P.E.R.C. No. 61

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

JEFFERSON TOWNSHIP BOARD OF EDUCATION
Public Employer
and
LOCAL 866, affiliated with the INTERNATIONAL BROTHERHOOD OF TEAMSTERS
Petitioner
and
JEFFERSON TOWNSHIP EDUCATION ASSOCIATION
Intervenor

Docket No. RO-180

JEFFERSON TOWNSHIP BOARD OF EDUCATION
Public Employer
and
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO
Petitioner
and
JEFFERSON TOWNSHIP EDUCATION ASSOCIATION
Intervenor

Docket No. RO-183

DECISION

Petitions were duly filed with the Public Employment Relations Commission by Local 866, affiliated with the International Brotherhood of Teamsters (hereinafter Teamsters) on October 6, 1970 and by the American Federation of State, County and Municipal Employees, AFL-CIO (hereinafter AFSCME) on September 23, 1970 requesting certification of public employee representatives in the units described below. Following consolidation of the cases, a hearing was held on November 9, 1970 before Hearing Officer Bernard J. Manney at which all parties were given an opportunity to call, examine and cross-examine witnesses, to present evidence, to argue orally, and to file briefs. Briefs were filed by the Public Employer and the Intervenor, Jefferson Township Education Association (hereinafter Association). Thereafter, on February 3, 1971 the Hearing Officer issued his Report and Recommendation, attached hereto and made a part hereof. Exceptions to that Report and Recommendation were timely filed by the Teamsters. 1/

1/ On September 16, 1971, the Teamsters filed another petition to represent custodians, matrons and maintenance personnel. Hearings have not been held on that petition. The unit sought overlaps with that sought by AFSCME herein. The Commission has, on its own motion, transferred this case (RO-345) to itself for decision.

The Commission has considered the entire record, the Report and Recommendation of Hearing Officer, the exceptions, and, on the facts in this case, finds:

1. The Jefferson Township Board of Education (hereinafter Board) is a public employer within the meaning of the Act and is subject to its provisions.
2. The Teamsters, AFSCME, and the Association are employee representatives within the meaning of the Act.
3. On September 17, 1970 the Teamsters requested recognition from the Board and the Board refused to grant such recognition in the unit described below unless and until the Petitioner was certified by the Commission. Similarly, on March 11, 1970 AFSCME requested recognition in the unit described below and the Board refused to grant recognition unless and until the Petitioner was certified by the Commission. Accordingly, there is a question concerning representation and the matter is appropriately before the Commission for determination.
4. The Teamsters seek to represent all bus drivers employed by the Board. AFSCME seeks to represent clericals, custodial, maintenance, cafeteria workers, and head custodials. The Association has represented the employees sought by the Teamsters and by AFSCME as well as teachers and other employees in a single unit. Contracts between the Board and the Association covering the employees in the overall unit were in effect from July 1, 1969 to June 30, 1970 and for July 1, 1970 to June 30, 1971. The Board and the Association contend that the petitions filed herein should be dismissed.

The Hearing Officer recommended that the units sought by the Teamsters and AFSCME be found inappropriate and that the petitions be dismissed. Furthermore, he found that the unit defined in the recognition clause of the 1970-1971 contract between the Board and the Association was an appropriate unit.

Both the Teamsters and AFSCME are seeking to remove from an existing unit certain segments of employees. The Commission, in considering these attempts to sever certain groups of employees from an extant unit, must determine whether the facts justify the fragmentation of a unit into several smaller allegedly appropriate units.

The uncontroverted evidence reveals that prior to the establishment of the existing unit, separate elections were conducted among the several groups of employees including bus drivers, secretaries, custodians, cafeteria personnel, etc. in which majorities of each of those groups voted to be represented by the Association. The professional employees, who were already represented by the Association, voted to include these non-professional groups in a single unit with themselves. Following these elections, the Association requested and received recognition from the Board as the sole and exclusive representative for collective negotiations for the employees described above. In accordance with the recognition, a contract was entered into April 14, 1969 between the Association and the Board for the term July 1, 1969 to June 30, 1970. This agreement specifically included in the

recognition clause the bus drivers as well as the employees sought by AFSCME. That contract contains specific articles and provisions which relate to bus drivers and custodians as well as the other groups sought by AFSCME including Salary Schedules for secretaries, custodians and maintenance personnel, bus drivers, and the cafeteria staff. On February 9, 1970, the Board and the Association signed another agreement for the period July 1, 1970 to June 30, 1971. Like its predecessor, this agreement specifically included the non-professional employees sought by the petitioners herein, contained contract provisions which applied uniquely to several of the groups including custodians and bus drivers, and included Salary Schedules for secretaries, custodians and maintenance employees, bus drivers, and the cafeteria staff.

