

D.R. NO. 89-7

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

LYNDHURST TOWNSHIP BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-45

LYNDHURST TOWNSHIP EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation finds that a consolidated unit of teachers, secretaries and custodians is appropriate and orders that an election be conducted among the employees. The Board contended that the employees lack community of interest; the parties have a long, stable history of separate units; the support staff may not receive adequate representation; and consolidation may complicate negotiations. The Director found no compelling circumstances that would negate the appropriateness of a broad-based consolidated unit. He also found that the employer's concerns about adequate representation were speculative.

D.R. NO. 89-7

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

LYNDHURST TOWNSHIP BOARD OF EDUCATION,
Public Employer,

-and-

Docket No. RO-89-45

LYNDHURST TOWNSHIP EDUCATION ASSOCIATION,
Petitioner.

Appearances:

For the Public Employer
Cecci, Brody & Agnello, Esqs.
(Lisa Borreson, of counsel)

For the Petitioner
Bucceri & Pincus, Esqs.
(Gregory Syrek, of counsel)

DECISION AND DIRECTION OF ELECTION

On October 7, 1988, the Lyndhurst Education Association ("LEA") filed a petition seeking to consolidate two separate units, one of secretarial employees and the other of custodial/maintenance employees, with its existing unit of certified employees employed by the Lyndhurst Board of Education ("Board"). The petition was accompanied by an adequate showing of interest from among each of the support staff groups.

The LEA currently represents 150 certificated teaching personnel in one unit as well as 20 secretaries in a separate unit. The Lyndhurst Custodial/Maintenance Association represents 25

custodial and maintenance personnel in a third unit. The LEA seeks to represent all employees in a single unit.

On October 24, 1988, a Commission staff agent conducted an informal conference with the parties. The Board opposes the Petition. It alleges that the units have lengthy, stable bargaining histories that dictate retention of separate units. It asserts that the employees in the petitioned-for unit do not share a community of interest. It also contends that including support staff in the teachers' unit would complicate and confuse the negotiations process.

We have conducted an administrative investigation and these facts appear.

The Board first recognized the LEA as the representative of the teachers' unit in 1969. On June 30, 1986, the Commission certified the LEA as the exclusive representative of a separate unit of secretarial/clerical employees. The LEA negotiated one agreement with the Board, which covered the period July 1, 1985 through June 30, 1989. The agreement was not executed until May, 1988.

The Board first recognized the Custodial/Maintenance Association in 1980, and has since negotiated four two-year contracts with it. The most recent contract covering the custodians expires June 30, 1989. On November 3, 1988, the Custodial/Maintenance Association filed a letter asserting its desire not to represent its employees in a separate negotiations unit and not to intervene in this matter.

All three contracts expire on June 30, 1989. The Petition is timely filed. N.J.A.C. 19:11-2.8.

By letter dated November 14, 1988, we advised the parties that the petitioned-for unit appeared appropriate and that absent substantial and material factual issues, we were inclined to direct an election among the support staff groups. The Board filed an additional statement of position reiterating its initial position and questioning whether support staff can receive adequate representation within a consolidated unit where teachers constitute a large majority of the unit.

I find that the petitioned-for unit is appropriate. In Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984), the Commission found:

When a dispute concerning the propriety of including one or more groups of supportive staff with teachers and professional school district employees has arisen, the Commission since 1969 has consistently found, ...that teachers and supportive staff have a community of interest stemming from such factors as their shared goals, the central authority controlling their working conditions, and their common working facilities and environment and that this community of interest generally warrants giving teachers and supportive staff the opportunity to choose a unified representative in a single unit if they so desire...In the Commission's judgment, affording teachers and supportive staff such an opportunity promotes labor stability since unified employee representation may permit negotiations with an already centralized and unified employer to proceed more smoothly. (Citations omitted; emphasis in original.) Piscataway, at p. 274. See Ridgefield Bd. of Ed., D.R. No. 85-65, 11 NJPER 464 (¶16166 1985).

Absent compelling circumstances which would justify the continuation of separate units, the Commission has generally given teachers and support staff employees the opportunity to choose unified representation in a single unit based on their community of interest. See Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1981). Here there are no compelling circumstances. While the Board asserts that there exists a long history of separate and successful negotiations between it and the three units, we believe that the facts of this case do not fit within the narrow contours of Englewood. The Custodial/Maintenance Association advised the Commission that they do not wish to intervene in this matter or to otherwise assert a representational interest. In fact, it supports the consolidation. Unlike Englewood, the incumbent majority representative is not opposed to an election. There has been no long history of negotiations here with separate support staff units. Moreover, the New Jersey Supreme Court, in endorsing the Commission policy favoring broad-based units, has noted that broad-based units tend to streamline the negotiations process by reducing whipsawing which otherwise may occur where there are smaller units. N.J. State Professionals Assn., 64 N.J. 231 (1974).

As to the Board's concern that the interests of the support staff will not be adequately represented if they are included in the larger teachers' unit, we note that an organization certified to represent a group of employees has a statutory responsibility to represent the interests of all employees in the unit without

discrimination and to assure that the views of the minority are responsibly considered. N.J.S.A. 34:13A-5.3; Clifton Bd. of Ed., D.R. No. 80-18, 6 NJPER 40 (¶11020 1979). There is a presumption that an organization certified to represent a group of employees will fulfill its statutory responsibility to all unit employees. Any contrary suggestion is pure speculation. State of New Jersey, P.E.R.C. No. 76 (1973); AFSCME v. Public Employment Relations Commission, NJCSA, NJSEA, and State of N.J., App. Div., Docket No. A-986-72 (2/27/73).

Accordingly, we find that the following consolidated unit is appropriate:

Included: Secretarial and clerical employees and custodial and maintenance employees to be added to the existing unit of certificated personnel employed by the Lyndhurst Board of Education;

Excluded: Supervisors within the meaning of the Act, managerial executives, confidential employees, police employees, craft employees, and all other employees of the Lyndhurst Board of Education.

We direct that an election be conducted among the employees in the petitioned-for support staff units and employees in the existing professional unit in accordance with the Commission's rules.

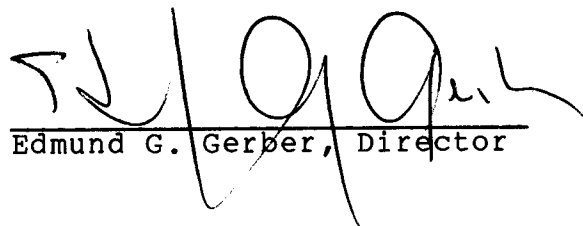
The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote are the employees in the unit set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out

ill, on vacation or temporarily laid off, including those in the military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the public employer is directed to file with us an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the unit, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be filed simultaneously with the employee organizations with a statement of service filed with us. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

The exclusive representative of the petitioned-for employees, if any, shall be determined by a majority of the valid votes cast in the election by these employees. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: December 19, 1988
Trenton, New Jersey