

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

CAMDEN COUNTY, BOARD OF CHOSEN FREEHOLDERS

Public Employer

and

LOCAL 1965, AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner in R-60  
Intervenor in R-108

and

CAMDEN COUNCIL NO. 10, NEW JERSEY CIVIL  
SERVICE ASSOCIATION

Docket Nos. R-60  
R-108

Petitioner in R-108  
Intervenor in R-60

DECISION AND DIRECTION OF ELECTIONS

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of Camden County, hearings were held on June 17, July 2, and July 14, 1969, before ad hoc Hearing Officer Jonas Silver at which all parties were given an opportunity to examine and cross-examine witnesses, to present evidence, and to argue orally. Such hearings were conducted on the basis of the Petition in Docket No. R-60. Thereafter, on August 7, 1969, the ad hoc Hearing Officer issued a Report and Recommendations. No exceptions to the Hearing Officer's Report and Recommendations were filed within the ten day period provided for such filing.<sup>1/</sup> Upon motion of Council No. 10 to consolidate Docket Nos. R-60

<sup>1/</sup> Council No. 10's exceptions, post-marked August 21, 1969, were untimely filed.

and R-108, a show cause order was mailed to the parties on September 24, 1969, giving them ten days in which to show cause why the cases should not be consolidated and a decision rendered upon the record developed in Docket No. R-60. AFSCME objected to the consolidation but this objection was not timely filed.<sup>2/</sup> The Commission has consolidated both cases for decision in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay. Therefore, the Commission has considered the record, the Hearing Officer's Report and Recommendations, the petitions, and supporting documents in both cases and, on the facts in these cases, finds:

1. The Camden County Board of Chosen Freeholders is a Public Employer within the meaning of the Act and is subject to the provisions of the Act.
2. Local 1965, American Federation of State, County, and Municipal Employees, AFL-CIO and Camden Council No. 10, New Jersey Civil Service Association are employee representatives within the meaning of the Act.
3. The Public Employer having refused to recognize any employee representative as the exclusive representative of certain employees, a question concerning the representation of public employees exists and the matter is appropriately before the Commission for determination.
4. The Commission adopts the Hearing Officer's Report and Recommendations, attached hereto and made a part hereof, except as modified below.
5. AFSCME petitioned for a unit consisting of all blue collar employees'

<sup>2/</sup> AFSCME's objections to the consolidation, dated October 6, 1969, were, in fact, hand delivered to the Commission on October 9, 1969. Since this was beyond ten days from receipt of the show cause order by AFSCME, as evidenced by the return receipt, the objections are not timely filed.

of the Public Employer who work at the Lakeland Institutions.<sup>3/</sup> Lakeland Institutions is a complex of hospitals and supporting facilities located at Blackwood, Gloucester Township, Camden County. All parties stipulated that an appropriate unit would be one which included only those job classifications found at Lakeland Institutions but excluding those job classifications found both at Lakeland Institutions and elsewhere in the County. The parties urged the Commission to approve such a unit as appropriate. The Hearing Officer questioned the appropriateness of that unit and, therefore, took testimony to permit a determination of the appropriate unit. Therefore, this question is appropriately before the Commission. The County contended that such a unit would constitute a practical and workable unit and that such a unit was best suited from an administrative standpoint. Notwithstanding these considerations, the fact remains that all employees at Lakeland Institutions are commonly affected by personnel decisions and actions taken at Lakeland Institutions. Employees in classifications unique to Lakeland Institutions as well as employees in classifications found county-wide are affected by such personnel actions equally. Moreover, no action taken either at Lakeland Institutions or at the County level by the Board of Chosen Freeholders affects one or the other of these groups of employees exclusively. Furthermore, to find appropriate a "gerrymandered" unit such as that proposed would ignore the employees community of interest. The stipulated unit is disapproved.<sup>4/</sup>

<sup>3/</sup> The parties agreed that the Clinical Laboratory, the Childrens' Shelter and Civil Defense are outside the scope of a Lakeland Institutions negotiating unit.

<sup>4/</sup> Although the Commission favors agreement of the parties and will give considerable weight to such agreement, this may not be done where, as here, it contravenes the purpose of the Act.

Having rejected the negotiating unit stipulated by the parties, it is necessary to determine what is an appropriate unit in this situation. AFSCME favored a unit of all blue collar employees at Lakeland Institutions. Council No. 10 favored a county-wide unit of blue and white collar employees excluding only employees of the Highway Department who are covered by a separate agreement and the Correction Officers. The County argued that all employees in a particular classification must be treated equally and, therefore, contended that a horizontal grouping of classes would be the most appropriate method of defining units. The only petition before the Hearing Officer was that filed by Local 1965, AFSCME. However, the record is replete with references to the county-wide unit sought by Council No. 10. A petition was filed by Council No. 10 on July 10, 1969 for a county-wide unit. The Commission concludes, on the basis of the record, that there is sufficient evidence relating to the positions of all parties to consider and rule on the units sought by the parties to this proceeding.

6. The unit sought by Council No. 10 is a county-wide unit of blue and white collar employees excluding employees of the Highway Department who are covered by a separate agreement and the Correction Officers. At the hearing, AFSCME recognized that such a county-wide unit would be an appropriate unit and that it might be the most desirable or optimum unit. Such a unit would be an optimum unit and all parties agree that this unit would be an appropriate unit. Therefore, the Commission finds the unit sought by Council No. 10 to be an appropriate unit.

