

College Workers Ass. V. City, CUNY, 14 OCB 7 (BOC 1974) [( Decision No. 7-74 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

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In the Matter of  
COLLEGE WORKERS ASSOCIATION

-and-

THE CITY OF NEW YORK

DECISION NO. 7-74

-and-

DOCKET NOS. RU-395-73

RU-399-73

THE CITY UNIVERSITY OF YORK

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DECISION AND ORDER

College Workers Association filed its petition on RU-398-730 requesting certification in a unit of student aides and college work-study program students (CWSP) at the libraries of all the senior college of CUNY, and its petition in RU-399-73 requesting certification in a unit of student aides and CWSP students engaged in clerical and related office work at CUNY senior colleges. The City has taken the position that the petitions "are inappropriate in that the employment relationship between the petitioned for Students Aides and College Work Study Students and the City University of New York does not carry with it Taylor's Law rights and obligations because of the nature of the employment relationship. Accordingly, the petitions in the captioned matters must both be dismissed. In addition, the unit petitioned for

Decision No. 7-74  
Docket Nos. RU-398-73  
RU-399-73

is inappropriate."                      The Union has not replied to the  
City's position herein.

Student aides and College work Study Program (CWSP), students are employed in the City. University as a form of financial aid. Student Aides receive \$1.85 per hour and may work up to a maximum of 900 hours per annum. CWSP students are employed pursuant to a federal program which provides 80% of the funding. The student submits a proposed personal budget to CUNY which determines how much financial aid the student needs and give the student as many hours of work as will provide the necessary income. Federal Regulations limit the amount of work to that required to meet the student's budget. If a student is employed in food service or other contractual operations "the contract must allow the institution to retain responsibility for the selection and payment" of students. University and federal policy require

that a student's employment be "dependent on student status. A student who drops out, or with regard to CWSP who drops below full time student status, will be terminated no later than the end of that semester."

### STATUS OF STUDENT EMPLOYEES

There is apparently no case deciding whether students employed by their own educational institution are "employees" within the meaning of a labor relations statute. However, several cases do consider related issues.

The New York State Labor Relations Board has excluded students from units of other employees where student employment is dependent on and coexistent with student status. In Saga Dining Halls, 29.SLRB 178, the Board excluded students employed in the dining facilities at the State University at Stony Brook, stating:

"The employment of these students, on their academic campus, is wholly incidental to their basic purpose there - the acquisition of a college education. It is a means to an end, not an occupation. They have preference in hiring, separate student supervision, their hours of work are scheduled so as not to conflict with their studies..."  
(29 SLRB at 187.)

Thereafter, parties before the SLRB generally stipulated to exclude students employed by their own school from units of employees. (Colgate University, 32 SLRB 313; Syracuse University, 32 SLRB 216; Skidmore College, 33 SLRB 181.)<sup>1</sup>

The NLRB, which only recently assumed jurisdiction over colleges and universities, held in "Barnard College and District 65, 1973 CCH NLRB §25,572, that the student employees lacked a sufficient community of interest with other employees and should not be included in the unit even though students were subject to the same supervision as non-students. The factors cited by the Board were: "all the ... positions are reserved specifically for students," "student employees are treated differently in a number of significant ways, especially with respect to their initial employment, rates of pay, tenure, and other employment conditions," and "as few, if any, student employees ever remain or are permitted to remain permanently in their present employment, it is clear that their

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However, the Board does not exclude students who are not employed by their own school. (Peter Pan Juvenile Center, Inc., 23SLRB669.) In Men's Faculty Club of Columbia University Inc., the Board included part-time employees who were students at Columbia because the University exercised no control over their employment and their pay scales and working conditions were the same as those of non-student employees.

employment here is only incidental to their educational objectives."

In determining the appropriate unit in the State University, PERB accepted a stipulation of the parties which excluded from the unit:

"any person who has as a primary objective study at one of the State University campuses under the supervision of a faculty [sic] for the established purpose of obtaining a graduate or undergraduate degree and who performs instructional, research or other services at a campus of the University..."

The decision adds: "This stipulation is not intended to apply to any individual holding academic rank." (2 PERB 4186).

The above-cited cases have as their common theme the rationale that where an employment relationship exists solely for the purpose of furthering an educational or correctional goal, the employment relationship is different from that contemplated in the labor relations statute.

The facts of the instant case support this rationale. The students herein perform work to earn money which would otherwise have to be given in some other form of financial aid. The purpose of their employment is not to provide training or experience in the students' chosen field of study but rather to supplement the students' financial resources so that they may continue in school.<sup>2</sup> The hours of work are strictly limited to provide a sum tailored to meet each student's budget. Finally, the employment status is totally dependent on the continuing student status of the student performing the work: The Employer's relationship to its employees in the instant case flows solely from the primary relationship of the student to the educational institution.

We find that the employment relationship herein is far subordinate to the primary educational purpose of the students relationship with the City University. Therefore, we find that the students are not "public employees" within the meaning and intent of the New York City Collective Bargaining Law.

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<sup>2</sup> It thus differs from other forms of education related employment such as medical internships.

Decision No. 7-74  
Docket Nos. RU-398-73  
RU-399-73

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**ORDER**

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

ORDERED, that the Petitions of the College Workers Association in RU-Nos.398-73 and 399-73 be, and the same hereby are, dismissed.

DATED: New York, N.Y.

February 4, 1974

ARVID ANDERSON  
CHAIRMAN

ERIC J. SCHMERTZ  
MEMBER

Mr. Eisenberg did not participate in this decision.