

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

In the Matter of

NEW JERSEY INSTITUTE OF TECHNOLOGY,

Public Employer,

-and-

DOCKET NO. RO-78-109

OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION, LOCAL 32, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a Petition seeking to remove administrators from a larger unit of employees of the employer, consisting of faculty and administrative employees. The Director, agreeing with the Hearing Officer, finds that the evidence does not demonstrate that the administrative employees have been unfairly represented by the majority representative. The Director further determines that the alleged fact that the majority representative does not desire to represent the administrative employees, even if true, does not by itself demonstrate that the employees have been unfairly represented and that any conclusion of unfair representation based on this premise would be conjecture. The Director notes that the Petitioner is not foreclosed from bringing any facts before the Commission at a later time if unfair representation should occur.

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INTERNATIONAL UNION, LOCAL 32, AFL-CIO,

Petitioner.

Appearances:

For the Public Employer,  
John Metzler, Assistant to President  
(Bruce Solomon, Esq.)

For the Petitioner,  
John P. Ronches, Business Manager, Local 32

DECISION

On December 12, 1977, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by the Office and Professional Employees International Union, Local 32 (the "Petitioner") proposing a collective negotiations unit consisting of all professional administrative employees employed by the New Jersey Institute of Technology (the "Institute"). <sup>1/</sup> Pursuant

1/ See H.O. Report No. 79-2, fn. 1, attached hereto and made a part hereof.

to a Notice of Hearing, hearings were held before Commission Hearing Officer Arnold H. Zudick on June 30, July 20 and July 21, 1978. All parties were provided an opportunity to examine and to cross-examine witnesses, to present evidence and to argue orally. Both parties submitted written briefs by September 20, 1978. The Hearing Officer issued his Report and Recommendations on November 6, 1978. Exceptions were filed by the Institute on November 27, 1978. The Petitioner has not filed exceptions; nor has Petitioner filed a response to the Institute's exceptions.

The undersigned has considered the entire record including the Report of the Hearing Officer, the transcript, the briefs and the exceptions and on the basis thereof finds and determines as follows:

1. The New Jersey Institute of Technology 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 the employer of the employees involved in this Petition, and is subject to the Act's provisions.

2. The Office and Professional Employees International Union, Local 32 is an employee representative within the meaning of the Act and is subject to its provisions.

3. The Petitioner seeks to represent a unit consisting of all professional administrative employees employed by the Institute. The Professional Staff Association ("PSA") currently is the exclusive representative of certain personnel sought to be

included in the unit which the Petitioner seeks. PSA is the recognized representative of all professional (faculty) and administrative personnel. Though advised of all proceedings, PSA failed to intervene in this proceeding and did not appear at the hearing. The Institute has declined to consent to an election in the unit sought, claiming that the petitioned-for unit is not the most appropriate. Accordingly, there is a question concerning the representation of employees and the matter is properly before the undersigned for determination.

4. The Hearing Officer found that a community of interest exists among the faculty and the administrative employees. He recommended that the most appropriate unit was the existing unit represented by PSA. The Hearing Officer also found that the evidence did not show a "failure of representation" by PSA to warrant the severing of the administrative titles from the existing PSA unit. However, due to the failure of PSA to intervene, the Hearing Officer recommended that the Director of Representation officially inquire as to whether PSA wished to continue to represent the petitioned-for administrators. The Hearing Officer recommended that the instant Petition be dismissed if PSA responded affirmatively. The Hearing Officer recommended that an election be directed in the petitioned-for unit if PSA responded negatively.

5. The Institute takes exception solely to the Hearing Officer's recommendation that the Director of Representation inquire whether or not PSA seeks to continue to represent the

administrators. In all other respects, the Institute agrees with the findings and recommendations of the Hearing Officer.

The undersigned adopts the findings of the Hearing Officer that there is a community of interest among faculty and administrative employees. Traditional factors of community of interest are present here. The Hearing Officer correctly noted the Commission's policy favoring the creation of broad-based units over fragmented units. The PSA unit is such a broad-based unit and it is an appropriate collective negotiations unit. The undersigned need not consider the most appropriate unit concept when the issues, as presented herein, involve the proposed removal of some employees from an existing larger appropriate collective negotiations unit.