Having found the unit sought by Council No. 10 to be an appropriate unit, the Commission now will consider the unit of blue-collar

employees at Lakeland Institutions sought by AFSCME. The County opposed this unit because it was feared that such a unit would cause untold administrative problems and would lead to competition among employee groups. However, the County already has voluntarily recognized AFSCME for a unit of employees of the Highway Department and has, in fact, concluded an agreement with AFSCME covering such employees. As a result of this agreement, certain classes of employees found at both the Highway Department and elsewhere in the County - including Lakeland Institutions - receive different rates of pay and receive different benefits. There is nothing in the record to indicate why a separate unit is appropriate for employees of the Highway Department but would be inappropriate for employees of Lakeland Institutions. The fact that the County has recognized and executed an agreement with an employee organization on a departmental basis gives credence to the appropriateness of such units. Furthermore, the record reveals that there is no legal requirement that all County employees in the same job classification be paid at the same rate. Additionally, both the County and Council No. 10 have indicated by stipulation their acceptance of a unit which covers only employees at Lakeland Institutions in job titles which are unique to Lakeland Institutions. By this stipulation, these parties have recognized that a unit smaller than a county-wide unit could be an appropriate unit. As noted above, however, the Commission does not find such a gerrymandered unit which includes some employees but which excludes others to be consistent with the statutory requirement that the Commission give due regard for the community of interest among the employees concerned. Therefore, the parties have, in essence, recognized that a unit of all

County employees may have exceptions to its totality: (1) the agreement between AFSCME and the County covering employees of the Highway Department, (2) the exclusion in the petition of Council No. 10 of Correction Officers and employees of the Highway Department, and (3) the stipulation of all parties that a unit of job titles found only at Lakeland Institutions would be appropriate. Thus, if any question existed in the mind of this Commission regarding a unit which was less than county-wide, it would have been resolved by the action of the parties individually and collectively.

The record indicates and the Hearing Officer recommended that Lakeland Institutions constitutes an appropriate unit. Lakeland Institutions is the locus of authority for such matters as hire, discharge and discipline. Employees at Lakeland Institutions experience working conditions which are different from those of other County employees. They are directly affected by what happens at Lakeland Institutions and not by what happens at other facilities in the county. Grievances of these employees are typically adjusted at Lakeland Institutions. There are no transfers to or from Lakeland Institutions other than in emergencies of a temporary nature. The fact that Lakeland Institutions employees perform services connected with the sick and aged also tends to set them off from other County employees. The Lakeland Institutions constitute a physically and geographically separate and distinct area. All of these factors, which are fully discussed by the Hearing Officer whose rationale we adopt, lend support to the conclusion that the employees of Lakeland Institutions do have a community of interest separate and distinct from that of other County employees and that Lakeland Institutions does constitute an appropriate unit.

The Act does not require the Commission to find the most appropriate unit or the only appropriate unit but calls for a finding that, after giving due regard for the community of interest among the employees concerned, an unit is an appropriate unit. Based upon all of the above, after giving due regard for the community of interest among the employees concerned, the Commission finds appropriate a unit composed of the blue collar employees of Lakeland Institutions.

7. Inclusions in and exclusions from the negotiating units must be decided. Generally, AFSCME would exclude foremen and assistant foremen except the assistant laundry foremen as supervisors. The County would exclude all foremen and assistant foremen as supervisors. Council No. 10 would include all foremen and assistant foremen. Although it is recognized that the Board of Chosen Freeholders must give final approval to all personnel actions, the record reveals that the foremen at Lakeland Institutions do have the authority to hire, discharge, and discipline or to effectively recommend on such matters. Therefore, they are supervisors as defined in the Act and are excluded from the unit. The record is silent with respect to the authority of other foremen in the County but there is no reason to believe that foremen at Lakeland Institutions differ appreciably from foremen elsewhere in the County. Thus, all foremen shall be excluded from voting because they are supervisors. Since assistant foremen do not have the attributes of supervisors as defined in the Act, they are included in the units found appropriate.

The Act requires that, except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes both craft and noncraft employees unless a

majority of such craft employees vote for inclusion in such a unit. There is no evidence to support a finding that any of the aforementioned conditions exists. We shall, therefore, provide for a self-determination election for the craft employees. The craft employees will vote on whether or not they wish to be included in a unit with noncraft employees.

The Act also requires that professional employees be given a right to be excluded from an overall unit. Council No. 10 maintains that a barber and a beautician employed at Lakeland Institutions should be excluded as professionals because they are licensed by the State. It is generally accepted that professionals engage in intellectual work involving the exercise of discretion and requiring knowledge of a type typically acquired at an institution of higher learning. The employees in question do not fulfill these requirements. We find, therefore, that they are not professional employees. However, since they are by State Law subject to an apprenticeship and since they do have certain skills, we shall include them among the craft employees.

In accordance with the desires of the parties and consonant with the dictates of the Act, we shall exclude professional employees from each unit. Having found that blue-collar employees at Lakeland Institutions may constitute an appropriate unit, we shall exclude that group from the county-wide unit which we have also found appropriate.

As a measure of the community of interest among the employees concerned, the Commission may look to the expressed desires of the employees as reflected by them in the exercise of their franchise. The Act recognizes this factor by granting self-determination elections to craft employees and professional employees before they may be



included with other groups. Accordingly, we shall not combine the Lakeland Institutions employees with the other County employees unless they vote for the same employee organization, if any, as that selected by the other County employees. Through this method the employees' desires will be given due weight by the Commission in determining the scope of the appropriate unit or units.

The craft employees shall, in accordance with the Act, similarly have an opportunity to indicate whether or not they desire to be combined with noncraft employees.

8. Based upon all of the above, the following voting groups are found to be appropriate:

Group 1 - All craft employees of Lakeland Institutions including barbers, beauticians, carpenters, carpenter's helpers, plumbers, plumber's helpers, plumber-steamfitters, plumber-steamfitter's helpers, senior plumber-steamfitters, painters, painter's helpers, electricians, electrician's helpers, masons, mason's helpers, mechanical repairmen, mechanic's helpers, cabinet marker-refinishers, general maintenance repairmen, stationary firemen, <sup>5/</sup> stationary engineers, <sup>5/</sup> but excluding all foremen as well as noncraft employees, professional employees, supervisors as defined in the Act, policemen, and managerial executives.

Group 2 - All blue collar employees employed at Lakeland Institutions including laundry workers, senior laundry workers, assistant

<sup>5/</sup> The Hearing Officer did not list these as craft occupations; however, the Commission found them to be craft occupations in P.E.R.C. NO. 19, Bergen Pines County Hospital and makes a similar finding in this instance predicated, additionally, on the reasoning discussed regarding barbers and beauticians.

foremen laundry, attendants, senior attendants, autoclave operator, physical therapy aides, occupational therapy aides, building maintenance workers, senior building maintenance workers, building service workers, senior building service workers, cooks, senior cooks, head cooks, dairyman <sup>6/</sup> helpers, dairymen, dietician's helpers, canteen supervisors, equipment operators, heavy equipment operators, food service workers, senior food service workers, groundskeepers, senior groundskeepers, housekeepers, laborers, laborer drivers, laborer heavy, seamstresses, sewage plant operators, senior sewage plant operators, sewage plant repairmen, stock handlers, stock clerks, storekeepers, truck drivers, and institutional patrolmen and firemen, but excluding craft employees, professional employees, supervisors as defined in the Act, policemen and managerial executives.