Furthermore, the uncontradicted testimony of the Association President reveals that the different sub-groups of the Association each prepared demands which were submitted to and discussed with the Association negotiating committee. From these, a final proposal was made. During the course of negotiations, progress reports were submitted to the sub-groups to keep them informed. The contract as finally negotiated was ratified at a general meeting of the Association.

There is no evidence nor is there even a contention that the Association in any way defaulted on its statutory obligation to be "responsible for representing the interests of all such [unit] employees without discrimination and without regard to employee organization membership." 2/ There is no claim that the Association did not provide effective and fair representation to all employees in the unit. In fact, as described above, the record indicates that the Association did make a responsible effort to represent all elements in the negotiating unit.

In its exceptions the Teamsters contend first that the Hearing Officer erred by disposing of the petitioned-for, smaller unit on the basis that the larger, existing unit was appropriate. It argues that the only issue is the appropriateness of the unit sought, that consideration of the existing unit would not be dispositive unless such unit was the only one found appropriate, and that the existing unit is, if anything, patently inappropriate.

We do not agree that the existing unit is, on its face, inappropriate by any statutory reference. The alleged defects are said to exist because the unit contains what the Employer describes as three supervisors "within the meaning of the Act" and because it mixes professional and non-professional employees. Yet the statute carries no absolute proscription to such arrangements, and in fact contemplates the possibility of such mixtures in certain situations. 3/ Whether or not the Commission, upon request for certification in an overall unit, would have found appropriate the unit that later came to be is not the issue. No one here is asking for a de novo definition of a comprehensive unit. The unit was established through recognition and is not, on its face, inappropriate. For purposes of this proceeding no further examination of the unit's appropriateness need be made.

2/ N.J.S.A. 34:13-A-5.3
3/ N.J.S.A. 34:13A-6

The issue is correctly stated to be the appropriateness of the bus driver unit sought by the Teamsters. However, that question does not turn solely on whether there exists a community of interest among bus drivers. Undoubtedly, there is a kind of common interest among those of any group who perform the same duties. But the unit issue here cannot be determined by simply measuring the common interests of drivers, one to another, and ignoring other material facts, namely, that the drivers are part of an existing unit which is not on its face inappropriate and which has been the subject of two successive collective negotiations agreements. The statute requires that in defining units the Commission give "due regard" to community of interest. But, consideration must also be given to legislative intent and the statutory purpose which is declared to be, among other things, the promotion of permanent employer-employee peace 4/ or as Justice Francis phrased it "...establishment and promotion of fair and harmonious employer-employee relations in the public service." 5/

The underlying question is a policy one: assuming without deciding that a community of interest exists for the unit sought, should that consideration prevail and be permitted to disturb the existing relationship in the absence of a showing that such relationship is unstable or that the incumbent organization has not provided responsible representation. We think not. To hold otherwise would leave every unit open to re-definition simply on a showing that one sub-category of employees enjoyed a community of interest among themselves. Such a course would predictably lead to continuous agitation and uncertainty, would run counter to the statutory objective and would, for that matter, ignore that the existing relationship may also demonstrate its own community of interest.

Here we have a unit created by recognition, not demonstrated to be inappropriate, covered by two successive agreements, and represented by an organization not shown to have provided less than responsible representation. Under these circumstances, the Commission is not prepared to upset that relationship on the single premise that bus drivers enjoy a variety of common interests. The Commission concludes that the unit sought is not one appropriate for collective negotiations in these circumstances. In view of this disposition, the remaining exceptions of the Teamsters fall.

The Teamster petition for a unit of bus drivers, its later petition referred to in footnote 1, above and the AFSCME petition are dismissed for the foregoing reasons.

