

D.R. NO. 93-15

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

In the Matter of

ESSEX COUNTY COLLEGE,

Public Employer,

-and-

Docket No. RO-93-73

ESSEX COUNTY COLLEGE OFFICE
WORKERS ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation orders an election among maintenance and food service employees of Essex County College to determine if they wish to be represented by the OWA in a consolidated negotiations unit with support staff. The petitioning employees are currently represented by the Facilities Staff Association in a separate negotiations unit.

The Director determines that a sufficient community of interest exists among the petitioning employees and the support staff. The FSA filed a letter disclaiming interest in representing unit employees.

Accordingly, the Director ordered an election to determine if the petitioning employees wish to be represented by the OWA or no representative.

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Appearances:

For the Public Employer
Jasinski & Bisceglie, attorneys
(David F. Jasinski, of counsel)

For the Petitioner
New Jersey Education Association, Higher Education
(Anne Rowbotham, Field Representative)

DECISION AND DIRECTION OF ELECTION

On October 13, 1992, the Essex County College Office Workers Association ("OWA") filed a representation petition seeking to represent about 45 maintenance personnel employed by Essex County College. The petitioned-for employees -- auto mechanics, custodians, drivers, maintenance service workers and others -- are currently represented by the Essex County College Facilities Staff Association ("FSA");^{1/} the FSA's collective negotiations agreement with the College expires June 30, 1993.

^{1/} The FSA represents a collective negotiations unit described in its 1988-91 agreement with the College as:

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The OWA represents about 120 support staff employees including clerks, cashiers, secretaries, teacher assistants and technicians.^{2/} The current OWA agreement also expires on June 30, 1993. The OWA seeks a consolidated unit.

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...all...maintenance and food services personnel...in the following job titles:

lead-building service, kitchen-cook, kitchen cook/helper, grill cook, utility worker (buildings and grounds), area lead person (evenings), HVAC operator, HVAC mechanic and instrumentation person, key operator, general maintenance, maintenance mechanic, carpenter, electrician, plumber, locksmith, driver, building service repairman, lead custodian, custodian, custodian/utility worker, custodian-floor machine operator, lead groundsman, groundsperson, plumbing specialist, electrical specialist, boiler operator, automotive and equipment mechanic, transportation aide, lead-transportation aide, dishwasher, utility worker-cafeteria, food service worker, ice cream parlor attendant, leadperson-cafeteria....

Excluded [are]...supervisory personnel...Director of Physical Plant...Superintendent of Buildings and Grounds, the Director of Food Services and the Heads of any department section. Also excluded are employees in...other collective negotiations [units]...and...managerial and confidential employees of the College....

2/ The OWA currently represents a collective negotiations until described in its 1988-91 agreement with the College as:

all...staff employees...in the following job titles...:

accounting clerk, accounts payable clerk, audio-visual artist, audio-visual operator, audio-visual services specialist, budget clerk, bursar assistant, cashier, cashier/typist, cataloging clerk, central stores clerk, clerk, clerk typist, computer operator, control clerk, correspondence word processing secretary, data entry clerk, data entry coordinator, data input specialist, duplicating operator, educational advisor, EOF maintenance technician, equipment and supply clerk, evening supervisor of records, facilities office

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The College also negotiates with separate units of faculty, administrators, paraprofessionals and security guards.

On November 18, 1992, the College filed a letter opposing the petition. It claims that the proposed consolidation is "patently inappropriate" and would "emasculate" historically separate negotiations relationships. It also asserts that the employees do not share a community of interest.

The FSA supports a "merger" with the OWA and acknowledges that the OWA -- if it receives a majority of valid ballots cast -- will be the majority representative of the petitioned-for employees.