Group 3 - All craft employees of Camden County except those employed at Lakeland Institutions and the Highway Department but **excluding** all other employees, professional employees, supervisors as defined in the Act, managerial executives, foremen, and policemen.

Group 4 - All blue collar and white collar employees of Camden County excluding Correction Officers, employees of the Highway Department who are covered by a separate agreement, supervisors as defined in the Act, professional employees, managerial executives, policemen and employees of Lakeland Institutions listed

6/ Here the term "supervisor" is merely descriptive rather than status.

in Voting Group 2 above.

DIRECTION OF ELECTIONS

- (a) All employees in Voting Group 1 (craft employees of Lakeland Institutions) shall vote as to whether or not they desire to be included with noncraft blue collar employees of Lakeland Institutions (Voting Group 2). If the craft employees vote for such inclusion, their ballots shall be tallied with those in Voting Group 2 and all ballots shall be counted at face value and an appropriate certification shall issue in Voting Groups 1 and 2;
- (b) If the employees in Voting Group 1 do not want to be included with the noncraft blue collar employees at Lakeland Institutions (Voting Group 2), their ballots shall be counted separately and an appropriate certification shall issue for Voting Group 1;
- (c) All employees in Voting Group 3 (craft employees other than those at Lakeland Institutions) shall vote as to whether or not they desire to be included with noncraft employees in Voting Group 4 (County-wide residual group). If the craft employees in Voting Group 3 vote for such inclusion, their ballots shall be tallied with the votes in Voting Group 4 and all ballots shall be counted at face value and an appropriate certification shall issue in Voting Groups 3 and 4;
- (d) If the employees in Voting Group 3 vote for separate representation, their ballots shall be counted separately and an appropriate

certification shall issue;

- (e) If the employees in Voting Groups 2 and 4 or 1 and 2 combined and/or 3 and 4 combined, as set forth in (a) and (c) above, vote for the same employee organization, if any, a single certification shall issue covering all employees described in the aforementioned voting groups;
- (f) If the employees in Voting Group 1 and Voting Group 3 vote for separate representation but for the same employee organization, if any, a combined certification will issue covering the aforementioned employees in Voting Groups 1 and 3.

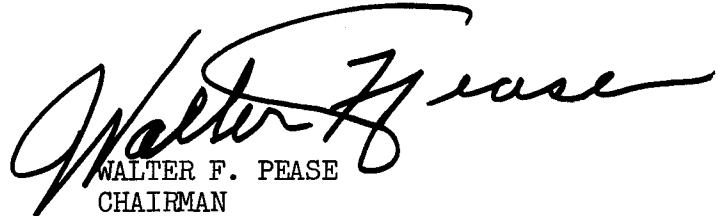
We find, after having determined the desires of the employees as expressed in the elections herein directed that the appropriate collective negotiations units are those that will result from the certifications which will issue as set forth above.

Eligible to vote are all the employees in the units described in Section 8 who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or on leave of absence, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. The elections directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

Those eligible to vote in Voting Groups 1 and 3 shall vote on the question, "Do you wish to be represented with noncraft employees?"

Those eligible to vote in each of the voting groups shall vote on whether or not they desire to be represented for purposes of collective negotiations by Local 1965, American Federation of State, County, and Municipal Employees, AFL-CIO; Camden Council No. 10, New Jersey Civil Service Association; or neither.

BY ORDER OF THE COMMISSION

  
WALTER F. PEASE  
CHAIRMAN

DATED: December 17, 1969  
Trenton, New Jersey

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOARD OF CHOSEN FREEHOLDERS,  
COUNTY OF CAMDEN, LAKELAND INSTITUTIONS

-and-

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, AFL-CIO, LOCAL 1965

Docket No. R-60

APPEARANCES:

For the County of Camden

Raymond W. Uliase, Esq., First Assistant County Counsel

William D. Dilks, Esq., Assistant County Counsel

For AFSCME, Local 1965

Robert R. Klingensmith

International Union Area Director

For Camden Council No. 10, New Jersey Civil Service Association

M. Allan Vogelson, Esq.

Mildred D. DiFante, President, Council 10

REPORT AND RECOMMENDATIONS  
OF HEARING OFFICER

Upon a petition duly filed under the New Jersey Employer-Employee Relations Act, hearing in this proceeding was held at Camden, New Jersey, on June 17, July 2, and July 14, 1969, before the undersigned ad hoc Hearing Officer. At the hearing, the parties were given full opportunity to present testimony, evidence and argument, and to examine and cross-examine witnesses.

Upon the entire record in this proceeding, the Hearing Officer finds:

1. Board of Chosen Freeholders, County of Camden, Lakeland Institutions, is a public employer within the meaning of Section 3 (c) of the Act.

2. Petitioner, American Federation of State, County and Municipal Employees, AFL-CIO, Local 1965, herein referred to as Local 1965, is an employee representative within the meaning of Section 3 (e) of the Act.

3. Camden Council No. 10, New Jersey Civil Service Association, herein referred to as Council 10, granted Intervenor status by ruling of the Hearing Officer and stipulation of the County and Local 1965, is an employee representative within the meaning of Section 3 (e) of the Act.

4. Inasmuch as the public employer has declined to recognize Local 1965, as the exclusive representative of the employees involved herein, a question concerning the representation of public employees exists.

5. The appropriate unit: In its petition, Local 1965 sought a unit of "all 'Blue Collar' employees employed at Lakeland Institutions, excluding professional, semi-professional, administrative, clerical and supervisors as defined in the Act." At the hearing, Local 1965 changed its unit request so as to embrace those employees in job classifications found only at Lakeland Institutions and excluding job classifications found County wide as well as at Lakeland. In so doing, Local 1965 indicated that it was endeavoring to expedite resolution of the representation proceeding and obtain an early election. County and Council 10 agreed to the unit as altered which was referred to as a "consent election agreement". County urges that the Lakeland only classifications represent a workable, practical unit best suited from an administrative standpoint and should therefore receive the sanction of the Commission.