BY ORDER OF THE COMMISSION

William L. Kirchner, Jr.
Acting Chairman

DATED: October 22, 1971
Trenton, New Jersey

4/ N.J.S.A. 34:13A-2

5/ Board of Education of the Town of West Orange v. Elizabeth Wilton, et al, 57 N.J. 404 (1971).

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

JEFFERSON TOWNSHIP BOARD OF EDUCATION

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LOCAL 866, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Petitioner

JEFFERSON TOWNSHIP BOARD OF EDUCATION

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AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

and

JEFFERSON TOWNSHIP EDUCATION ASSOCIATION

Intervenor by Contract

REPORT AND RECOMMENDATION OF HEARING OFFICER

On September 23, 1970, the American Federation of State, County and Municipal Employees, AFL-CIO, filed a petition with the Public Employment Relations Commission for Certification of Public Employee Representative in a unit encompassing the following employees of the Jefferson Township Board of Education: clericals, custodial, maintenance, cafeteria workers, foremen and head custodials. On October 2, 1970, the Jefferson Township Education Association advised P.E.R.C. by letter of their intervenor status by contract. Local 866, affiliated with the International Brotherhood of

Teamsters filed a petition with P.E.R.C. on October 6, 1970 for Certification of Public Employee Representative in a unit including only bus drivers employed by the Jefferson Township Board of Education. In accordance with Section 19:15-1(b), the Executive Director issued an Order Consolidating Cases on October 22, 1970.

A Notice of Representation Hearing dated October 22, 1970, was issued to the parties, and pursuant thereto, a hearing was held before the undersigned on November 9, 1970 in Newark, New Jersey. All parties were given the opportunity to examine and cross-examine witnesses, to present evidence, and to argue orally. Briefs were submitted by the Public Employer and the Intervenor on December 10, 1970. Appearances were recorded as follows:

For the Public Employer: Robert E. Murray, Esq.
For the Petitioner, Local 866, I.B.T.:
Howard A. Goldberger, Esq.
For the Petitioner, AFSCME, AFL-CIO:
Pat D. Nardolilli, Representative
For Intervenor, J.T.E.A.:
John W. Davis, Field Representative

Witnesses testifying in this hearing include:

Joseph Ennis, Superintendent of Schools
William Lambert, Jr., President of J.T.E.A.

The record of the proceedings establishes that:

1. The Board of Education of Jefferson Township is a public employer within the meaning of the Act.

2. Local 866, I.B.T.; A.F.S.C.M.E., AFL-CIO; and Jefferson Township Education Association, are employee representatives within the meaning of the Act.

3. The Jefferson Township Board of Education and the Jefferson Township Education Association object to any severance of the unit as described in the current collective negotiation agreement between them; that therefore, a question concerning representation is involved, and the matter is appropriately before the Commission for adjudication.

BACKGROUND

The Jefferson Township Board of Education and the Jefferson Township Education Association have entered into two collective negotiation agreements covering wage, hours, and other terms and conditions of employment; the first agreement was signed by the parties on April 4, 1969, was effective as of July 1, 1969, and expired June 30, 1970; the second agreement was signed on February 9, 1970, was effective as of July 1, 1970 and it will expire June 30, 1971. In the 1969 contract, the parties agreed to a recognition clause:

> Article I - Recognition
>
> A. Pursuant to the provisions of Chapter 303 of the Laws of 1968, the Jefferson Township Board of Education hereby recognizes the Jefferson Township Education Association as the majority representative and as exclusive and sole representative for collective negotiations for all certificated personnel under contract or on leave, now employed or as hereafter may be employed by the Board, including:
>
> Teachers
> Department Heads
> Specialists
> Nurses
>
> but excluding:
>
> Guidance Directors
> Vice-Principals
> Principals - Elementary
> Principal - High School
> Assistant Superintendent
> Superintendent of Schools
> Substitutes

and also including the following non-certificated personnel under contract or appointment, now employed or as hereafter may be employed by the Board:

Secretaries
Custodians
Bus Drivers
Cafeteria Personnel
Head Custodian
Cafeteria Manager
Transportation Coordinator

B. Unless otherwise indicated, the term "employees", when used hereinafter in the Agreement, shall refer to all employees represented by the Association in the negotiating unit as above defined and reference to male employees shall include female employees. When the term "teachers" is used it shall apply to all certified employees.

