

173 N.J.Super. 300

**T. Edward HOLLANDER et al.,
Plaintiffs-Respondents,**

v.

**John S. WATSON et al.,
Defendants-Appellants.**

**BOARD OF TRUSTEES OF MERCER
COUNTY COMMUNITY COLLEGE et
al., Plaintiffs-Respondents,**

v.

**Arthur R. SYPEK, Sr., et al.,
Defendants-Appellants.**

Superior Court of New Jersey,
Appellate Division.

Argued March 31, 1980.

Decided April 21, 1980.

Action was brought complaining of the appointment of freeholder to board of trustees of county community college. The Superior Court, Law Division, 151 N.J.Super. 1, 376 A.2d 240, dismissed, and appeal was taken. Following remand, 160 N.J.Super. 452, 390 A.2d 629, the suit was consolidated with related actions. The Superior Court, Chancery Division, Mercer County, Mortin I. Greenberg, J. S. C., entered judgment, 167 N.J.Super. 588, 401 A.2d 560, from which appeal was taken. The Superior Court, Appellate Division, held that office of trustee of county community college and office of county chosen freeholder are incompatible and, hence, freeholder's appointment to board of trustees was unlawful.

Affirmed.

Officers and Public Employees ⇌ 30.1

Office of trustee of county community college and office of county chosen freeholder are incompatible and, hence, freeholder's appointment to board of trustees was unlawful. N.J.S.A. 18A:64A-9, 12, subd. j, 19, 24, 40:41A-37, subd. b, 40A:9-23.

Paul D. McLemore, Asst. County Counsel, Trenton, for defendants-appellants (Harvey L. Stern, Mercer County Counsel, attorney; William L. Boyan, Asst. County Counsel, Lawrenceville, of counsel).

Robert A. Fagella, Deputy Atty. Gen., for plaintiffs-respondents T. Edward Hollander and New Jersey Department of Higher Education (John J. Degnan, Atty. Gen., attorney; Erminie L. Conley, Asst. Atty. Gen., of counsel; Robert A. Fagella, Deputy Atty. Gen., on brief).

Garrett M. Heher, Princeton, for plaintiff-respondent Mercer County Community College (Smith, Stratton, Wise & Heher, Princeton, attorneys; Garrett M. Heher and Charles F. Martinson, Princeton, on brief).

Sterns, Herbert & Weinroth, Princeton, filed a brief on behalf of New Jersey Education Association and Mercer County Community College Faculty Association, amici curiae.

Before Judges ALLCORN and MORGAN.

PER CURIAM.

The judgment of the Chancery Division is affirmed essentially for the reasons expressed by Judge Greenberg reported at 167 N.J.Super. 588, 401 A.2d 560 (1979), and on the additional areas of incompatibility of the two offices existing under various statutes, including particularly N.J.S.A. 40:41A-37(b), N.J.S.A. 40A:9-23 and N.J.S.A. 18A:64A-9, which respectively require approval by the board of freeholders of the appointment of county community college trustees and delegates to the board of freeholders the power to remove them. *Atlantic Commun. College v. Civil Service Comm'n*, 59 N.J. 102, 279 A.2d 820 (1971); *Mercer Commun. College v. Sypek*, 160 N.J. Super. 452, 390 A.2d 629 (App.Div.1978), certif. den. 78 N.J. 327, 395 A.2d 196 (1978). See also, for example, N.J.S.A. 18A:64A-12(j), 19, and 24.

Affirmed.