The Hearing Officer indicated doubt concerning the appropriateness of

a Lakeland classifications only unit and therefore expanded the scope of the hearing in order that a proper evidentiary foundation might be provided to determine, inter alia, whether or not blue collar employees who work at Lakeland but in classifications in existence at other County functions such as the Court House, may be excluded from the agreed upon unit. Accordingly, Local 1965 expressed the position that, in the event the agreed upon Lakeland classifications only unit were to be found inappropriate, it would favor its original unit request of all blue collar employees at Lakeland without regard for the appearance or non-appearance of the job classifications involved on a County wide basis. Council 10, on the other hand, took the position that job classifications in existence County wide should be excluded from the Lakeland unit and, moreover, that the presence of any County wide classifications in the Lakeland unit, rendered that unit inappropriate. While not here seeking a County wide unit, Council 10 asserted that, absent the propriety of the agreed upon unit, the alternative would be all blue collar employees of the County except those already under collective negotiations contract or in a recognized unit, i.e., Highway Department and Correction Officers. County likewise considers that the County wide classifications belong in a County-wide unit since overall authority for personnel is in Camden and that therefore any unit of Lakeland blue collar employees other than that agreed upon by the parties, should be declared by the Commission to be inappropriate.

(a) Lakeland Institutions and the County structure: Camden County is governed by a Board of Chosen Freeholders (7) whose public responsibilities extend



to the functions of such sub-divisions as Lakeland Institutions, the Courts, Corrections, Highway Department, Mosquito Commission, Civil Defense, etc. Administrative tasks are assigned to various Freeholders such as Freeholder Connelly who is responsible for the overall operations of Lakeland Institutions aided, at the Freeholder level, by a Committee on Institutions composed of 3 Freeholders with Freeholder Connelly as Chairman. Delegation of authority to a Freeholder does not relieve the Board of Freeholders as a body from ultimate authority over the Freeholder's actions.

Lakeland Institutions, located at Blackwood, Gloucester Township, lower end of Camden County in a geographically separate but accessible area, consists of a contiguous complex of hospitals and old age home together with supporting facilities such as maintenance, power, sewage, laundry, and food service. The components, each under a Superintendent or Supervisor as to non-medical matters, are: Chest, Psychiatric, and General Hospitals; Clinical Laboratory<sup>1/</sup>; Home for Senior Citizens; Maintenance, Sewage Departments; and Central Power Plant. It is stipulated that all Superintendents are accountable to Freeholder Connelly who is their liaison with the Board of Chosen Freeholders.

(b) The units involved by job classifications: The consent agreement unit based on job classifications existing at Lakeland only comprises: laundry

<sup>1/</sup> It is agreed that the Clinical Laboratory is not involved herein because the employees there are professional or semi-professional. It is further agreed that the Children's Shelter and Civil Defense, though located at Lakeland, are not within the authority of Freeholder Connelly, and therefore outside the scope of any Lakeland bargaining unit. The undersigned so finds.

worker, senior laundry worker, attendant, senior attendant, dairyman helper, dairyman, dietician's helper, canteen supervisor, food service worker, senior food service worker, housekeeper, seamstress, senior farmer, sewage plant operator, senior sewage plant operator, sewage plant repairman, physical therapy aide, occupational therapy aide, and autoclave operator. The foregoing titles involve about 404 employees.

The alternative unit sought by Local 1965 would add to the list the following titles existing County wide and include employees in these titles working at Lakeland: building maintenance worker, senior building maintenance worker, carpenter's helper, carpenter, building service worker, senior building service worker, cook, senior cook, equipment operator, groundskeeper, senior groundskeeper, laborer, laborer-driver, laborer heavy, plumber's helper, plumber, senior plumber-steamfitter, painter's helper, painter, electrician, mason helper, mason, senior mason, mechanic helper, maintenance repairman general, stationary fireman, stationary engineer, stock handler, storekeeper, and truck driver<sup>2/</sup>. The foregoing titles involve about 142 employees. As to this latter group of titles, the County and Council 10 would exclude the employees occupying these jobs at Lakeland on the ground that the titles are County wide.

Apart from additional titles, set forth hereinafter, which are disputed because they may involve supervisory duties, Local 1965 would include in the Lakeland unit, barber and beautician. As to these latter, found at Lakeland only,

<sup>2/</sup> Certain of these titles such as cook, plumber, have no employees at the Court House now but are considered County wide titles that may be filled there.

the County agrees they belong in the stipulated Lakeland unit. Council 10, however, would exclude these employees as professional.

(c) The relation between the Freeholders and Lakeland with regard to personnel actions: The superintendents in charge of the various components are responsible at the Lakeland level for the direction and management of the administration and supervision of their respective hospital or function including personnel, equipment, materials and supplies. In this connection, the job description for Superintendent states: "Directs the administration of hospital personnel activities, approving the employment and discharge of employees, maintaining discipline. . .interprets and transmits policies of the Board of Chosen Freeholders to the Hospital personnel. . ."

Consistent with responsibility for the maintenance of discipline, the Superintendent takes action as the need arises including discharge, assisted in such actions by the judgment of lower level supervisors. In such matters, the Superintendent follows Civil Service rules and regulations and forwards a report and recommendations to the Freeholder who, in turn, reports to the Board of Chosen Freeholders whose review is subject to Civil Service. However, the Superintendent's recommendations are disapproved by higher authority only on rare occasions. In the area of hiring for hospital jobs and other jobs under a Superintendent, interviewing is done by staff subordinates and the decision to hire is under the Superintendent's control though ultimate approval by the Freeholders and Civil Service is required.

