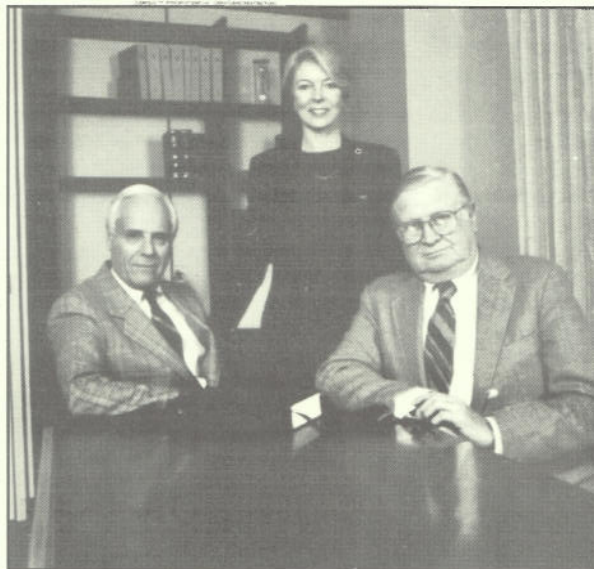


# The PERB – At 30 Years

1997 marks the thirtieth anniversary of the Taylor Law and the Public Employment Relations Board. The three-member Board was created to oversee the Act's implementation and charged specifically with a number of responsibilities. It hears appeals of the decisions by the staff in the Office of Public Employment Practices and Representation on improper practice charges and representation cases. Approximately thirty percent of the Office of Representation decisions are appealed to the Board. In its monthly sessions, the Board may hear oral argument concerning an appeal or reach a decision after a review of the record and all materials submitted. The Board issues approximately 90 decisions annually on these appeals. In addition, petitions for representation are acted on by the Board after election or the Director of Representation's recommendation for certification of uncontested petitions. The Board issued approximately 60 certifications in each of the last three years granting the right to represent specific units of employees in collective bargaining.



The Board, through its Office of Conciliation, maintains a panel of mediators, fact finders and arbitrators. During 1996, the Board reviewed and strengthened its criteria for membership on the grievance arbitration panel. Those members of the panel who do not reach certain specific levels of designation during a three year period are removed.

The Board consists of one full time Chair and two-per diem members, who are appointed by the Governor and confirmed by the Senate for staggered six year terms. No more than two Board members may be of the same political party. The current Board consists of Pauline R. Kinsella, who serves as Chairwoman, and the per diem member, Eric J. Schmertz. There is one vacancy. Over its 30 years, the constitution of the Board has only changed seven times and there have been a total of twelve Board members. They have all been individuals with distinguished records in labor relations. Listed on the following page is each member, a brief bio, and their terms of office.

(continued on page 2)

### PERB BOARD MEMBERS

NAME	DATES OF SERVICE
Chairman Robert D. Helsby	7/67 - 9/77 (Deceased-8/24/95)
<b>MEMBERS:</b>	
George H. Fowler	7/67 - 8/72
Joseph R. Crowley	8/67 - 1/78 (Deceased-12/3/85)
Fred Denson	12/73 - 5/76
Ida Klaus	6/76 - 6/84
Chairman Harold R. Newman	1/78 - 4/91
<b>MEMBERS:</b>	
David C. Randles	6/78 - 1/8 (Deceased-9/17/91)
Walter L. Eisenberg	6/85 - 4/95 (Deceased-4/22/95)
Jerome Lefkowitz	7/86 - 7/87
Eric J. Schmertz	1/90 - 3/90
Chairwoman Pauline R. Kinsella	7/91 - Present
<b>*MEMBERS:</b>	
Eric J. Schmertz	7/91 - Present
*Joseph Farneti	12/96

### NB

We have three notices concerning PERB Publications. First, we had a misprint in the order form appearing in our November issue. The cost of the *Supplement to the Taylor Law Remedies for 1996* is \$20.00 not \$50.00. Second, we are adding a new publication. We will now have available a large print version of the *Taylor Law* publication. A 1997 version is soon to be available at the same cost as regular print (\$8.00). Finally, we have made available a subscription to a monthly report of all charges filed with the Office of Representation. For \$150.00 per year you can receive a monthly list of cases received showing case number, petitioner, respondent and date filed.

Call (518) 457-2676 for further information.