Further, with respect to the issue of the severance of the petitioned-for employees from the existing unit, the undersigned agrees with the Hearing Officer's conclusion that PSA's representation of the instant administrative employees has not been such as to warrant severance under the standards adopted by the Commission in In re Jefferson Township Board of Education, P.E.R.C. No. 61 (1971). <sup>2/</sup>

Petitioner has alleged that PSA no longer wishes to represent administrators. The undersigned notes that, even if Petitioner's allegation is factual, the lack of desire to represent a group of employees cannot constitute proof of a failure to fairly

<sup>2/</sup> See also, In re Bergen County Board of Chosen Freeholders, P.E.R.C. No. 85, 1 NJPER 9 (1975); In re Board of Education of West Milford, P.E.R.C. No. 56 (1971); In re South Plainfield Board of Education, P.E.R.C. No. 46 (1970); and In re Board of Education of Township of Cranford, E.D. No. 74, 1 NJPER 23 (1975).

represent them. The record contains no evidence of any unfair representation of administrators due to the alleged lack of desire by PSA to represent the employees and any conclusion of unfair representation based on this premise alone would be pure conjecture. The Appellate Division of the Superior Court of New Jersey has held:

"Neither the Public Employment Relations Commission nor any other body or agency may today justifiably foretell that this obligation [i.e., the duty to fairly represent] cannot or will not be discharged ... " 3/

For this reason, the undersigned rejects the recommendation of the Hearing Officer that PSA be polled. As the Hearing Officer notes, the Petitioner, or any other employee representative, is not without ability to raise new facts before the Commission if unfair representation should occur.

Accordingly, for the reasons stated above, the undersigned dismisses the Petition filed by Office and Professional Employees International Union, Local 32.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: March 1, 1979  
Trenton, New Jersey

3/ AFSCME v. P.E.R.C., CSA, SEA, A-986-72, February 27, 1973 (unpublished). In this case, AFSCME was challenging the attempt by CSA and SEA to seek a joint certification. AFSCME sought a determination as to the compatibility of the two organizations and the ability of this joint entity to fairly represent all the employees in the proposed unit, in light of alleged past differences of interest.

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

In the Matter of

NEW JERSEY INSTITUTE OF TECHNOLOGY,

Public Employer,

-and-

Docket No. RO-78-109

OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION, LOCAL 32, AFL-CIO,

Petitioner.

SYNOPSIS

A Commission Hearing Officer recommends that the most appropriate unit for representation of administrative employees employed by the Institute is the existing negotiations unit of professional (faculty) and administrative employees. He further recommends that the available evidence does not warrant a severance of the administrators from the existing unit but would only recommend dismissal of the Petition if the current majority representative expressed a willingness to continue representing the administrators.

The Hearing Officer recommends that the Director of Representation officially inquire of the majority representative whether it will continue to fairly represent administrative employees. If the majority representative declines to represent the administrators the undersigned would recommend that severance be approved and an election be directed pursuant to N.J.A.C. 19:11-5.1.

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.

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

In the Matter of

NEW JERSEY INSTITUTE OF TECHNOLOGY,

Public Employer,

-and-

Docket No. RO-789109

OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION, LOCAL 32, AFL-CIO,

Petitioner.

Appearances:

For the Public Employer  
John Metzler, Assistant to President  
(Bruce Solomon, Esq.)

For the Petitioner  
John P. Ronches, Business Manager, Local 32.

HEARING OFFICER'S REPORT  
AND RECOMMENDATIONS

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") on December 12, 1977, by the Office and Professional Employees International Union, Local 32 (the "Petitioner") for a unit of all professional administrative employees employed by the New Jersey Institute of Technology (the "Institute"). <sup>1/</sup>

<sup>1/</sup> The Petitioner amended the Petition at the first and second hearing. The complete Petition now reads as follows: To include: All professional employees including Administrative Assistant-Institutional Research; Associate Dean of Students-Counseling Center; Associate Dean of Students-Foreign Students; Associate Dean of Students-Student Center; Associate Dean of Students II-Counseling Center; Associate Registrar; Director of Operations-Computer Services; Director-Division of Technology; Director-Educational Opportunity Program; Director-Financial Aid; Director-Placement; Director-Veterans Affairs; Data Base Administrative Assistant Registrar/Scheduling Officer; Assistant Cataloger; Administrative Assistant-Architecture; Reference and Documents Librarian; Coordinator-Recruitment and Admissions EOP, Grants Administrator-Research Foundation; Supervisor-Chemical Engineering Laboratory; Counselor; Assistant