In the Maintenance Department, trades type employees such as plumber-steamfitter are referred by the Freeholder to Lakeland from a Civil Service list

and interviewed by the Superintendent or foreman. If the individual so referred is not found acceptable, the Superintendent or foreman must give the reasons therefor and the matter is referred to Civil Service for final decision. Successful completion of the 90 day probationary period, however, is determined in large measure by the judgment of the foreman and, in turn, by the Assistant Superintendent and Superintendent who are familiar with the work involved and the standards of satisfactory job performance with final approval by the Freeholder. In the absence of a Civil Service referred applicant, the Superintendent and his supervisory subordinates will make the recommendation as to the hire of an applicant who has been referred by the Freeholder which recommendation is approved by the Freeholder in most cases. Employees who exhibit improper conduct or who are otherwise unsatisfactory to the point where Lakeland supervision considers discipline or discharge called for, may be suspended or let go by local action. Such action is final unless the individual involved appeals through Freeholder and Civil Service channels. In the latter event, the Freeholder conducts a hearing on the basis of the supervisor's charges and makes his recommendations to the Board of Chosen Freeholders whose decision is, in turn, appealable to the Civil Service Commission.

In the area of food service workers and building maintenance workers, the Lakeland foreman makes the recommendations with regard to hire and fire and his recommendations are followed by subsequent steps of supervision. There have been very few exceptions.

(d) The relation between the County Freeholders and Lakeland with regard to working conditions: The job description for Superintendent provides:

". . .analyzes the work relating to the operation of the institution and develops a suitable work program and working procedures. . . formulates and executes plans for effective suitable assignments and instructions to individuals and heads of units. . ."

Superintendents at Lakeland may arrange working schedules to suit the requirements of a 7 day, 24 hour continuous operation including starting time and vacations. They may, as a matter of operational requirements, assign particular duties to employees within job classifications as such assignment is adjudged to be necessary by subordinates. Decisions as to working on holidays, placement on shifts, approval of absences, days off and on, wearing apparel, the need for working overtime, lunch and rest periods, starting time, are made by subordinate supervision subject to the control of the Lakeland Superintendent.

Grievances or complaints affecting conditions are handled within the several departments with final approval by the Freeholder and adherence to Civil Service rules and regulations where applicable. Where the grievances involve work assignments such as those in the Maintenance Department, final disposition is made within the department by the Superintendent.

In practice employees at Lakeland in County wide jobs do not transfer to jobs elsewhere in the County but remain at Lakeland. Neither do employees outside Lakeland transfer to Lakeland. In the event a transfer occurs, it is the result of personal accommodation rather than a matter of employee right. Employees in trade type occupations similarly remain at Lakeland and outside trades do not work at Lakeland except in rare emergencies when a Lakeland employee may be on "loan" or an outside employee may be on "loan" to Lakeland, each remaining on

his own payroll. Transfers do take place, however, from one Lakeland Institution to another within the same classification.

(e) The relation between the County Freeholders and Lakeland with regard to compensation: The Board of Freeholders adopted a "Compensation Plan" effective January 1, 1969. This plan covers by "general rules" and "Detailed plan" salary ranges and increments by title except where set by statute, hiring rates, salary adjustment on promotion, part time compensation, longevity pay, shift differential, overtime, maintenance allowances, hospital and medical care, vacations, and sick leave. The plan is applicable County wide including Lakeland Institutions and administered by a Personnel Committee composed of the Director of the Board of Chosen Freeholders, the Director of Personnel and the Director of Revenue and Finance. The provisions are consistent with Civil Service law and regulations. However, there is no bar to the County providing for greater compensation at Lakeland in any of the areas covered by the plan including salaries should it determine to do so. The plan contains minima.

In the description of the plan, reference is made to the role of the "Department Head or Freeholder Director of the Department" by way of making recommendation as to adjustment of hiring rate, and the prorating of salary increases on less than one year's service. In the area of increments based on merit rating, the plan states: "Annual increments-will be given for merit rating upon recommendation of Department Heads only." The plan then goes on to indicate that the immediate supervisor will submit in writing proposed action with regard to merit increments involving employees under him which will be submitted to the

Personnel Committee ". . . endorsed by the Department Head. . ." for its approval. In practice, however, the action taken by immediate supervision as approved by the Lakeland Superintendent, is approved as a matter of course by the Department Head, i.e., the Freeholder and, in turn, by the Personnel Committee because the immediate supervisor is in the best position to evaluate the job performance of the employee. Apparently, the role of the Freeholder in practice is more remote than the language of the plan would indicate.

(f) The relation between the County Compensation Plan and the collective agreement between the Freeholders and Local 1965 covering Highway Department: The first agreement between Local 1965 and the Freeholders covering titles in the Highway Department goes beyond the Compensation Plan and Civil Service with respect to grievance-arbitration, pay scales, call in pay, and overtime. Where the agreement provisions are the same as those of the Compensation Plan, this was brought about through negotiations. Of the 19 Highway Department titles contained in the agreement, 8 are peculiar to that department; the remaining titles are County wide including 7 titles found at Lakeland as well.

(g) The duties of employees in Lakeland only titles: Certain more populated job classifications may be summarized as to duties in order to provide a sense of the nature of the work involved among the blue collar employees found at Lakeland only. There are some 236 attendants and 64 senior attendants who: "tender non-professional custodial care to inmates or patients" including "maintaining order and discipline, assisting in the feeding. . .bathing. . .escorting inmates and patients. . .assisting doctors and nurses. . .cares for the sanitary conditions of the wards. . ." The salary range is from \$4160-\$5400. There are about 44 food

service and senior food service workers who: "perform. . .work involved in preparing and serving food and/or in cleaning food service facilities and equipment. . ." The salary range is from \$3640-\$4800. There are about 27 laundry and senior laundry workers who: "operate and assist in the operation of one or more laundry machines. . .classify, sorts, inspects. . .laundry." The salary range is from \$4000-\$5240.

(h) The duties of employees in County wide titles who are also employed at Lakeland: Among employees found at County locations such as the Court House and at Lakeland, are: building and senior maintenance worker (44 at the Court House and 24 at Lakeland) who: "clean and maintain buildings and grounds . . . wash and clean windows and floors, polish floors, dust desks. . .clean business offices. . .hospital wards. . .deposit sweeping in trash cans. . ." The salary range is from \$3900-\$5100.

