

D.R. NO. 88-30

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

In the Matter of

NORTH HANOVER TOWNSHIP
BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-88-89

NORTH HANOVER TOWNSHIP
EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation directs an election among secretaries and clerks employed by the North Hanover Township Board of Education, pursuant to N.J.A.C. 19:11-2.6(b)(3). The Board of Education objected to the accretion petition on grounds of lack of community of interest and refused to consent to a secret ballot election. The Director determined that the proposed unit is an appropriate one and directs that an election be held. The professional employees shall also vote on whether they wish to be represented in a unit with nonprofessionals, pursuant to N.J.S.A. 34:13A-6.

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Appearances:

For the Public Employer
Daniel J. Brandon, Consultant

For the Petitioner
New Jersey Education Association
(Hriar Zakarian, UniServ Rep.)

DECISION AND DIRECTION OF ELECTION

On October 15, 1987, the North Hanover Township Education Association ("Petitioner" or "Association") filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission") seeking to add a unit of secretaries and clerks presently represented by the North Hanover Township Educational Clerical Workers' Association ("Clerical Workers' Association") to the existing unit of teachers represented by the Association. By letter of November 16, 1987, the Clerical Workers' Association notified the Commission that it will no longer represent the clerical workers in collective negotiations. On

November 10, 1987, a Commission staff agent convened a conference of the Petitioner and the North Hanover Township Board of Education ("Board") pursuant to N.J.A.C. 19:11-2.2. At the conference, the Board refused to consent to a secret ballot election.

The Board argues that there is a contract between the Board and Clerical Workers' Association which expires on June 30, 1988 and that this petition is, therefore, untimely.

The Board contends that the petitioned-for unit is inappropriate. It notes that there has been a long and stable relationship between the Board and the Clerical Workers' Association and there is a lack of community of interest between teachers and clerical employees. If there is a community of interest among any of its employee groups, the Board argues that it would be among all of its nonprofessional employees: the clerical employees, aides, custodial employees and cafeteria employees.

The Petitioner argues that there is a community of interest among teachers and secretaries. They work for the same employer, they work in the same physical facilities, and they interact with the same people (students and parents). The Petitioner contends that an accretion of the clerical unit to the teachers unit would yield greater labor stability. The Petitioner noted that, at present, there are contract bars preventing the accretion of the aides and cafeteria workers to the teachers' unit (as their contracts each will expire in 1989).

We have conducted an administrative investigation in this matter and make the following factual findings:

1. The Clerical Workers' Association is the incumbent majority representative of the petitioned-for employees. It has a negotiations agreement with the Board which expires on June 30, 1988. It asserts that it no longer represents the clerical employees.

2. The petition was filed on October 15, 1987 and was accompanied by an adequate showing of interest.

3. The present majority representative of the employees sought by the petition declined to intervene in this matter and stated that it no longer desired to represent the secretaries' unit.

4. The Board has collective negotiations agreements with six separate units. These are as follows:

a) the teachers' unit, represented by the North Hanover Township Education Association, NJEA, since 1974, contains 100 employees;

b) the secretaries' unit, represented by the Clerical Workers' Association since 1974, contains 8 employees;

c) the custodial unit, represented by the North Hanover Township Maintenance and Custodial Association, NJEA, since 1974, contains 13 employees;

d) the aides' unit, represented by the North Hanover Township Aides' Association, NJEA, since 1976, contains 20 employees;

e) the cafeteria unit, represented by the North Hanover Township Cafeteria Workers' Association, NJEA, since 1974, contains 7 employees; and

f) the principals' unit, represented since 1974, has 4 employees in the unit.

5. All Board employees in the units described above are compensated on a salary basis; three of the collective negotiations agreements include overtime pay provisions; all employees work between six- and eight-hour days; fringe benefits are comparable for all employees.

ANALYSIS -- Timeliness

The Commission's rules regarding the timeliness of representation petitions are contained in N.J.A.C. 19:11-2.8 which states, in relevant part:

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a Petition for Certification of Public Employee Representative...normally will not be considered timely filed unless:

3. In a case involving employees of a school district, the petition is filed during the period between September 1 and October 15, inclusive, within the last 12 months of such agreement.