(continued)



The Petitioner noted on its Petition that the Professional Staff Association, Inc. (the "PSA") currently represented certain of the employees sought to be included in the Petitioner's unit. The undersigned advised the PSA of all of the instant proceedings, but the PSA nevertheless failed to officially intervene in this matter and made no appearance on the record. The undersigned there-

1/ (continued)

Director-Admissions and Records; Assistant to the Director-Admissions and Records; Archivist; Coordinator-Student Employment/Administrative Assistant-Financial Aid; Assistant Librarian; Associate Director-Public and Institute Relations; Assistant Chief Accountant; Assistant Registrar; Certification Officer; Physical Education Supervisor; Assistant Director Public and Institute Relations; Senior Librarian; Admissions Counselor; Bilingual Counselor-EOP; Assistant Supervisor-Food Services; Periodical Librarian; Assistant to the Director-Special Services; Audio-Visual Activities Coordinator, -Supervisor-Architecture Information; Nurse; Assistant Director-EOP; Circulation Librarian; Supervisor-Payroll and Accounts; Assistant to Director Physical Plant; Assistant Director-Continuing Education; Assistant Director-Financial Aid; Assistant Director-Systems Computer Services; Head Cataloger, Associate Director-Counseling Services; Project Coordinator-NSF/cause; System Analyst; Academic Programmer/Consultant; Assistant Academic Programmer; Assistant Director Systems and Programs; Systems Administrator; Administrative Programmer 1; Administrative Programmer 2; and, Bursar.

Excluding managerial employees; confidential employees and supervisors as defined in the act; police officers, faculty and instructional staff; President; Vice President for Academic Affairs; Vice President for Business Affairs; Vice President for Development; Treasurer; Dean-Graduate Division; Dean-School of Architecture; Dean of Students; Dean of Engineering; Dean-Research Division; Dean-Engineering Technology Division; Chief of Security; Institute Attorney; Assistant Counsel; Special Assistant-Labor Relations; Assistant-Labor Relations; Executive Assistant to the President; Executive Assistant to the Vice President for Academic Affairs; Comptroller; Budget Director; Director of Personnel; Director-Public and Institute Relations; Director-Communications of Office of Development and the Foundation; Special Assistant-Institute Research; Assistant Dean-Academic Affairs; Associate Dean-Graduate Division; Assistant Dean-Graduate Division and Director of Continuing Education; Assistant Dean-School of Architecture; Director-Admissions and Records; Executive Director-Computer Services; Director-Physical Plant; Director-Food Services; Director-Special Services; Director-Alumni Relations; Assistant Director-Alumni Relations; Internal Auditor; Librarian-Library; Director-Development; Manager-Book Store; Affirmative Action Officer; Director-Cooperative Education; Director-Health; Physical Education and Athletics; Director-Health Services; Director-Technical Services; Director-Theater; Recorder; Production Manager-Special Services; Supervisor of Building Maintenance; Supervisor of HVAC; Administrative Assistant-Student Center; Supervisor of Maintenance and all other employees.

fore notes that the PSA was not a party in this matter. <sup>2/</sup>

Although the Institute took the position for the purpose of conducting the hearing that the Petition might be a proper listing of administrative titles in the proposed unit, it argued from the beginning that a separate unit of administrators as sought by the Petitioner was not the most appropriate unit. The Institute showed that in April 1970 it recognized the PSA as the majority representative for a unit of all professional (faculty) and administrative employees, and that it has negotiated with the PSA concerning such employees since that date. <sup>3/</sup> The Institute presented its most recent collective negotiations agreement, Exhibit E-9, which is effective through June 30, 1979, and covers the titles sought by the Petitioner, <sup>4/</sup> and argued that the existing unit is the most appropriate unit for representing the petitioned for titles and that therefore a separate unit of administrators is inappropriate.

The Petitioner initially argued that the petitioned for unit was an appropriate unit, and later indicated that it was the most appropriate unit for representing the petitioned for titles. The Petitioner argued that although the administrators had previously been part of the PSA unit, that the present circumstances warranted their severance from the existing unit. The Petitioner indi-

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<sup>2/</sup> The record reveals that the PSA was sent a copy of the Notice of Hearing in this matter, Exhibit C-1A, and copies of the Orders Rescheduling, Exhibits C-1F and C-1G. In addition, the undersigned advised the PSA of its opportunity to participate in this matter. See Exhibit C-2.