Among the trade type jobs are those of plumber (1 plumber-steamfitter at the Court House and 6 plumbers at Lakeland) who: "performs routine general plumbing such as maintenance and the less difficult tasks involved in the installation of plumbing facilities; works with various hand tools and the more simple machine tools common to the trade. . .repairs and maintains gas, water, and waste disposal pipes and facilities. . .clears up stopped drains, pipes and facilities. . .repacks faucets and valves. . .measures, cuts, reams and threads pipe; repairs and replaces steel, cast iron, soil and copper pipe and fittings. . .works from simple sketches or work orders. . ." The practice at Lakeland is to work a plumber and other trades type employees within his trade and under a trade foreman except for mason and painter who are currently working under the carpenter foreman. In



the judgment of the Assistant Superintendent for Maintenance, plumbers, steam-fitters and other trades may qualify as journeymen. The helpers to the trades, he averred, go through successive examinations over a period of time equivalent to apprenticeship and remain while helpers within the particular trade. The salary range is from \$5400-\$6500, which appears to be the trades range generally.

(i) The scope of the unit: The stipulated Lakeland titles only unit may receive the sanction of the Act only if it does not offend the Act's requisites for an appropriate unit. Considerations of facilitating the decisional process, minimizing administrative difficulties in matters of labor policy, achieving harmony in the relationships of the parties, while laudable objectives, may not override the command of the statute that the unit be founded on a "community of interest" of the employees involved. Consequently, the Hearing Officer must go behind the stipulation in order to ascertain whether or not the Lakeland Institutions may be determined to be the situs of a "community of interest" in the first instance and, if so, whether or not the several job titles existing elsewhere in the County may be permitted to fall outside Lakeland although there are occupants of those titles at Lakeland. Essentially the test to be employed requires an evaluation of the several incidents of the employment relationship for the purpose of establishing whether the interests of blue collar employees at Lakeland in terms and conditions of employment could be said to centre about ties to the Board of Chosen Freeholders or ties to the Lakeland work place. Top or bottom, so to speak.

To an extent the question of the separateness of Lakeland is shaped in its outcome by the existence of the individual Freeholder who is in effect the head of

what may be termed the Department of Hospitals and Home for the Aged. The Freeholder and his Committee for Institutions constitute the principal administrative and executive authority for the complex. And, as the findings show, the Freeholder is called upon to place his imprimatur upon significant personnel actions and compensation plan applications. True it is that ultimate authority is in the hands of the entire Board but in order to discharge its many responsibilities in governing the County, the Board needs must, and indeed does, delegate much of that authority to the individual Freeholder. And the individual Freeholder such as Freeholder Connelly, in the case of Lakeland Institutions, needs must, and indeed does, delegate substantial operating authority in matters affecting the employment relationship to Superintendents and supervisors at the work place. Thus, in the matter of discipline, hire, classified status, and discharge, the authority of foremen and supervision leading up to and including the Superintendent is to make effective recommendation to accomplish these personnel actions as well as to take actual disciplinary and discharge measures as the need arises. Where Civil Service lists are utilized, the judgment of Lakeland supervision may serve to delay acceptance of the individual referred to fill the opening pending Freeholder and Civil Service review. On the other hand, where hiring is without Civil Service list, Lakeland supervision has effective control of acceptance or rejection of the applicant. In these important incidents of the employment relationship, therefore, the employee may be said to look to Lakeland as the locus of authority albeit ultimate approval is in the hands of the Freeholder and the Board. The undersigned so finds.

In the area of working conditions, Superintendent and supervisor at

Lakeland make effective decisions with regard to day in day out aspects of the employment relationship such as starting time, rest periods, changes in schedules, orders to work overtime, approval of absences, vacation schedules, and work assignments including working on holidays. In these commonly occurring incidents of the employment relationship, therefore, the employee may be said to look to Lakeland as the locus of authority. In the handling of grievances, local supervision familiar with operating practices and procedures, exercises considerable decisional authority though appeal may be had to the Freeholder. The undersigned so finds.

It has been noted that Lakeland constitutes a physically separate area from the centre of County activities at the Camden Court House. All employees involved herein work in proximity to one another and some sleep in at Lakeland. Transfers out of or into Lakeland from other County locations are virtually non-existent and employees at Lakeland continue to work at that location. It may reasonably be inferred therefrom that physical self-containment and lack of employee movement from and to Lakeland and other locations in the County, make for a strong awareness of employee interest in conditions as they exist at Lakeland rather than as they exist at the Court House. By the same token, communications as to concerted activities among Lakeland employees are more readily facilitated than by communications between the Court House employees and Lakeland. The undersigned so finds.

It would appear, therefore, that a negotiating unit may appropriately be coterminous in scope with Lakeland Institutions, there being a sufficient

"community of interest" among blue collar employees at that location by reason of their ties to Lakeland.

(j) The composition of the unit: Inasmuch as the parties have agreed on a Lakeland unit but have confined their agreement to Lakeland titles only, may the "community of interest" among Lakeland blue collar employees found by the undersigned to exist, permit of exclusion of the employees in County wide titles of which building maintenance workers and the trades types are examples? In arguing for the exclusion, County and Council 10 maintain: the Civil Service classifications provide uniform duties and salaries for the same jobs, i. e., horizontally, throughout the County; the work of the stipulated jobs is found only at the hospitals at Lakeland; and an increase to a minority of employees at Lakeland in County wide titles, will compel an increase to a majority elsewhere thereby unsettling salary and benefit administration. Local 1965, on the other hand, maintains that to find an inclusive Lakeland unit inappropriate because a County wide unit would be more appropriate, ignores the Act's requirement of "an appropriate unit" rather than the most appropriate or optimum unit; that many governmental entities have collective agreements covering a unit of hospital employees including Monmouth and Passaic Counties; and that the Highway Department agreement already represents a break in County wide labor policy.

