

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

In the Matter of

SOUTH BRUNSWICK TOWNSHIP BOARD  
OF EDUCATION,

Public Employer,

-and-

DOCKET NO. CU-81-24

SOUTH BRUNSWICK SCHOOL ADMINISTRATORS  
ASSOCIATION, a/w NJASPS,

Petitioner.

SYNOPSIS

In a Clarification of Unit proceeding, a Hearing Officer of the Public Employment Relations Commission recommends that the Student Affairs Coordinator employed by the South Brunswick Township Board of Education be excluded from the negotiations unit represented by the South Brunswick School Administrators Association.

The Hearing Officer found that the Association represents employees of the Board who are supervisors within the meaning of the New Jersey Employer-Employee Relations Act. Since the Hearing Officer concluded that the Student Affairs Coordinator is not a supervisor within the meaning of the Act, he recommended that the Student Affairs Coordinator be excluded from the negotiations unit represented by the Association in compliance with N.J.S.A. 34:13A-5.3.

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

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Appearances:

For the Public Employer  
Cassetta, Brandon Associates  
(Bruce Taylor, Labor Consultant)

For the Petitioner  
New Jersey Association of School Principals and Supervisors  
(Robert M. Schwartz, Esq.)

HEARING OFFICER'S  
REPORT AND RECOMMENDATIONS

On October 24, 1980, the South Brunswick School Administrators Association, affiliated with the New Jersey Association of School Principals and Supervisors (the "Association"), filed a Petition for Clarification of Unit with the Public Employment Relations Commission (the "Commission") seeking a clarification of a negotiations unit employed by the South Brunswick Township Board of Education (the "Board"). The negotiations unit represented by the Association consists of "...all Principals, Assistant Principals, the Director of Instructional Development, the Director of Special Services, and any Administrative Assistants employed by the Board." <sup>1/</sup>

1/ Exhibit J-1, Article I.

The Association urges that the newly created title of Student Affairs Coordinator should be included within the negotiations unit which the Association represents. Specifically, the Association asserts that the Student Affairs Coordinator position, held by Mr. Vincent DeLucia, is virtually identical to a "Staff Aide" position which it previously represented, that it currently represents a similar position in the South Brunswick Schools (the Administrative Aide for Student Affairs), that the Student Affairs Coordinator shares a community of interest with the members of the Association, and that these assertions compel the inclusion of the Student Affairs Coordinator in the Association's negotiating unit. The Board contends that the Student Affairs Coordinator title should not be included in the Association's unit because the new title is neither an administrative nor a supervisory position and, therefore, the Student Affairs Coordinator does not share a community of interest with the individuals represented by the Association. The Board does not contest that the Association represented the Staff Aide title, but argues that the Student Affairs Coordinator position is substantially distinguishable from the Staff Aide position, as well as from the Administrative Aide for Student Affairs in the South Brunswick Schools represented by the Association. In essence, the Board argues that the Association represents supervisors, but that DeLucia is not a supervisor within the meaning of the Act. The Board, therefore, urges a finding that DeLucia should not be included in the negotiations unit represented by the Association.

Pursuant to a Notice of Hearing dated April 24, 1981, a hearing was held before the undersigned Hearing Officer on June 3, 1981. At the hearing, all parties were given opportunities to examine and cross-examine witnesses, present evidence and argue orally. On July

31, 1981, the Hearing Officer requested additional documentary evidence from the parties, which was received by August 27, 1981. Both parties waived the right to file post-hearing briefs.

Based on the entire record in these proceedings, the Hearing Officer finds that:

1. The South Brunswick Township Board of Education is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and is subject to its provisions.

2. The South Brunswick School Administrators Association is an employee representative within the meaning of the Act and is subject to its provisions.

3. The Association has filed a Petition for Clarification of Unit seeking a determination that the title of Student Affairs Coordinator should be included within the negotiations unit represented by the Association. The Board asserts that DeLucia is not a supervisor within the meaning of the Act and should therefore be excluded from the Association. Accordingly, there is a question concerning the composition of a collective negotiations unit and the matter is properly before the undersigned for a report and recommendations.

4. N.J.S.A. 34:13A provides, in pertinent part:

5.3...nor, except where established practice, prior agreement or special circumstances, dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership....

6(d)...The division shall decide in each instance which unit of employees is appropriate for collective negotiations, provided that, except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes (1) both supervisors and nonsupervisors....

5. The instant petition concerns a position, Student Affairs Coordinator, held at all times relevant hereto by Mr. Vincent DeLucia. DeLucia has been Student Affairs Coordinator at the Crossroads School since July, 1979. Previously, DeLucia held the position of Staff Aide at the Crossroads School from November 1979 until he was appointed Student Affairs Coordinator.