The PSA did not respond to the various notices, submitted no position statement, and failed to appear at the hearing.

<sup>3/</sup> The record reflects that prior to January 1976 the Institute's official name was Newark College of Engineering (the "College"). Therefore all documents, including recognition and collective agreements prior to that date, reflect the public employer as being the College, and not the Institute. Since the College and Institute are one and the same then reference to the Institute herein shall include and mean the College.

<sup>4/</sup> Although the Institute's most recent collective negotiations agreement with the PSA is effective from July 1, 1977 to June 30, 1979, the facts show that said agreement was not signed, reached and effective until May 18, 1978. Since the instant Petition was filed on December 12, 1977, during the time when no written agreement existed to bar the Petition, then said Petition was timely filed pursuant to N.J.A.C. 19:11-2.8.

indicated that there was not a substantial community of interest between administrative and faculty employees, that the PSA was more interested in representing the faculty and not the administrative titles, and, that the PSA had in fact failed to properly represent the administrative employees which justified and even required their severance from the PSA unit.

Pursuant to a Notice of Hearing dated May 16, 1978, and later corrected by letter dated May 25, 1978 (Exhibit C-4), hearings were held before the undersigned Hearing Officer on June 30, 1978 and July 20 and 21, 1978, in Newark, New Jersey, at which all parties were given an opportunity to examine and cross-examine witnesses, to present evidence, and to argue orally. Subsequent to the close of hearing both parties filed written briefs in this matter which were due September 20, 1978. Based upon the entire record in this proceeding the Hearing Officer finds:

1. That the Institute is a public employer within the meaning of the New Jersey Employer-Employee Relations Act (the "Act") as amended <sup>5/</sup> and is subject to its provisions.
2. That the Petitioner, OPEIU Local 32, is an employee representative within the meaning of the Act and is subject to its provisions. <sup>6/</sup>
3. That the Petitioner is seeking to represent administrative employees in a separate negotiations unit and to sever said employees from the unit represented by the PSA. Since the Institute argues that the petitioned for unit is not the most appropriate, then a question concerning representation exists with factual issues in dispute, and the matter is therefore appropriately before the undersigned for report and recommendations.

<sup>5/</sup> N.J.S.A. 34:13A-1 et seq.

<sup>6/</sup> Although the PSA is not a party to this Petition, by the introduction of collective agreements between the Institute and the PSA it is obvious that the PSA is an employee representative within the meaning of the Act.

4. That approximately 269 instructional or faculty personnel are employed by the Institute and currently represented by the PSA with approximately 252 of said employees operating as 10-month employees. That of approximately 88 administrators employed by the Institute, approximately 42 of said employees are currently in the negotiations unit represented by the PSA and the subject of the instant Petition. 7/

5. That the PSA was recognized by the Institute (College) as the majority representative of all professional and administrative employees employed by the Institute (College) on April 15, 1970. That several collective agreements were made between the Institute and the PSA covering the employees who are the subject of the instant Petition. 8/

6. That the issue herein is whether the unit sought by the Petitioner is the most appropriate unit for the representation of the petitioned for titles, which includes a consideration of: 1) whether a sufficient community of interest exists between faculty and administrative employees; 2) whether the PSA has fairly represented the instant employees; and 3) whether a severance of the instant employees from the PSA unit is justified based upon the totality of the circumstances.

#### Analysis

There are two major elements that must be decided herein in order to determine whether the petitioned for unit is appropriate. First, whether the existing unit of faculty and administrators is the most appropriate unit for representation, and second, if said unit is the most appropriate does the evidence justify a severance of the administrators based upon the PSA's alleged failure to represent?

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7/ Unrefuted statistical information found at Transcript (T) II, pp. 20-21.

8/ See Exhibit E-4; Exhibit E-6, Agreement dated November 9, 1970; Exhibit E-1, Agreement dated November 5, 1971; Exhibit E-2, Agreement covering 7/1/73-6/30/76; Exhibit E-8B, Memorandum dated May 6, 1976; and Exhibit E-9, Agreement covering 8/1/77-6/30/79.

