

D.R. NO. 89-10

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

In the Matter of

NORTH HANOVER TP. BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-42

NORTH HANOVER TP. EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation directs an election to determine whether cafeteria employees and teachers' aides wish to be included in the existing professional unit of certificated teachers, other professional employees and clericals. The Director rejected the Board's arguments that these employees more appropriately belong in a separate unit. The Director found the Commission's policy favoring combined units applied in this case. Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (15134 1984).

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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 5, 1988, the North Hanover Tp. Education Association, NJEA, ("NJEA") filed a petition for certification of public employee representative, supported by an adequate showing of interest, with the Public Employment Relations Commission ("Commission"). The NJEA seeks to add cafeteria employees and teachers' aides to its extant unit of certificated teachers and secretarial employees employed by the North Hanover Township Board of Education ("Board").

On November 1, 1988, a commission staff agent conducted an investigatory conference with the parties in order to determine the relevant facts. See N.J.A.C. 19:11-2.2 and 2.6. The Board has declined to enter into an agreement for consent election.

The petition is timely filed<sup>1/</sup> and appears to be supported by an adequate showing of interest. There does not appear to be any substantial and material factual issue which may more appropriately be resolved through a formal hearing. See N.J.A.C. 19:11-2.6(b). Accordingly, the Association's petition is properly disposed by our administrative investigation. The following facts and positions appear.

The Association claims that an election should be conducted among the aides and cafeteria employees in order to accrete those groups to the existing unit of certificated employees and secretaries. The North Hanover Township Aides Association represents aides and the North Hanover Township Cafeteria Employees Association represents cafeteria employees. Both organizations have asserted that they no longer wish to represent their respective employee groups in separate negotiations units and are not opposed to the consolidation.<sup>2/</sup>

The Board refused to consent to a secret ballot election. The Board argued that the history of separate bargaining units

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<sup>1/</sup> The Board contended that the petition disrupted current negotiations and, therefore, was untimely filed. However, a determination of timeliness is based strictly upon N.J.A.C. 19:11-2.8, and the petition is timely under the rules.

<sup>2/</sup> By letter of October 31, 1988, the North Hanover Tp. Aides Association and the North Hanover Township Cafeteria Employees Association relinquished their status as exclusive majority representatives for their respective units of teachers' aides and cafeteria employees. The representatives stated they wished to be represented by the North Hanover Tp. Education Association and consented to a secret ballot election.

should continue. It asserted that the employees in the petitioned-for unit do not share a community of interest i.e., the goals of employment and job responsibilities differ.

The Commission generally grants teachers and support staff employees the right to choose unified representation in a single unit based on their community of interest. However, there are certain compelling circumstances which justify the continuation of separate units. See Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1981). We do not find such compelling circumstances to exist in this case. We believe that the facts of this case do not fit within the narrow contours of Englewood. The present representatives of the teachers' aides and the cafeteria employees advised the Commission that they do not wish to intervene or to otherwise assert a representational interest. Unlike Englewood, the incumbent majority representatives are not opposed to an election.

The Commission defines the appropriate unit "with due regard for the community of interest among the employees concerned". N.J.S.A. 34:13A-5.3. These employees share a common employer, have similar goals and purposes, have similar benefits and expressed a desire to be represented in a broad-based unit. Given the Commission's policy favoring such units and the absence of facts suggesting labor instability in a single unit, we find that the petitioned-for unit is appropriate for collective negotiations.

A combined unit of professional and support staff employees constitutes an appropriate unit structure. See Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984). The petitioned-for unit, all teachers' aides and cafeteria employees employed by the North Hanover Township Board of Education to be added to the existing unit of teachers, other professional employees and clerical employees, is prima facie appropriate.

Accordingly, we direct that an election be conducted in the petitioned-for unit. The unit description shall be: Included: All teacher aides and all cafeteria employees, including assistant cook and cook titles, to be added to the existing unit of classroom teachers, special education teachers, librarians, remedial teachers, music teachers, physical education teachers, art teachers, nurses, learning disability consultant, social worker, counselor, all clerical employees and secretarial employees. Excluded: Superintendent, principals, curriculum coordinator, assistant superintendent, psychologist, multimedia coordinator, custodians, confidential employees, managerial executives, and supervisors within the meaning of the Act.<sup>3/</sup>

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

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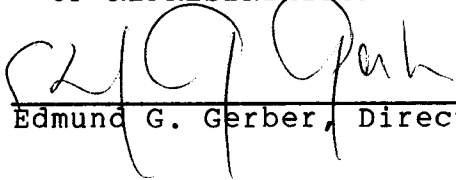
<sup>3/</sup> Because the extant unit presently contains both professional and nonprofessional titles (i.e., secretarial staff), a professional option ballot is not necessary.

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. Separate lists must be prepared for the nonprofessional and professional employees. 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 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 of the aides and cafeteria employees, if any, shall be determined by a majority of the valid ballots 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: January 3, 1989  
Trenton, New Jersey