6. As Staff Aide, DeLucia was represented by the South Brunswick Education Association prior to the 1977-78 academic year. By the fall of 1977, the Staff Aide position, by agreement between the Board and the South Brunswick Education Association, was no longer represented by the South Brunswick Education Association. <sup>2/</sup> In the early fall of 1977, DeLucia sought and received membership in the South Brunswick School Administrators Association. <sup>3/</sup> Thereafter, the Administrators Association negotiated on DeLucia's behalf with the Board, <sup>4/</sup> until the summer of 1979, when the Staff Aide position was abolished by the Board and the Student Affairs Coordinator position was created. <sup>5/</sup> During that summer, DeLucia was appointed as Student Affairs Coordinator and was informed that the Board did not feel that he belonged in the unit represented by the Administrators Association. <sup>6/</sup> Subsequently, the Administrators Association filed the instant petition.

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<sup>2/</sup> Stipulation #3.

<sup>3/</sup> Transcript at p. 37.

<sup>4/</sup> Stipulations 4 through 8; Transcript at p. 16.

<sup>5/</sup> Stipulations 9 and 10.

<sup>6/</sup> Stipulation 10; Transcript at p. 17.

7. The Association contends that DeLucia's functions have not changed since the Board changed his title, and that the Association should therefore continue to represent DeLucia in his new title. DeLucia testified that his responsibilities as Student Affairs Coordinator are identical to those he performed as Staff Aide, including roles as student ombudsman and disciplinarian, program, transportation and communications coordinator. DeLucia testified that his job did change in one minor respect: as Staff Aide, DeLucia was responsible for the distribution of audio-visual supplies and equipment, and as Student Affairs Coordinator, a work force of high school students performs those functions under DeLucia's supervision. <sup>7/</sup>

8. The principal of the Crossroads School, Dr. Frederick Nadler, who is DeLucia's immediate supervisor, confirmed that DeLucia's responsibilities as Student Affairs Coordinator are virtually identical to his duties as Staff Aide with the one exception noted above (i.e. the change in duties as to the distribution of audio visual equipment.) <sup>8/</sup>

9. The Association also contends that it already represents a position similar to that of Student Affairs Coordinator, and that therefore it should represent the Student Affairs Coordinator as well. The title which the Association already represents is the Administrative Aide for Student Affairs, which is held by a Mr. Frank Petrillo. <sup>9/</sup> The Administrative Aide for Student

<sup>7/</sup> Transcript at pp. 12, 13, 23-30.

<sup>8/</sup> Transcript at p. 41.

<sup>9/</sup> Subsequent to the hearing, Frank Petrillo was appointed as Administrative Assistant for Student Activities and the Administrative Aide for Student Affairs became vacant. The parties have stipulated that, in his new position, Petrillo (continued...)

Affairs works exclusively in the South Brunswick High School. The High School Principal, 10/ the Crossroads School Principal 11/ and DeLucia 12/ testified that the Student Affairs Coordinator and the Administrative Aide for Student Affairs perform many of the same functions in their respective schools. The Administrative Aide for Student Affairs has a more clearly defined role in management and planning in the High School than does the Student Affairs Coordinator at the Crossroads School. 13/ Another distinction between the two positions is that the Administrative Aide for Student Affairs evaluates several teachers in the High School, while the Student Affairs Coordinator has no evaluative responsibilities at the Crossroads School. 14/

10. In addition to the Administrative Aide for the Student Affairs, all other positions which are indisputably included in the negotiations unit represented by the Association are also responsible for the evaluation of personnel. 15/

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9/ (continued...) evaluates coaches, heads of extra-curricular activities and custodians. In his new title, Petrillo is thus a supervisor within the meaning of the Act. As will be discussed infra, this finding does not alter the ultimate disposition of this case.

10/ T at p. 75.

11/ T at pp. 42-43.

12/ T at pp. 21-22.

13/ T at pp. 30-34.

14/ T at pp. 23, 35-36, 63-64, 69-74; Exhibit J-9

15/ Exhibit J-9.

11. DeLucia does not have the authority to hire or discharge personnel, nor does he effectively recommend the same. 16/

#### ANALYSIS

The disputed individual, Vince DeLucia, holds a title which is unique among the professionals in the South Brunswick Schools. The Student Affairs Coordinator has no teaching responsibilities; 17/ he is not an administrator; 18/ and he does not evaluate personnel. 19/ DeLucia primarily functions as a liaison between students and teachers at the Crossroads School.

