening of job applicants, decisions on hiring, and the evaluation of their department members (TA-94; TC-14). Department heads have a reduced load which operates as follows: Whereas a normal teaching load consists of a homeroom, five teaching assignments and an extra duty period, department heads with one-to-three-member departments have no homeroom period; department heads with four-to-eight-member departments have no homeroom and four daily teaching assignments;

and department heads with nine-member departments or larger departments have no home room and three daily teaching assignments (TA-46). The head of the English or Communications Department has only one daily teaching assignment (TA-47). In all cases department heads carry a reduced load to enable them to carry out their supervisory responsibilities (TA-47). Department heads receive an extra stipend for performance of their supervisory duties based, in part, upon the size of their respective departments (TA-49). All department heads spend at least 50% of their time, and in many cases a great deal more than that, on their supervisory responsibilities as opposed to their teaching responsibilities (TA-65; TC-104-105). Department heads' supervisory functions are deemed by the administration to be their most important function (TA-12-13).

4. Department heads participate with the administration in the selection and evaluation of department members (TA-13). With regard to the selection process and wherever possible, department heads perform initial screening of applicants for a particular position (TA-14-17; TA-104). Initial screenings consist of a review of applications, personal interviews and, normally, subsequent elimination of certain applicants (TA-14-15). Interviews with applicants are also conducted by other staff members (TA-15), usually including but not limited to the principal and superintendent (TA-18-19). The final decision to hire is made by the Board (TA-18). The former head of the English Department testified that during her five years as department head, with one exception owing to her unavailability to interview an applicant, she recommended the hiring of approximately five to fifteen department teaching personnel, all of whom were ultimately hired

by the Board (TB-37). Futhermore, she testified that on one occassion her recommendation differed from that of the school principal, and it was the recommendation of the department head that prevailed (TB-36). Another of the department heads testified that she effectively hired six people during her tenure as department head (TC-135). The Science Department Head testified that although he participates in the hiring process, his recommendations for hire have frequently not been followed (TD-3-5).

5. Prior to 1978, formal written evaluations of teaching staff members were performed by the school principal or vice principal with the input of the department head (TA-28; TA-37-38). Approximately during the 1977-78 school year, department heads, pursuant to the requirement that they hold a valid supervisory certificate, and pursuant to stricter observation and evaluation requirements contained in the New Jersey Administrative Code, were given the responsibility of becoming the effective evaluators of teaching personnel within their departments (TA-29; TC-57; TC-64-65). The department heads prepare the year-end summary evaluations for the staff members' personnel files (TB-38-39). The department heads' summary evaluations of teaching staff members are taken into account with regard to the question of an individual's continued employment (TA-42). Prior to the 1978-79 school year, the English Department Head prepared the classroom observations and year-end evaluations; however, the vice principal in charge of this particular department would also perform the same functions in addition to an end-of-year summary evaluation for the staff members' personnel files (TB-41-42). Since the 1978-79 school year and until the termination of her employment, the English Department Head has been the sole observer and evaluator of the English Department's

teaching staff (TB-38-39). On one occasion a formal written grievance was filed as a direct result of a summary evaluation prepared by the English Department Head (TB-58). The Math Department Head testified that there was no substantial change in his evaluation duties as a result of the requirement that subject supervisors be certified (TB-138). A member of the German Department testified that there had been no significant change in the German Department Head's supervisory duties with respect to staff evaluations and observations over the ten-year period immediately preceding the hearing in this matter (TE-311). The Foreign Language Department Head testified that the 1978 certification requirement has made the evaluation component of the department heads' responsibilities more important, and has led to increased conflict and antagonism between department heads and their staff members (TE-59). Initially, following the 1978 changes in evaluation procedures resulting from the 1978 legislation establishing department heads as the official evaluators of teaching staff within their respective departments, a series of grievances were filed by individual department members against their department heads; however, since then there has been a gradual reduction in the number of grievances and improved cooperation between staff and administration (TF-16). The new legislation required more formalized evaluations and procedures (TF-48). Overall, there has been a marked shift in evaluative duties from vice principals to department heads since 1978 (TF-17-18). These changes have given department heads greater responsibilities in the evaluation process (TC-59; TC-85).