Here, the Clerical Workers' Association contract with the Board, a contract of two years duration, is due to expire at the end of June 1988. The petition was filed with the Commission on October 15, 1987. Accordingly, as the filing of the instant petition meets the above requirements, we find that the petition is timely filed.

Community of interest

The Commission has consistently found that teachers and support staff have a community of interest stemming from such factors as a central authority controlling their working conditions, common working facilities and environment and common goals. Further, it has been held that this community of interest "generally warrants giving teachers and support staff the opportunity to choose a unified representative in a single unit if they so desire." Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 at 274 (¶15134 1984). See also Glen Rock Bd. of Ed., P.E.R.C.No. 84-125, 10 NJPER 275 (¶15135 1984).^{1/} In Glen Rock, the employees were given the opportunity to choose whether or not to be represented by the petitioner in a single unit, notwithstanding a stable bargaining history in separate units. There, as here, the existing majority representative did not oppose unified representation by the petitioning organization. Here, the present majority representative no longer wishes to represent the secretarial/clerical employees. This is distinguishable from the facts and holding in Englewood Bd. of Ed., P.E.R.C. No. 85-25, 7 NJPER 516 (¶12229 1981), where the

^{1/} See also Bergenfield Bd. of Ed., P.E.R.C. No. 7 (1969) (unit of custodians and Board's professional employees held appropriate). Montgomery Tp. Bd. of Ed., P.E.R.C. No. 27 (1969) (unit of clerks, secretaries, teacher aides and teachers appropriate). West Milford Bd. of Ed., P.E.R.C. No. 56 (1971) (appropriate to add clerical employees and building aides to unit of teachers, nurses, instructional aides). Hamilton Tp. Bd. of Ed., D.R. No. 88-19, 14 NJPER ____ (¶ _____ 1987) (unit of secretarial and custodial employees to be added to existing unit of teachers).

Commission declined to combine teachers and custodians. In Englewood, there was a long-established negotiations relationship, no evidence of instability, irresponsible representation or changed circumstances and both the employer and incumbent majority representative objected to the petitioned-for unit. Here, by contrast, the incumbent Clerical Workers' Association has indicated that it no longer wishes to represent the clerical employees and that the North Hanover Township Education Association will be the majority representative of the clerical employees.

The Board asserts that a more appropriate unit than the one proposed is a unit of all its nonprofessional employees. However, we note that the Petitioner has not petitioned for the nonprofessional unit urged by the Board and could not do so now inasmuch as there are contract bars to such a petition. Further, the incumbent organizations of the other nonprofessional employee units have not indicated that they no longer wish to represent their respective units. See Englewood, supra. Finally, we note that the petitioned-for unit is appropriate.

Based upon the record in this matter and the foregoing discussion, we find that the proposed unit of secretaries and teachers is appropriate and order that a secret ballot election be conducted in the petitioned-for unit of clerical employees. In accordance with N.J.S.A. 34:13A-6, professional employees will be given the option of deciding whether or not they wish to be represented in a unit with nonprofessional employees. Accordingly,

we direct that a secret ballot election be conducted among the employees in the petitioned-for unit, which is comprised as follows:

Included: All clerical and secretarial employees to be added to the existing unit of classroom teachers and special education teachers, librarians, remedial teachers, music teachers, physical education teachers, art teachers, nurses, learning disability consultant, social worker, and counselor employed by the North Hanover Township Board of Education.

Excluded: Superintendent, principals, curriculum coordinator, assistant superintendent, psychologist, multi-media coordinator, all cafeteria workers, custodial employees, aides, police employees, craft employees, confidential employees, managerial executives and supervisors within the meaning of the Act.

All clerical/secretarial employees shall vote on whether or not they wish to be represented by the North Hanover Township Education Association. All teaching and other professional employees, as described above, shall vote on whether they wish to be represented in a unit with nonprofessional employees.

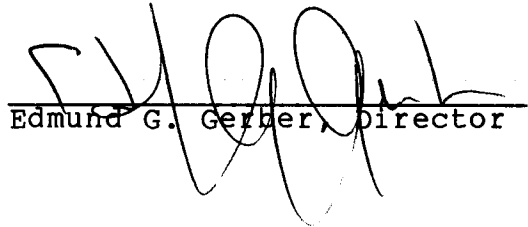
The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote are the employees in the unit set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period 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: February 3, 1988
Trenton, New Jersey