As hitherto found, the Compensation Plan establishes minimum salary, benefits, and conditions. Accordingly, though County wide in its application, it does not preclude differences to meet local or department circumstances such as those that may arise in approving merit increments where immediate supervisor judgment controls or where there comes into existence a less than County wide

bargaining unit. Thus, with reference to the Highway Department agreement, the Compensation Plan has not stood in the way of significant departures such as higher salary ranges, call in pay guarantees, and provision for arbitration of grievances. Indeed, the very act of voluntary recognition by the Board of Freeholders that the titles in the Highway Department constitute a basis for negotiations is, in itself, an admission that the County is severable for the purposes of collective negotiations. All the more so since there, as here, several of the titles involved are County wide and, it should be noted, found at Lakeland as well, i. e., laborer, laborer heavy, laborer driver, equipment operator, heavy equipment operator, and truck drivers. In the opinion of the undersigned, the rule of County wide treatment of County wide jobs is not so all pervasive or inflexible in practice as to inhibit variations and departures from the norm of terms and conditions of employment where induced by the exigencies of local or department circumstances.

But it is said that a laborer is a laborer doing the same work whether at Lakeland or the Court House; that a building maintenance worker is cleaning at both locations; and that an electrician or plumber-steamfitter is similarly engaged in like duties. Given this identity of duties County wide as distinguished from those employees in Lakeland only titles who do hospital patient care or related work such as attendants and food service workers, what interests do the employees in the two groups have in common? One must not, however, take too narrow a view of work as a fundamental basis for evaluation of "community of interest" for work as physical duties is but one of the several implications stemming from "work" viewed in the context of negotiation unit criteria. It can readily be

comprehended that viewed in terms of physical duties alone, the work of the central power plant and the sewage department employees is no more directly affecting or related to care of hospital patients than is that of building maintenance. Nevertheless neither County nor Council 10 would exclude these employees from the Lakeland unit because, it appears, of the happenstance that their titles are not County wide.

However, it is not determinative of the essential composition of the unit that the same titles are existent elsewhere in the County and call for the same duties or that some titles are at Lakeland only because power and sewage disposal are unduplicated elsewhere in the County. Rather is disposition of the underlying unit question bottomed on the ties that a blue collar employee has to Lakeland as the locus of his interest in terms and conditions of employment. In sum, though the work of the building maintenance worker is the same physically at the Court House, the employee at Lakeland in this title is affected in the incidents of the employment relationship arising out of the work, directly and immediately by what transpires at Lakeland rather than at the Court House. When there is added the factor, as found, that the County regards and, in practice, applies its compensation plan with flexibility so as to take into account salaries and other conditions in excess of the minima particularly in the event of a negotiating unit confined to a department, there is further reason to conclude that the employee nexus to County wide titles is overridden by the links to Lakeland.

This is not to say that a County wide unit of blue collar employees may not constitute an appropriate unit. The Hearing Officer expresses no opinion in this regard because the question is not before him. It is the view of the Hearing

Officer for all the findings and considerations set forth above, that a unit of all blue collar employees at Lakeland Institutions constitutes an appropriate unit within the meaning of Section 8 (d) and Section 7 of the Act. In so concluding and recommending, the Hearing Officer rejects the Lakeland titles only stipulation of the parties. The same reasons that militate in favor of an overall blue collar unit compel the setting aside of exclusions which could not consistently be regarded as other than arbitrary segmentation. The ties that bind the employees in the Lakeland only titles to Lakeland are the same that bind the employees in the County wide titles to Lakeland.

While mindful of the County's position that a less than County wide unit inclusive of County wide titles will be productive of instability in overall administration of salary and other adjustments as to titles existing elsewhere, the Hearing Officer observes that such fears are not grounds for interdicting the unit found to be appropriate herein. The legislature of this State has determined in enacting the provisions of the Act that the public policy of preventing or promptly settling labor disputes in the public sector is best served by collective negotiations predicated upon a unit having "due regard for the community of interest among the employees concerned." Having found a "community of interest" in blue collar employees at Lakeland, such finding satisfies the statute and thereby fulfills the public policy of the Act quite apart from whatever forebodings a public employer may have as to the feasibility of the negotiating unit. The Act has yet to pass through the baptismal stage; experience in the public sector under collective negotiations may prove present anxieties unfounded as public employer and employee representatives seek to reach mutual accommodation in new ways amidst

surroundings of Civil Service rules and regulations and established governmental administrative practices. Whatever the anticipations of any individual public employer, the statutory standard must apply in effectuation of public policy.

(k) The exclusions from the unit; the trades type employees: As heretofore indicated the trades type employees such as plumber, plumber-steamfitter, etc., work within their trades under trades foremen (except for masons and painters who are under the carpenter foreman), are involved in a variety of tasks within the trade skill, use many of the tools of the trade, and move over successive steps while a trades helper to a journeyman like status, a progression analogous to apprenticeship. Their salary reflects a greater amount than that received by the hospital employees. While the skills involved in these jobs are perhaps not at the level of those associated with building trades craftsmen engaged in construction work, nevertheless as maintenance repairmen in an institutional setting they bear the indicia of craft. It may be presumed that Section 8 (d) of the Act, in excluding craft employees from a unit of noncraft employees, unless a majority vote for inclusion in such unit, applies to employees having the level of skill encountered herein as the nearest public employment counterpart of the craft employee in private industry. Accordingly, the Hearing Officer finds that the trades type employees are craft employees within the meaning of the Act. Further, the Hearing Officer shall recommend that the craft employees as hereinafter described by title, be placed in a voting group for purposes of self-determination as to whether or not they wish to be represented in the overall blue collar unit or in a separate unit of craft employees.



(1) The exclusions from the unit; the alleged supervisors: Local 1965 would exclude all foremen and assistant foremen as supervisors except assistant laundry foreman. County would exclude all foremen and assistant foremen. Council 10 would include all Lakeland only foremen and assistant foremen titles and exclude County wide foremen titles.

The craft foremen in the Maintenance Department interview applicants for trade positions and their opinion as to the acceptability of the individual carries weight with the Assistant Superintendent and Superintendent particularly in the case of applicants outside the trade, of the latter. In the case of applicants not referred from Civil Service lists, the foreman's judgment is relied on by the upper level supervision; the same is true of evaluation upon completion of the 90 day probationary period and the granting of "classified." Foreman have the authority to effectively recommend merit increases under the compensation plan. In view of the authority of the craft foremen to effectively recommend the hire of craft employees and the granting of "classified" as well as merit increments, the undersigned finds the craft foremen to be supervisors within the meaning of Section 7 and shall therefore recommend their exclusion under Section 8 (d) (1).