Another function performed by the department heads relates to their inclusion in the process involved in the preparation of

Professional Improvement Plans ("PIPs") (TA-40). PIPs were instituted for the first time at the end of the 1979-80 school year. They have had the effect of substantially changing the evaluation process in that once a PIP has been prepared for a staff member, thereafter, the staff member's performance must be evaluated with regard to the goals expressed in the previous PIP (TE-59-60; TE-63). Although the PIP requirements were relatively new, the Math Department head testified that, basically, he had been charged with this responsibility all along (TD-141). The Foreign Language Department Head testified that the implementation of the PIP program constituted a significant change in procedure because it required accord between the staff member and supervisor with regard to the staff member's progress and future goals (TE-81). The Science Department Head testified that at least one teacher every year challenges the PIP prepared on that teacher's behalf (TG-121).

6. There have been no dismissals of tenured teaching staff in the district for inefficiency or other good cause, nor have there been any instances of the withholding of a tenured teacher's increment (TA-42). There have been instances in the district where a non-tenured teacher's performance has resulted in non-retention, and in such cases the department heads' input carries significant weight (TA-43). In at least two instances department heads' recommendations to renew the employment of a non-tenured teaching staff member have been rejected by the Board (TA-68-71); however, the Board has never voted to retain a non-tenured teacher over the objection of the department head (TA-71). The English Department Head made recommendations for renewal of non-tenured department members which were generally followed; however, on one occasion a teacher was not renewed over a department

heads' objection (TB-71). The Related Arts Department Head was one of two department heads who testified that his decisions on renewals, non-renewals and discipline have not been challenged (TC-38-39; TC-121-123). The Science Department Head testified that his recommendations concerning retention and non-retention and withholding of salary increments have been specifically ignored by the administration (TD-10-11). During the period 1980-83 and during the period that the school was without a principal, department heads made recommendations for reemployment and non-reemployment; however, this function was largely restored to the principal once there was a new principal (TG-50). During the period 1980-83 it was determined that staff members would not be reappointed over department heads' objections (TG-50-52).

7. With regard to the imposition of discipline the record reveals that department heads mete out discipline on a day-to-day basis (TA-59). The superintendent of schools testified that he believes that department heads are reluctant to administer discipline to teachers in their respective departments in some cases due to a conflict of interest arising out of the inclusion of both teachers and department heads in one collective negotiations unit (TA-61). The Related Arts Department Head testified that he has the authority and responsibility of disciplining members of his department where necessary (TC-66-67). During her ten years as department head, the head of the English Department disciplined department members when necessary either orally or in writing (TB-54-57).

8. With regard to other areas suggesting possible conflicts of interest and/or substantial change since 1968, the Related Arts Department Head testified that the number of teaching personnel in the

Industrial Arts Department (a part of the Related Arts Department) more than doubled since the inception of his employment in 1965 (TC-45). However, the Related Arts Department Head testified that there has been no significant change in his responsibilities since the 1967-68 school year (TC-14-25).

During the period 1980-83 teachers took a great deal of authority in the area of student discipline which was formerly the responsibility of the department heads, permitting department heads more time for their other duties (TG-7-8).

Department heads supervise the instruction of teachers in their respective departments (TA-66-67). Prior to the supervisor's certificate requirement, vice principals were sometimes assigned to supervise individual departments; however, since the addition in 1978 of the supervisor's certification requirement, department heads have performed this function exclusively (TC-48-49; TC-58). The English Department Head testified that her supervisory type responsibilities increased significantly over the immediately preceding five year period (TB-84-86; TB-94-97). The Guidance Department Head testified that the requirement that subject supervisors be certified had the effect of formalizing and unifying many of the supervisory functions performed formerly in varying degrees by each department head (TE-12). In the principal's evaluation of the Science Department Head it was indicated that the Science Department Head should take more of a supervisory role with individual members of his department (TG-79). Input from the department head carries the greatest weight in terms of teaching assignments to individual teachers (TA-44).