The Most Appropriate Unit

The Petitioner argued that there was a sufficient lack of community of interest between faculty and administrative titles to warrant a separate administrators unit. The Petitioner indicated that there were several differences between said employees; that administrative employees unlike faculty could not gain tenure; that administrative employees were limited to one pay range whereas faculty could move on several ranges; and, generally, that vacations, sick leave and sabbatical leave were applied differently to faculty than administrative employees. <sup>9/</sup>

Despite the number of differences between faculty and administrative employees, the weight of the evidence clearly supports the Institute's position that the existing unit is the most appropriate unit for representation of faculty and administrative employees. The Petitioner merely pointed out differences between different titles, it did not demonstrate a lack of community of interest. In fact, the testimony of several witnesses established that a unit of faculty and administrative employees was both common and usually necessary in the operation of a higher education facility. Richard Hale, Assistant Chancellor for the State of New Jersey, testified that despite some inherent conflict between faculty and administrative titles it was educational policy for said titles to be combined. Moreover, he testified that these titles were combined in one negotiations unit in nearly all of the state colleges in New Jersey. <sup>10/</sup> The testimony of Dr. Hazell, former president of the Institute, established that there is a constant interchange in the working relationship of faculty and administrative employees, and that there was a basic relationship between their salaries, benefits and working conditions. <sup>11/</sup>

<sup>9/</sup> T. II, pp. 32-50; T. III, pp. 30-32.

<sup>10/</sup> T. II, pp. 4-8. Mr. Hale did testify that faculty and administrative employees were in separate units at Rutgers and N.J. College of Medicine and Dentistry.

<sup>11/</sup> T. I, pp. 14-28. Although Dr. Hazell could only testify to the early operation of the existing unit, the evidence shows that there is still a basic working relationship between the titles in question.

Further evidence of the appropriateness of the existing unit is found in the history of the collective negotiations relationship between the Institute and the PSA. The evidence shows that the PSA was recognized as majority representative for faculty and administrative employees in April 1970. The PSA negotiated on behalf of the combined titles and all indications are that the administrators were adequately represented. Even Dr. Morante, the Petitioner's witness, testified that prior to October 1976 there were no major problems between faculty and administrative employees. <sup>12/</sup> Noting the Commission's policy against undue fragmentation, and noting the fact that the existing unit operated approximately six years without any major conflict, it follows that the existing combined unit of faculty and administrative titles is the most appropriate unit for representation.

Finally, although a long discussion of Commission and court decisions on this topic is unnecessary, it is important to emphasize that the law in this area has consistently favored the broad-based unit approach. <sup>13/</sup> The Commission has indicated that it prefers to group titles along broad-based occupational and functional categories. <sup>14/</sup> In the instant matter there are obvious differences between faculty and administrative titles, but they certainly fall within the broad-based occupational and functional groupings envisioned by the Supreme Court and the Commission.

It is therefore recommended that the most appropriate unit for representation of administrative employees is the existing unit of faculty and administrative employees currently represented by the PSA.

<sup>11/</sup> T. I, pp. 14-28. Although Dr. Hazell could only testify to the early operation of the existing unit, the evidence shows that there is still a basic working relationship between the titles in question.

<sup>12/</sup> T. III, p. 36.

<sup>13/</sup> In re State of N. J. and Prof. Assoc. of N.J. Dept. of Ed., 64 N.J. 23 (1974).

<sup>14/</sup> In re Bergen Co. Board of Chosen Freeholders, P.E.R.C. No. 85, 1 NJPER 9 (1975); In re N.J. State College of Med. and Dent., D.R. No. 77-17, 3 NJPER 178 (1977); In re State of N.J. Public Broadcasting Auth., E.D. No. 76-21, 2 NJPER 35 (1975).

The Severance Question

Having found that the existing unit is the most appropriate, it is necessary to determine whether the circumstances presented by the Petitioner warrant a severance of the administrative titles from the existing unit. Dr. Morante testified that beginning as early as October 1976, but more particularly in October 1977, the relationship between the PSA and the administrators began to change. Dr. Morante testified about certain actions by Paul Flatow, the PSA president, that adversely affected the administrators. <sup>15/</sup> The evidence indicated that Professor Flatow changed the composition of several committees by removing the administrative representative. Dr. Morante also testified that Professor Flatow orally advised him that the PSA was no longer interested in representing the administrators. <sup>16/</sup>

The Commission has considered severance issues in many cases and established a policy that severance would not be permitted unless there were clear and compelling reasons such as a failure to fairly represent the interests of a particular title or group. <sup>17/</sup> It seems clear from these decisions that in order to justify severance it must be established that the majority representative has failed in a number of representational duties.