C. Unless otherwise indicated, references in this Agreement to male employees and teachers shall include female employees and teachers and words used in the singular shall include words in the plural where the text so requires.

The recognition clause in the 1970-1971 contract reads the same except that the words "grievances and" were inserted between "concerning" and "terms" in the first paragraph of the clause.

THE ISSUES

The overt, and immediate questions before the Hearing Officer relate to the appropriateness of the collective negotiating units requested by Local 866, I.B.T., and AFSCME, AFL-CIO in their respective petitions; and these questions relate critically to the appropriateness of the all-inclusive unit, as defined in Article I, "Recognition," of the current collective negotiation agreement (Exhibit PE-2) between the J.T. Bd/Ed and the J.T.E.A.

POSITION OF PARTIES

Petitioner, Local 866, I.B.T., cites 34:13A-6 and argues first, (T 170) that "...the unit determined to be appropriate must be not the 'only' appropriate unit; but only that the unit must be an appropriate unit." (Emphasis mine) - He argues further that, (1) there exists a (T 171) demarcation between bus drivers and the other employees; (2) there is a lack of traditional hallmarks to justify placing bus drivers with other groups of employees; (3) there is a "lack of interchangeability"; (4) bus drivers require "separate" licensing, "separate" physical examinations, are not "housed" in the same building and "contact" with other employees is minimal, "if not non-existent."

Secondly, this petitioner argues that the (T 171) contract is not a bar to an election; i.e., (T 172-9) Subsection B, of 19:11-15 re: timeliness of petitions, does not apply, inasmuch as it has not been demonstrated, that the recognition was granted by the Public Employer pursuant to 19:11-14; and, too, the current agreement between the Jefferson Township Board of Education and the Jefferson Township Education Association is for a period of less than twelve months, inasmuch as the economic provisions do not become effective until September 1, 1970, expire June 30, 1971, and therefore, 19:11-15(c) does not apply.

Petitioner, AFSCME - AFL-CIO, contends (T 15) that there is no contract bar because, "there were notices put out to renegotiate the salaries for the employees for this year."

With respect to the unit, this petitioner states that "clerical, custodial, maintenance, cafeteria workers, foremen and head custodials, remain an appropriate unit." (T 155-156)

The Public Employer maintains:

1. That Section 7 of the Act provides that the negotiating unit shall be defined with due regard for the community of interest among the employees concerned, and accordingly, a) the Hearing Officer should consider the extent to which the non-professional employees are involved with the professional and other non-professional employees in the operation of the school district, and b) should weigh the "high level of interdependency between the non-professional employees and the professional employees in the Jefferson Township School System. "

2. "Neither petitioning union has shown any reason to disrupt the existing unit..." - and the public policy of the State, as indicated in the Act, addresses itself to the goal of peaceful labor relations in the public sector.

3. There is a bar to holding an election during the term of the said existing contract which expires June 30, 1971.

4. For these and other reasons mentioned in the Brief, the petitions should be dismissed.

The Intervenor, Jefferson Township Education Association submits that:

1. There is "both a recognition and contract bar."

2. "...the legislative intent of etablishing and maintaining and promoting permanent public employer-employee peace and harmony would be negated," if the petitions were to be granted.

3. The recognition in question is valid.

4. The history of negotiations between the parties to the collective negotiating agreement, supports the contention that they engaged in bonafide, give-and-take bargaining.

5. The effective date of the current collective bargaining agreement is July 1, 1970, and it expires June 30, 1971.

6. Both petitions should be dismissed.

DISCUSSIONS AND FINDINGS:

In reply to position statements of Local 866, I.B.T., Section 34:13A-6 empowers P.E.R.C. "...to resolve questions concerning representation of public employees by ...utilizing any...appropriate and suitable method designed to ascertain the free choice of the employees 1/ The division (i.e., P.E.R.C.) shall decide...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..both professional and non-professional employees unless a majority of such professional employees vote for inclusion in such unit... 2/ Under the provisions of this section of the Act, the unit, as presently constituted in the aforementioned collective negotiating agreement, qualifies as an appropriate unit. All the employees, professional and non-professional, in separate elections, exercised free choice in selecting a common representative for purposes of collective negotiations. Witness Lambert testified (T 142-147) as to the voting procedure followed by both professionals and non-professionals prior to the formation of the joint unit. He stated (T 143) that "we had a ballot prepared with each group delineated; all groups that are in the contract there, "and continued under direct examination:

1/ Emphasis mine.
2/ Emphasis mine.