Department heads function as the first step in the teachers' negotiated grievance procedure (TA-53).

Department heads participate in cabinet meetings which are meeting at which policy decisions are made (TA-56-57); however, the cabinet has been in existence at least since 1961 (TC-30).

On November 2, 1976 (Election Day) a dispute arose between the Association and the Board over whether school would be open, which dispute resulted in a picket line by Association members being crossed by two department heads who were also members of the same unit (TA-77). The English Department Head testified that the process involved in reaching her decision to participate in the Election Day 1976 job action caused considerable conflict of interest between her function as an association member and as a member of the administrative team (TB-76). The Related Arts Department Head expressed no feeling of conflict over the 1976 job action (TC-82). The Guidance Department Head testified that he perceived no conflict of interest between his function as department head and as a member of the association's negotiation's unit as a result of the November 2, 1976 job action (TE-26-29).

Other instances of conflict of interest arose previously where the Board, due to physical exigencies, was forced to make cuts in staff and in programs, and recommendations for such cuts were made by the department heads (TC-81; TA-86). However, considering the length of the bargaining history between the parties, individual instances of conflict have not been overwhelming (TA-119; TA-126-128).

During her ten years as department head, the head of the English Department formulated and implemented policy for and on behalf of the department, which usually conflicted with the wishes of other department members (TB-52-53). The English Department Head testified that the conflict of interest over her dual role eventually caused her to terminate her association membership (TB-98). The Related Arts Department Head testified that there had been no instances of conflict of interest between his role as a member of the administrative team and his role as an association member since the inception of his employment in 1961 (TC-39-41). ^{3/} The Foreign Language Department Head testified that the inclusion of supervisors in the unit creates difficulties which could be avoided by their removal (TE-12). The Foreign Language Department Head testified that his supervisory-type duties have not significantly increased since 1973 (TE-73-80). In one conflict of interest situation, a unit member filed a grievance against his supervisor, the Science Department Head, who was also a member of the same unit (TD-26). The Science Department Head testified that there was some disagreement among Science Department teachers with regard to the newly implemented grading procedure which involved the preparation of a duplicate copy of the grade sheet for science projects; however, it never rose to the level of a formal grievance (TG-20-21). The Association's president testified that he never filed a grievance against his department supervisor and only once had occasion to file a grievance involving his department supervisor (TG-58). The Board of Education President testified that she believed this to be an example of actual conflict (TG-148-149).

^{3/} The undersigned notes a disparity in dates corresponding to the Related Art Department Heads' commencement of employment; however, finds it insignificant with regard to the issue for determination herein.

The department heads' participation in budget formulation has significantly increased since 1967 (TC-86). The Science Department Head controls the budget for his department (TD-36-37); however, he testified that his duties with regard to budget preparation decreased during the period 1980-83 (TG-2-3). The Foreign Language Department Head testified that the department heads' role in departmental budget preparation significantly increased specifically with regard to budget development at primary stages of the budget process (TE-64-65).

As of the last day of hearing in this matter, the Administrative Reorganization Committee report has not resulted in any changes concerning the functions of departments within their respective departments (TG-132).

LEGAL ANALYSIS

The parties herein have established by way of stipulation that the department heads are statutory supervisors and have been since prior to 1968. Furthermore, the parties have stipulated to a pre-1968 bargaining history. Accordingly, the established practice exception precludes any automatic removal of department heads from this mixed unit. N.J.S.A. 34:13A-5.3. Consequently, the principles of conflict of interest established by the New Jersey Supreme Court in Bd. of Ed. of West Orange v. Wilton, 57 N.J. 404 (1971), become the focal point for analysis with regard to this mixed unit. Thus, the Court held:

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. [57 N.J. at 425].

The Court further stated:

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. [57 N.J. at 425-426].