It is found that the groundskeeper foreman makes the determination as to the hire of groundskeepers. Accordingly, the undersigned shall recommend that the groundskeeper foreman be excluded as a supervisor.

The food service worker foreman recommends the hire and discharge of workers under him and his recommendations are followed. Accordingly, the food service worker foreman should be excluded.

Inasmuch as it is stipulated that the building maintenance worker foreman

has the same duties as the food service worker foreman, the former is likewise recommended for exclusion.

It appears from testimony of an assistant foreman laundry, that he directs the work of the laundry workers; that he himself works at a machine; that he sets up hours of work and vacation schedules; and that he makes an appointment with the Superintendent to speak to an employee who is late or whose work is unsatisfactory. In the absence of any indicia of authority to hire, discipline or discharge or to effectively recommend the same, it is recommended that the assistant laundry foremen be included in the bargaining unit as employees. The laundry foreman, it appears, possesses the authority to effectively recommend hire and discharge. It is recommended that he be excluded from the unit as a supervisor.

(m) The exclusions from the unit; the alleged professional employees: Council 10 asserts that the beautician and the barber are professional employees in that they are licensed by the State following examination and course at vocational school. A professional employee is one whose work, inter alia, requires that he apply advanced knowledge of the type customarily acquired in an institution of higher learning. Since the two titles in question do not involve work requiring application of the advanced knowledge associated with a professional employee, the classifications in question are not professional. It is recommended that the beautician and barber be included in the bargaining unit as non-professional, blue collar type employees.

#### RECOMMENDATIONS

Upon the entire record and the findings and conclusions predicated

thereon and set forth heretofore, the Hearing Officer recommends the following unit as appropriate for the purposes of collective negotiations within the meaning of Section 8 (d) and Section 7 of the Act:

All blue collar employees of the Board of Chosen Freeholders, County of Camden, employed at Lakeland Institutions<sup>3/</sup>, including laundry workers, senior laundry workers, assistant foremen laundry, attendants, senior attendants, auto-clave operator, barber, beautician, physical therapy aides, occupational therapy aides, building maintenance workers, senior building maintenance workers, building service workers, senior building service workers, cooks, senior cooks, head cook, dairyman helper, dairyman<sup>4/</sup>, dietician's helpers, canteen supervisors<sup>5/</sup>, equipment operators, heavy equipment operators, food service workers, senior food service workers, groundskeepers, senior groundskeepers, housekeepers, laborers, laborer drivers, laborer heavy, seamstress, sewage plant operators, senior sewage plant operators, sewage plant repairmen, stationary firemen, stationary engineers, stock handlers, stock clerks, storekeepers, truck drivers, and institutional patrolmen and firemen, but excluding professional, semi-professional, administrative, and clerical employees, as well as carpenter foreman, plumber-steamfitter foreman,

<sup>3/</sup> Excluding Clinical Laboratory, Children's Shelter, and Civil Defense.

<sup>4/</sup> The payrolls in evidence do not disclose the existence of senior farmer as an operating title. Should the title become active, the occupant would be included in the unit.

<sup>5/</sup> Here the term "supervisor" is merely descriptive rather than status.

electrician foreman, mechanical maintenance foreman, laundry foreman, building maintenance worker foreman, food service worker foreman, groundskeeper foreman, and all other supervisors as defined in the Act.<sup>6/</sup>

The Hearing Officer further recommends, in accordance with Section 8 (d) (3), that the following voting group of craft employees at Lakeland Institutions be established in order that the Commission may be guided in part by the wishes of the craft employees themselves as to whether or not they desire to be included in the overall blue collar unit or constitute a separate unit of craft employees:

All craft employees of the Board of Chosen Freeholders, County of Camden, employed at Lakeland Institutions, including carpenters, carpenters helpers, plumbers, plumbers helpers, plumber-steamfitters, plumber-steamfitters helpers, senior plumber-steamfitters, painters, painters helpers, electricians, electricians helpers, masons, masons helpers, mechanical repairmen (stationary equipment)<sup>7/</sup>, mechanics helpers, cabinet maker-refinisher steamfitter,<sup>8/</sup> maintenance repairmen, general, but excluding all other employees, foremen, and all other supervisors as defined in the Act.

If a majority of craft employees vote in favor of inclusion in the overall blue collar unit, their ballots shall be counted together with those of

<sup>6/</sup> Institutional aides are excluded as patients or inmates.

<sup>7/</sup> Listed on the payrolls and referred to by the Assistant Superintendent, Maintenance Department.

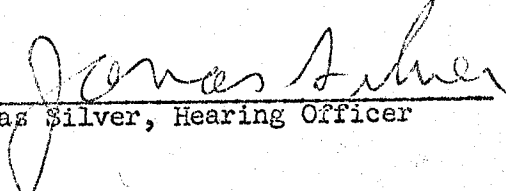
<sup>8/</sup> Listed on the payrolls as senior maintenance repairman, cabinet maker-refinisher.

the blue collar employees in determining the majority choice of negotiating representatives if any. If a majority of craft employees vote in favor of a separate craft unit, their ballots shall be separately counted as to choice of negotiating representatives if any.

Inasmuch as the part time employees within various titles appear to be called upon regularly as part time employees, they shall be permitted to vote in the election hereinafter recommended.

It appears that both Local 1965 and Council 10 wish to have their names appear on the ballot pertaining to the overall unit; it further appears that both Local 1965 and Council 10 wish to have their names appear on the ballot pertaining to the self-determination voting group of craft employees. It is recommended that the aforesaid names of employee representatives so appear.

It is further recommended that the Commission direct that a secret ballot election be conducted using the payroll preceding the date of issuance of the Commission's Decision and Direction of Elections herein.

  
Jonas Silver, Hearing Officer

DATED: August 7, 1969  
North Merrick, N. Y.

9/ The request of Local 1965 that the payroll of May 24-June '6, be utilized, should be denied.  
In accordance with the stipulation of the parties, the Hearing Officer finds that the survey made by the New Jersey Civil Service Commission with regard to County positions, adopted by the County on July 1, 1969, will not be effective for some time; that if such survey should affect in any material way the findings made herein by the time of the representation election, any party so construing the survey may be permitted to challenge and the vote so involved shall be considered as a challenged ballot.