Based upon the entire record, the undersigned concludes that the Student Affairs Coordinator position currently held by DeLucia and the Staff Aide position previously held by DeLucia are functionally identical. The parties have stipulated that the Staff Aide position was represented by the Association. The Association contends that these facts compel a finding that the Association necessarily represents DeLucia in the new position.

The Association's argument is not persuasive. DeLucia, in the Staff Aide position, was included in the Association's negotiations unit by agreement of the parties. The Commission has never previously considered the appropriateness of including DeLucia in the Association's unit, and is not bound by the parties' previous agreement on the subject. The parties no longer agree on the inclusion of DeLucia in the negotiations unit represented by the Association. Therefore, the

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16/ T at p. 23.

17/ T at p. 48.

18/ T at pp. 23, 47.

19/ T at pp. 23, 35-36 ; Exhibit J-9.



prior inclusion of the Staff Aide position, despite its similarity to the Student Affairs Coordinator position, is not dispositive of this case.

Instead, the issue before the undersigned is the appropriateness of including DeLucia, in his present position as Student Affairs Coordinator, in the negotiations unit represented by the Association. The Association contends that it represents a similar position in the High School, Administrative Aide for Student Affairs, that DeLucia shares a community of interest with the Administrative Aide for Student Affairs and other individuals represented by the Association, and that, therefore, the Association should represent DeLucia. These arguments are considered below seriatim.

The similarities between the Student Affairs Coordinator position and the Administrative Aide for Student Affairs were described supra. Only two differences between the positions were noted: First, that the Administrative Aide for Student Affairs had a greater role in the High School in planning and management than did the Student Affairs Coordinator in the Crossroads School, and second, that the Administrative Aide for Student Affairs evaluates teachers in the High School, while the Student Affairs Coordinator has no evaluative functions at Crossroads.

The latter distinction is particularly important here. The Administrative Aide for Student Affairs, because of his stipulated primary evaluative <sup>20/</sup> responsibilities, is a supervisor within the meaning of the Act. See e.g. Waldwick Board of Education Association,

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20/ Exhibit J-9.

D.R. No. 82-5, 7 NJPER \_\_\_\_\_ (¶ \_\_\_\_\_ 1981). DeLucia, in his role as Student Affairs Coordinator, has no evaluative responsibilities (see supra), nor any other responsibilities which would make him a supervisory employee within the meaning of the Act. <sup>21/</sup> The undersigned therefore recommends that DeLucia is not a supervisor within the meaning of the Act.

The Association also contends that DeLucia shares a community of interest with the Administrative Aide for Student Affairs and the rest of the members of the negotiations unit represented by the Association. The parties have stipulated that all personnel in the negotiations unit represented by the Association evaluate employees of the Board. <sup>22/</sup> The negotiations unit represented by the Association is thus a unit of Board supervisory personnel. Since DeLucia is not a supervisor within the meaning of the Act, and indeed is supervised by a member of the Association's negotiations unit, he may not be included in a negotiations unit comprised of supervisors "...except where dictated by establish practice, prior agreement or special circumstances...." N.J.S.A. 34:13A-6(d) (See also N.J.S.A. 34:13A-5.3).

The Association does not contend, nor does the record suggest, that "established practice" or "prior agreement" exist here, which could otherwise permit a non-supervisor to be represented by the Association. <sup>23/</sup> Nor do "special circumstances" exist which would

<sup>21/</sup> While DeLucia does have the authority to discipline or effectively recommend same for students, this does not make him a supervisor within the meaning of the Act. Edison Township Board of Education and Edison Township Principal's Association, H.O. 81-7, 6 NJPER 582, 584 (¶ 11292 1980); D.R. 828, 7 NJPER \_\_\_\_\_ (¶ \_\_\_\_\_ 1981).

<sup>22/</sup> Exhibit J-9.

<sup>23/</sup> See In re West Paterson Board of Education, P.E.R.C. No. 77 (1973).

allow DeLucia to be represented by the Association. 24/

RECOMMENDATIONS

For the above stated reasons, the undersigned recommends the following:

1. That the Student Affairs Coordinator is not a supervisor within the meaning of the Act.
2. That the South Brunswick School Administrators Association is an employee representative which represents supervisory employees within the meaning of the Act.
3. That the negotiations unit represented by the Association should therefore be clarified to exclude the Student Affairs Coordinator from that negotiations unit.

RESPECTFULLY SUBMITTED



Mark A. Rosenbaum  
Hearing Officer

DATED: September 10, 1981  
Trenton, New Jersey

24/ "Special Circumstances" could exist, for example, if the title of the individual in question had been included by the parties under their current contract, which was executed after the creation of the Student Affairs Coordinator position. In re Clearview Regional High School Board of Education, D.R. No. 78-2 3 NJPER 248 (1977). However, such is not the case here.