In In re West Paterson Bd/Ed, P.E.R.C. No. 77 (1973), the Commission observed:

Future contingencies are an acceptable and, in fact, generally controlling consideration in most determinations concerning supervisors because, in the absence of a history, there is only expectation and probability that the interests of supervisors and those supervised will clash, to the detriment of some right, entitled to protection. But where past experience exists, such can obviously be a more accurate gauge of probabilities than mere speculation not benefited by hindsight. [at 15-16].

In In re City of Trenton, D.R. No. 83-33, 9 NJPER 382 (¶ 14172 1983) the Director of Representation held:

In its determinations in reviewing Wilton considerations in the context of a history of collective representation, the Commission has found that the experiential factor, rather than the speculative factor should be utilized to gauge the potential for substantial conflict arising in the future. [9 NJPER at 384].

Thus, only the occurrence of actual, substantial conflicts supersede the effect of an established practice and require the removal of supervisors from a mixed unit.

In In re Ramapo-Indian Hills High School Regional District Board of Education, D.R. No. 81-26, 7 NJPER 119, (¶ 12048 1981), the Director of Representation, again applying principles established

in West Paterson, supra, concluded that an established practice exception could also be mitigated by a substantial increase in supervisory duties over time.

In the instant matter, the undersigned recommends removal of the department heads from the mixed unit based primarily on the presence of actual conflicts of interest, and secondarily upon changed circumstances. Thus, allowing for certain inconsistency in testimony during this lengthy proceeding, the undersigned finds adequate support in the record for a finding of actual conflict between department heads and other teaching staff members ^{4/} arising out of the following: department heads' evaluative and disciplinary functions; preparation and implementation of PIPs; the non-retention of non-tenured teaching staff members based, in part, on input from department heads; the functioning of department heads as the first step in the negotiated grievance procedure; department heads' participation in cabinet meetings for the purpose of formulating policy for all teaching staff members; the occurrence of a 1976 job action leading to the formation of a picket line by unit members which resulted in two department heads having to cross the picket line in order to enter their work place; department heads' recommendations for cuts in staff due to physical exigencies; at least one instance of a grievance filed by a

^{4/} Although the testimony from the individual department heads appears to suggest substantial conflict and substantially changed circumstances in some departments and not necessarily in others, the undersigned believes that the removal of some department heads from the unit and not others would lead to further divisiveness. Additionally, the undersigned believes factors other than their actual lack of authority or of effective input may be responsible for certain department heads' feelings of no real proximity between department heads and other members of the administrative team.

department member against his department head; another grievance by the association president involving his own department head; instances of disagreement over a newly implemented grading procedure in the Science Department; and instances of general conflict over the formation and implementation of departmental policy by the department head on behalf of the departmental teaching staff.

Additionally, the undersigned notes the following instances of substantially changed circumstances: the introduction and the implementation of the PIP procedure; the department heads' responsibility as effective evaluators of teaching staff members within their respective departments based upon the 1978 legislation requiring supervisory certification; the substantial shift in certain supervisory and evaluative duties from vice principals to department heads; a substantial increase in the number of personnel over the years; and a substantial increase in department heads' responsibility for budget formulation within their respective departments.

Thus, the undersigned determines the above factors, although not necessarily overwhelming when taken individually, collectively provide adequate support for a finding of actual conflict, and to a lesser degree, changed circumstances necessitating the removal of the department heads from the Association's unit.

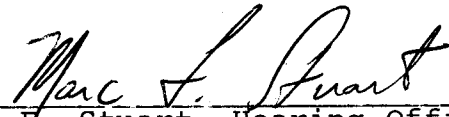
RECOMMENDATIONS

Based upon the foregoing discussion, the undersigned hearing officer recommends that the department heads employed by the Board be removed from the Association's unit for the following reasons:

(a) Instances exist of both actual conflict and a continued potential for conflict, each substantial in nature, negating an adequate community of interest between department heads and other non-supervisory teaching personnel and;

(b) the stipulated finding of an established practice is partially negated by an increase in the overall number of supervisory-type duties and generally changed circumstances, subsequent to July 1, 1968.

RESPECTFULLY SUBMITTED



Marc F. Stuart, Hearing Officer

DATED: September 25, 1984
Trenton, New Jersey