2/ Footnote Continued From Previous Page

assistant, food service worker (day care), financial aid assistant, GED assistant examiner, group teacher (day care), graphics assistant, grants processing assistant, information specialist, jr. accounting clerk, laboratory technician, mail/receiving clerk, mail clerk, medical records technician, micro-film operator, office assistant, operational cost control clerk, payroll clerk, printing clerk, production assistant, purchasing assistant, receptionist, recorder, records clerk, records management clerk, secretary, secretary to associate dean, secretary to division chairperson, shipping/receiving clerk, sr. accounts payable clerk, sr. cashier, sr. clerk, sr. clerk typist, sr. correspondence word processing secretary, sr. GED assistant examiner, sr. group teacher, sr. micro-film operator, sr. printing clerk, sr. secretary, stock clerk, student center attendant, teacher assistant, teacher assistant/bus driver, technical assistant, technical clerk, technical secretary, technical typist, technical printing specialist, telephone operator, testing technician, tutor coordinator, veterans institutional advisor.

Excluded [are]...all employees in...other collective [negotiations units]...and supervisory, managerial and confidential employees [of the College]....

The College asserts that differences among the two units in work hours, overtime and job requirements demonstrate a lack of community of interest. The College alleges that FSA employees work 40 hours per week and OWA employees work 35 hours; and that FSA employees receive overtime compensation after 40 hours and OWA employees are eligible after 35 hours. The College also maintains that FSA employees are not required to have a formal education and OWA employees "in most cases require advanced education and a minimal amount of education (sic)." As an example, the College cites the audio visual operator: the person in this OWA title assertedly requires "specific training and experience." (No job description has been filed). The two associations have signed a "series" of agreements with the College.

In disputed cases, the Commission decides which unit of employees is most appropriate for collective negotiations. State of N.J. and Prof. Assn. of N.J. Dept. of Educ., 64 N.J. 231 (1974). The Commission must define the appropriate unit "...with due regard for the community interest among the employees concerned....Community of interest..encompasses many factors...." West Milford Bd. of Ed., P.E.R.C. No. 56, NJPER Supp. 218 (¶56 1971). The Commission ultimately weighs the facts and concerns of the employer, employee representatives and the public in deciding what unit structure promotes the statutory goals of labor stability and peace. State of N.J. at 64 N.J. 240.

The Commission has consistently found that in school districts, for example, teachers and support staff share a community of interest stemming from shared goals, central authority controlling working conditions and common working facilities. This community of interest generally warrants giving teachers and support staff the opportunity to choose unified representation in a single unit. Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984). In keeping with the statutory preference for broad-based units, the Commission has approved the formation of a unit of faculty and administrative employees at institutions of higher education. See N.J.I.T., D.R. No. 79-22, 5 NJPER 102 (¶10056 1979).

A history of separate negotiations is one factor in reviewing community of interest. But the significance of this factor is undercut when the majority representative of the extant unit welcomes, rather than opposes, the proposed consolidated unit. Cf. Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1982). Here, the FSA welcomes the proposed consolidation.

The differences in terms and conditions of employment in the two units are not great enough to compel the continuation of the two-unit structure. No facts suggest that the differences in work hours and overtime pay are especially significant. While agreeing that blue collar employees without particular educational training perform different work than white collar employees with some specialized educational training, I do not believe that these

differences overcome many similarities in terms and conditions of employment. Furthermore, the educational requirements for several OWA titles -- such as mail clerk, stock clerk and student center attendant -- are similar to those for certain employees in the FSA unit.

Employees in both units share comparable health and other fringe benefits (e.g., military leave, maternity leave, vacations, etc.). They have signed generally similar agreements and have roughly similar work hours. While I note that this matter does not concern the consolidation of professional and non-professional employee units, the Commission has frequently approved the formation of such combined negotiations units. Occupational differences in those groups are likely to be at least as great as differences between a blue collar unit and white collar unit. Glen Rock Bd. of Ed., P.E.R.C. No. 84-125, 10 NJPER 275 (¶15135 1984).

The factors relevant in determining appropriate unit structure are sufficiently in balance to permit the desires of the employees for or against certification to control. Piscataway. Accordingly, the petitioned-for employees shall vote on whether or not they wish to be represented by the OWA.

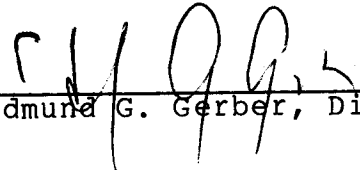
The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote must have been employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation 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 units, 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 simultaneously provided to the employee organization 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, if any, shall be determined by a majority of the valid votes cast in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: January 27, 1993
Trenton, New Jersey