In the instant matter the evidence does show some failure of representation by the PSA towards the administrators, but it is not enough to justify severance. The evidence shows that much of the problem revolves around a personal conflict between Professor Flatow and Dr. Morante. The most recent collective negotiations agreement appears to adequately cover administrators, and there is no showing that the PSA has abandoned the administrators. Moreover, the under-

<sup>15/</sup> T. III, pp. 9-25.

<sup>16/</sup> T. III, p. 37.

<sup>17/</sup> In re Bergen Co. Bd. Chosen Freeholders, P.E.R.C. No. 85, 1 NJPER 9 (1975); In re Jefferson Twp. Bd. of Education, P.E.R.C. No. 61 (1971); In re Bd. of Education Twp. of West Milford, P.E.R.C. No. 57 (1971); In re South Plainfield Bd. Ed., P.E.R.C. No. 46 (1970); In re Bd. of Ed. Twp. of Cranford, E.D. No. 74, 1 NJPER 23 (1975).

signed notes that another method exists for the administrators to protect their fair representation rights. The Act provides for the filing of unfair practice charges by individuals against their majority representatives if they believe their rights under the Act are being violated.

Although the undersigned does not believe a severance is justified at this time, all interested parties must be aware that future circumstances might justify a severance. The Institute must recognize that although the existing unit is the most appropriate, it may eventually be faced with a fragmented unit. The Institute has a responsibility as a party to the collective agreement to do what is legally necessary to ensure that the majority representative performs its duties properly. If the Institute acquiesces in unfavorable actions by the majority representative it may find itself with a fragmented unit. The PSA must recognize that if it wishes to continue representing the existing unit it must be careful not to permit the interests of one group to take undue precedence over those of another.

Despite the lack of evidence to justify severance at this time, the undersigned is troubled by the fact that the PSA made no appearance herein and could not refute Dr. Morante's testimony. If Dr. Morante is correct, the PSA no longer wishes to represent the administrators. <sup>18/</sup> If that were true, the undersigned would not hesitate recommending that severance be approved. However, the most recent collective negotiations agreement appears to adequately cover the administrators, and therefore it is entirely unclear whether the PSA is still willing to fairly represent the administrators.

Because of this uncertainty the undersigned recommends that the Director of Representation officially inquire of the PSA whether it wishes to represent the

<sup>18/</sup> The undersigned could not give Dr. Morante's unrefuted testimony enough weight, by itself, to justify severance. But it does raise a question concerning representation.



administrators. If the answer is yes, the undersigned would recommend that the instant petition be dismissed. If the answer is no, the undersigned would recommend severance.

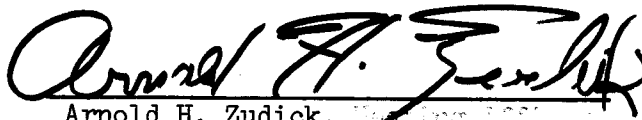
The undersigned notes that even if the instant petition is dismissed, the administrators could bring a similar representation or unfair practice suit in the future based upon new circumstances.

#### Conclusion

Based upon the above discussion the undersigned makes the following recommendations to the Director of Representation:

1. That the most appropriate unit for representation of administrative employees employed by the Institute is the existing combined unit of faculty and administrative employees currently represented by the PSA.
2. That based upon the available evidence obtained at hearing only, insufficient basis exists to warrant severance of administrators from the existing unit.
3. That because the PSA is a necessary party to these proceedings, and because it is unclear whether the PSA wishes to continue representing the administrative employees, that the Director of Representation officially inquire of the PSA whether it wishes to continue to represent administrators in its negotiations unit.
4. That if the PSA will continue representing administrators the instant petition be dismissed, but that if the PSA will not represent administrators the petition for severance be approved and an election directed pursuant to N.J.A.C. 19:11-5.1.

Respectfully submitted,

  
Arnold H. Zudick,  
Hearing Officer

DATED: November 6, 1978  
Trenton, New Jersey