

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
BERGENFIELD BOARD OF EDUCATION
and
BERGENFIELD EDUCATION ASSOCIATION

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DECISION

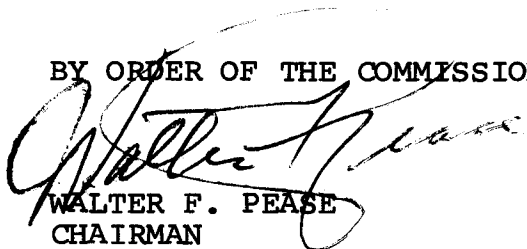
Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of the Bergenfield Board of Education, a hearing was held on April 29, 1969, before ad hoc Hearing Officer George Marlin at which all parties were given an opportunity to present evidence, and argue orally. Thereafter, on May 12, 1969, the ad hoc Hearing Officer issued a Report and Recommendation. No Exceptions have been filed to the Hearing Officer's Report and Recommendation. The Commission has considered the record and the Hearing Officer's Report and Recommendation and finds:

1. The Bergenfield Board of Education is a public employer within the meaning of section 3(c) of the Act and is subject to the provisions of the Act.
2. The Bergenfield Education Association and the Bergenfield Custodian Association are employee representatives within the meaning of section 3(e) of the Act.
3. The public employer having refused to recognize any employee representative as the exclusive representative of certain custodial

employees a question concerning the representation of public employees exists and the matter is appropriately before the Commission for determination.

4. In the absence of Exceptions to the Hearing Officer's Report and Recommendation, attached hereto and made a part hereof, the Commission adopts the Hearing Officer's Report and Recommendation pro forma.

BY ORDER OF THE COMMISSION



WALTER F. PEASE
CHAIRMAN

DATED: July 2, 1969
Trenton, New Jersey

NEW JERSEY PUBLIC EMPLOYEES RELATIONS COMMISSION

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IN THE MATTER OF THE REPRESENTATION UNIT :
DISPUTE BETWEEN :

BERGENFIELD BOARD OF EDUCATION :

-and- :

BERGENFIELD EDUCATION ASSOCIATION :

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APPEARANCES:

Carl Ruess
Bergenfield Board of Education
Secretary

Arthur Clementz
Bergenfield Board of Education
Negotiating Committee, Chairman

Evan Goldman
Bergenfield Education Association
President

Charles Berry
Bergenfield Education Association

Thomas Forbes
New Jersey Education Association

Charles Zarubicki
Bergenfield Custodian Association

REPORT AND RECOMMENDATION

On April 29, 1969, a hearing was held before the undersigned, pursuant to Section 8(g) of the New Jersey Employer-Employee Relations Act (Chapter 303, P.L.1968), hereinafter referred to as the "Act".

The Bergenfield Board of Education has recognized the Bergenfield Education Association, hereinafter referred to as "BEA", as the majority representative of certain of its employees. A dispute arose as to whether this negotiating unit should include the custodial employees of the Bergenfield Board of Education, and the parties consented to submit that

question to the Public Employees Relations Commission, .
inafter referred to as "PERC", and have, further, agreed to
accept its decision as binding upon them.

The Association contends that Section 8(d) of the
Act mandates a decision from PERC for the inclusion of the
custodial employees in the unit which contains the teachers
and other professional employees because a majority of the
professional employees had voted for such an arrangement.

The Board of Education, on the other hand, claimed
that there is no community of interest between the two groups
of employees; and, that a prior history of negotiating
separately with the custodians necessitates the exclusion of
the custodians from the BEA unit.

On the basis of the record and the applicable pro-
visions of the Act, I hereby render the following decision:

While due regard should be given to the desire of
the employees in a representation dispute, the problem
cannot be resolved solely in accordance with this argument,
since Section 8 clearly provides that "the division shall
decide in instance which unit of employees is appropriate..."

Thus, the vote to include the custodians in a
unit containing professional employees merely fulfilled a
condition set forth in the Act to overcome the prohibition
against such a unit, but it does not necessarily make the
joinder mandatory. PERC must still inquire into the facts
and decide the appropriateness of the unit.

Equally untenable is the Board's contention that
the failure of the professional and custodial employees to
act as a single bargaining unit in the past, constitutes an

established practice within the meaning of 8(d) of th. which must, therefore, be followed in the future. Rather, it would appear that the phrase "established practice" is designed to permit the joinder of professionals and non-professions in a bargaining unit where recognizable and repeated precedent can be established, rather than to deny such an arrangement because it was not invoked in the past. It is my view, therefore, that the Board failed to prove, for any reason under 8(d) of the Act, that the Bergenfield Education Association is an inappropriate bargaining unit for the custodial employees.

The legislature has established in the Act only one criterion to guide PERC in disputes concerning the appropriate unit for collective negotiations. Section 7, in part, provides that "the negotiating unit shall be defined with due regard for the community of interest among the employees concerned..." In providing for the possibility of merging professional employees with non-professional employees, and craft employees with non-craft employees in the same unit in other sections of the Act, the intent seems clear that community of interest is not to be limited to a question of similarity of job responsibility.

School employees are much more closely related and interdependent than most groups of public employees. The Bergenfield Board concedes that the work of both the custodians and the teachers can have a direct and important impact on the educational process.

Moreover, the evidence indicates that a large number of school districts have established collective

negotiation units containing both custodians and teachers, and there does not appear to be any manifestation of difficulties in those districts resulting from this type of unit.

Accordingly, upon the entire record, it is determined:

The custodial employees of the Bergenfield Board of Education are appropriate members of and should be included in the bargaining unit which contains the teachers and other professional employees of the Bergenfield Board of Education; and, the majority representative of that unit, the Bergenfield Education Association, may enter into collective negotiations with the Board of Education with respect to the wages, rates of pay, hours of employment and other conditions of employment of said custodial employees.

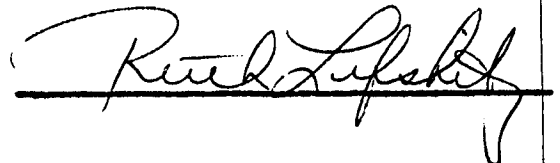
Dated: May 12, 1969



GEORGE MARLIN

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

On this 12th day of May, 1969, before me personally appeared GEORGE MARLIN, to me known and known to me to be the individual described in and who executed the within instrument and he duly acknowledged to me that he executed the same.



RUTH LIPSHITZ
NOTARY PUBLIC, STATE OF NEW YORK
No. 24-75515
Qualified in New York County
Commission Expires March 30, 1970