(T 143) Q. Are you referring to secretaries; was that on the ballot?

A. Yes.

Q. Custodians, were they on the ballot?

A. Yes.

Q. Bus drivers, were they on the ballot?

A. Yes.

Q. Cafeteria personnel, were they on the ballot?

A. Yes.

Q. Head Custodian, was he on the ballot?

A. Yes.

Q. Maintenance men-general, were they on the ballot?

A. Yes.

(T 144) Q. Specifically, now - and dealing only with the non-professional, non-supervisory personnel, these units here in dispute 3/ what was the result of the vote by the teachers as to their desire to represent these other particular classifications?

A. We voted to represent each group.

Q. You mentioned, Mr. Lambert, that they also had to vote as to whether or not these separate classifications wanted to be with your organization.

A. Yes.

Q. What was that vote?

A. They also wanted us to represent them...

(T 145) Q. How was this ballot done, secret?

A. Yes.

Q. Done at a regular meeting?

A. Yes.

3/ Emphasis mine.

Q. Are you saying that your proposal on recognition was the reflection of the balloting of the professionals to accept the non-professional?

A. Yes, it was.

Q. Was that proposal that you submitted to the Board, as to including these non-professionals in the unit, the same as that which was ultimately accepted by the parties as part of the first agreement?

A. Within the non-professionals, yes.

This petitioner further contends that a "demarcation" exists between bus drivers and the other employees. However, the record does not support this contention. Witness Ennis testified (T 46-50) as to their work duties and responsibilities.

> A. "...the third, and one of the most important (duties) is (T 46) their relationship 4/ with the students that are being transported to and from the school, as well as the school Principal, with whom they work, and the teachers...

This demarcation argument places its emphasis solely on the interrelationship between employees and ignores the essential interdependence and integration of work assignments and efforts of employees in the overriding purpose and function of the school system. In this connection, witness Ennis testified (T 47):

> Q. What is actually their (bus drivers) relationship to the children on the bus?
>
> A. From the time the youngsters board the bus and leave, the youngsters are actually responsible to the bus driver for their conduct. In the same sense, the bus driver is responsible to some extent for the conduct of the students on the bus going to and and from the school. They are instructed to report misconduct to the school administrator...I mean by that the school Principal... Many bus drivers are very successful in solving and (T 48)handling many discipline problems on their buses.

4/ Emphasis mine.

(Winess Ennis continues)

(TT 48) A. As I was saying, the State Department of Education 5/ has a vital interest in the transportation of youngsters to and from school. And therefore, they have field representatives that meet with our Transportation Coordinator, explaining the job duties, and particularly the safety factors involved.

On cross-examination, (T 54) witness Ennis stated that school bus drivers carried a special driver's license, were required to take a specific state examination, undergo two yearly physical examinations, and believes that bus drivers were the only school employees fingerprinted.

As to the petitioner's closing assertion (T 171) pertaining to "Traditional hallmarks," the undersigned must assume, in the absence of clarifying evidence in the record, that the reference is to the private employment sector, inasmuch as public employees in New Jersey have had the right to bargain collectively only since July 1, 1968, the effective date of Chapter 303; certainly, insufficient time to develop "traditional hallmarks". Accordingly, I find this argument not germane to the issue.

Similarly, this petitioner's position with respect to "lack of interchangeability, separate licensing, separate physical examinations, and lack of common housing facilities," although properly advanced, are not weighty arguments when measured against the recorded evidence which points to the importance of the bus driver's role in the day-to-day operation of the schools in Jefferson Township.