## DECISIONS OF THE OFFICE OF PUBLIC EMPLOYMENT PRACTICES AND REPRESENTATION

(continued)

actions that it took. On the merits, the ALJ held that those parts of the sexual harassment policies which imposed disciplinary penalties and disciplinary procedures were mandatorily negotiable subjects. Those parts of the policies establishing a mechanism for the filing of harassment complaints and providing for an appeal mechanism were found not to be mandatorily negotiable. Moreover, those parts of the policies requiring immediate action and appropriate sanctions were found not to constitute any change in the disciplinary penalties available under the terms of the parties' collective bargaining agreement. (ALJ Blassman, U-15443, 1/27/97)

*COUNCIL 82, AFSCME, AFL-CIO AND STATE OF NEW YORK (DEPARTMENT OF CORRECTIONAL SERVICES)*. A charge alleging that the State violated the Act by unilaterally imposing new dress standards was dismissed by the ALJ upon a finding that the charge was not timely filed. Alternatively, the ALJ concluded that the charge would have been dismissed even if had been timely filed because there was no change in practice and because Council 82 may have waived its right to negotiate the issue by virtue of its conduct in conjunction with the imposition of the dress standards. (ALJ Mayo, U-15949, 1/28/97)

*FREDONIA POLICE BENEVOLENT ASSOCIATION, INC. AND VILLAGE OF FREDONIA*. The Association's charge that the Village violated the Act by assigning unit work to nonunit personnel was dismissed. The ALJ determined that the Association did not have exclusivity over the work in issue because part-time employees had performed the same duties as the full-time employees for a number of years. (ALJ Doerr, U-17830, 1/28/97)

*CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFSCME, AFL-CIO AND TOWN OF GRAND ISLAND*. The Director included in a unit of Town employees the Town Engineer, Water Superintendent, Waste Water Superintendent, Director of Recreation, Town Accountant and Building Inspector. In that regard, the Director determined that those employees were not managerial as the Town had alleged. However, the Town's Account Clerk/Mini-Computer Operator was excluded from the unit upon a determination that she was confidential within the meaning of the Act because she was necessarily exposed in the course of the performance of her duties to discussions regarding nonfinal proposals for negotiations. (Dir. Klein, C-4571, 1/28/97)

*DUNKIRK SUPERVISORS' ASSOCIATION AND DUNKIRK CITY SCHOOL DISTRICT*. Following a remand of the case pursuant to an earlier Board decision, the Director concluded that the Supervisor of Buildings, Grounds and Transportation was most appropriately added to a unit which included building administrators/principals, assistant principals, directors of special education, elementary education, early and continuing education and special projects. Although acknowledging that the position in issue did not fit neatly into any of the District's existing units, the Director concluded that the most appropriate unit for this employee, who was eligible for representation under the Act, was the unit of educational administrators. The Director concluded that it was those employees with whom the Supervisor shared the greatest community of interest and the least likelihood of a conflict of interest. (Dir. Klein, C-4458, 1/28/97)

*POLICE ASSOCIATION OF GREENBURGH AND TOWN OF GREENBURGH*. The ALJ dismissed a charge alleging that the Town violated the Act by submitting to interest arbitration a nonmandatory subject of negotiation. The ALJ held that a demand relating to the continuation of health insurance for employees after their retirement was mandatorily negotiable. The demand would cover only employees who were employed on and after the expiration of the parties' last collective bargaining agreement. (ALJ Comenzo, U-18024, 1/29/97)

*BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL 282 AND CITY OF BUFFALO (FIRE DEPARTMENT)*. The City was found to have violated the Act by submitting to compulsory interest arbitration certain demands which were either nonmandatory subjects of bargaining or which had not been submitted for negotiations earlier. Found nonmandatory were City demands requiring unit employees to have a working telephone in their place of residence, demands regarding medical and dental insurance, which the ALJ found to be vague and incomplete, a maintenance of benefits clause which was not limited to mandatory subjects of negotiation and a demand reiterating the provisions of General Municipal Law §207-a. The charge was dismissed as to demands for a zipper clause and for differential pay pursuant to the Workers Compensation Law because the ALJ held them to be mandatorily negotiable. The demand which had not been raised in negotiations prior to the declaration of impasse called for unit employees who were off work as a result of illness or injury to submit to random drug testing. (ALJ Doerr, U-18306, 1/29/97)

**PERB Newsletter**  
**NYS Public Employment Relations Board**  
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