The petitioner's final argument maintains; (1) That the existing contract between the public employer and intervenor is not a bar to an election, i.e., 19:11-15 re: timeliness, does not apply, because recognition was not given in accordance with provisions of 19:11-14, and (2) the said agreeement "is for a period of less than twelve months, the effective date

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5/ Emphasis mine.

of said agreement is February 9, 1970; the economic provisions do not become effective until September 1, 1970, and therefore, 19:11-15(c) does not apply. The undersigned notes at this point that the recognition given by the J.T. Bd/Ed to the J.T.E.A. was effective as of April 14, 1969, (Exhibit PE-1) and that P.E.R.C. adopted its rules and regulations as of August 29, 1969. Although the recognition predates the adoption of P.E.R.C."s rules and regulations, this, per se, does not make it invalid. Moreover, the parties have entered into two successive agreements (PE-1 and PE-2) since the recognition.

The petitioner raises a relevant question relating to the effective date of the contract, and cites various contract dates upon which either, or both, parties are to perform obligations of a non-economic nature 6/ (T 174-179) to wit, 1) No later than October 1, 1970, the parties are to begin negotiations for a successor contract; 2) no later than June 1, 1970, the committee studying orientation procedure is to submit its recommendations to the Superintendent; 3) no later than the Board meeting of April 1970, employees shall be notified of contract status, and contracts shall be returned to the Superintendent within fifteen days thereafter; 4) no later than May 1st of each school year, the Superintendent shall post a list of vacancies for the ensuing school year in all school buildings; and send same to the Association; and 5) no later than May 15, 1970, employees who desire a change in grade or subject assignment, or a transfer to another building, may file a written statement with the Superintendent. Although these provisions are encompassed in the contract above-mentioned, they do not detract from the definitive accord between said parties under Article XXXX, "Duration", wherein they agree as follows: "Except as designated by specific

6/ Emphasis mine.

datelines within this agreement, this instrument shall be effective July 1, 1970, except as otherwise provided, and shall continue in full force and effect to, and including June 30, 1971, when it shall expire . 7/

The petitioner maintains, too, that since the economic provisions of the agreement do not become effective until September 1, 1970, and the expiration date is June 30, 1971, this becomes a nine-month contract and therefore, 19:11-15(c) should be ignored. The undersigned does not find this to be valid; e.g., Article XVI "Salaries", of current agreement between said parties, provides for salary payments to employees beginning on July 15, 1970, July 31, 1970, August 14, 1970, and August 31, 1970 - all payments are made prior to September 1, 1970 and in accordance with Schedules A,B,C,D,E,F,G,H,I, which reflect the negotiated rates of pay for the contract term ending June 30, 1971.

Turning to the position of Petitioner AFSCME, the undersigned finds that, "notices put out to renegotiate the salaries for the employees for this year," does not, per se, militate against a contract bar. This petitioner's second point merely affirms his claim that the unit requested is appropriate. However, his position is tenuous in that it lacks supporting evidence.

The undersigned agrees with the position held by the Public Employer, to wit, 1) As to the essential significance of the community of interest among the employees involved, 2) consideration of the involvement of professional and non-professional employees in the operation of the school system, and their level of interdependency, 3) neither of the petitioners has advanced any reason to permit a disruption of the existing unit, 4) and should an election for certification of public employee representative be ordered it may not be conducted until after June 30, 1971,

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7/ Emphasis mine.

the contract expiration date.

The undersigned, too, agrees with the position maintained by the Intervenors J.T.E.A., to wit 1) the granting of these petitions would defeat the legislative intent of maintaining and promoting peace and harmony in the public employment sector and in the best interest of the people of the State; 2) the recognition in question is valid; 3) the history of collective negotiations between the parties reflects bonafide, give and take bargaining, 4) the effective date of the current collective agreement is July 1, 1970, and it expires June 30, 1971.

Pursuant to 19:11-15(d), Local 866, I.B.T. and AFSCME, AFL-CIO filed timely petitions for units requested by each.

To determine the appropriateness of a unit, the Hearing Officer is further guided by the standard as defined in Section 7 of the Act, i.e., "the negotiating unit shall be defined with due regard for the community of interest among the employees concerned..." It follows, therefore, that the undersigned is obliged to relate the recorded testimony and documentary evidence to such criteria as: common employer, geographical aspects of work station, supervisory hierarchy, interrelationship of tasks, remuneration and other contract benefits, terms and conditions of employment, purpose and objective of job functions of all employees, and degree to which the Jefferson Township school system depends for its proper operation upon the assigned job duties and performance of said employees in disputed unit.

It is obvious from the record that the employees involved in this dispute are all employed by the J.T. Bd/Ed in said school system and district, and come under a commom supervisory hierarchy as indicated in Exhibit PE-11 and by the corroborating testimony of witness Ennis (T 50-51.) The interrelationships of tasks is convincingly developed and established by witness Ennis in his lengthy testimony (T 27-50) wherein he specifically relates the job duties of the non-professionals to those of the professionals to wit, custodians (T28-30), matrons (T 30-32), cafeteria worker (T 32-34), Cook (T 34-36), transportation coordinator (T41-45), and bus drivers (T 45-50). As to remuneration and other contract benefits, terms, and conditions of employment, the record amply shows that through collective negotiations with the public employer, satisfactory improvements were made in these areas for professionals and non-professionals, and incorporated in successive written contracts. Witness Ennis (T 19) testified as follows:

> Q. Were the salaries and terms and conditions of employment of bus drivers, custodians, maintenance men, and other non-supervisory, non-professional employees negotiated during this period?
>
> A. Yes, they were.
>
> Q. Could you tell us how the negotiations went on these points?
>
> A. Yes. The J.T.E.A., in their initial (T 19) proposal to the Board of Education, included articles within their proposed contract that would cover these various groups. Within each proposal they had many sub-items that were considered during the negotiation process.

The witness testified, too, that there is no difference in fringe benefits, i.e. sick leave and insurance programs (T 24) between professional and non-professional employees.

The common purpose and objective of job functions of all employees, and the degree to which the J.T. school system depends for its proper operation upon the assigned job duties and performance of said employees in the disputed unit, are adequately manifested in the job descriptions (Exhibits PE 3 to PE-10), and in aforementioned testimony of witness Ennis, and in the testimony of witness Lambert (T 111-113).

With respect to community of interest essential requisites, I find that the unrefuted testimony 8/ of both, witness Joseph Ennis, Superintendent of Schools, and witness William Lambert, Jr., President of J.T.E.A., together with exhibits PE-1 to PE-11, clearly establish that the requirements of the Act are satisfactorily met.

In addition, to reinforce a final judgment as to an appropriate unit, the undersigned assigns merited weight to the history of the collective negotiations between the Jefferson Township Board of Education and the Jefferson Township Education Association, and to the desires of the employees involved herein.

The record adequately demonstrates (from above stated testimony and exhibits), that throughout the history of collective negotiations between the J.T.BD/ED and the J.T.E.A., they engaged in genuine, good faith bargaining in which all of the employees at issue herein participated freely and sufficiently. The two written collective negotiation agreements between the parties, consummated in 1969 and 1970 respectively, attest to a stable pattern of collective negotiations.

The desires of employees play a significant role in any determination of an appropriate unit; and again, the record manifests that the employees defined in the petitions of Local 866, I.B.T. and of AFSCME, AFL-

8/ Neither of the petitioners presented witnesses throughout the hearing.

CIO voluntarily opted for membership in the JTEA prior to the negotiation of the first contract between JT B/E and JTEA, and simultaneously the professional employees voted to join with these non-professionals into a single all-encompassing unit. (T 142-T 147) Moreover, the non-professionals indicate a willingness to preserve their identity as members of the broader unit by actively participating in the collective negotiation process in 1969 and in 1970. (T 104 to T 116)

RECOMMENDATIONS

After evaluating relevant factors in the entire record, and in keeping with the public policy of the State of New Jersey, as defined in Section 3 of the Act, the undersigned recommends:

(1) The unit requested by Local 866, I.B.T. is inappropriate, and its petition shall be dismissed.

(2) The unit requested by AFSCME AFL-CIO is inappropriate, and its petition shall be dismissed.

(3) The established, viable unit as defined in Article I, "Recognition," in the current collective negotiation agreement between the Jefferson Township Board of Education and the Jefferson Township Education Association, is an appropriate one within the meaning of the Act and shall not be severed.

Bernard J. Manney

Bernard J. Manney
Hearing Officer

DATED: February 3, 1971
Trenton, New Jersey