

D.R. No. 78-33

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

In the Matter of

JERSEY CITY MEDICAL CENTER,

Public Employer,

-and-

Docket No. RO-78-7

DISTRICT 1199-J, NATIONAL UNION OF
HOSPITAL & HEALTH CARE EMPLOYEES
RWDSU, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among full-time and regular part-time professional employees employed by the Medical Center. The Union's petition was timely filed, the proposed unit is prima facie appropriate, and there exists a valid question concerning representation of employees. While the public employer has not raised any objection to the appropriateness or timeliness of the petition, it has not consented to an election.

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Appearances:

For the Public Employer
Lamb, Hutchinson, Chappell, Ryan & Hartung
(Joseph T. Ryan, Esq.)

For the Petitioner
Greenberg & Margolis
(Phillip Freedman, Esq.)

DECISION AND DIRECTION OF ELECTION

On July 13, 1977, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by District 1199-J, National Union of Hospital & Health Care Employees, RWDSU, AFL-CIO ("District 1199-J"). The Petitioner seeks a secret ballot election among employees in a proposed unit consisting of all full-time and regular part-time professional employees employed by the Jersey City Medical Center (the "Medical Center") not presently included in existing professional negotiations units, including Social Workers M.S.W., Psychiatric Social Workers, Primary Therapists, Primary Clinicians, Community Workers, Counsellors, Therapeutic Instructors, Coordinators of Consultation & Education, Vocational Rehabilitation

Counsellors, Medical Librarians. Excluded from the petition are Administrative, Confidential, Clerical, Supervisory and Security Employees and all other employees not included.

The undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts. All parties were advised of their obligation under N.J.A.C. 19:11-2.6, and were afforded an opportunity thereunder to present documentary and other evidence, as well as statements of position, relating to the Petition. On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after a hearing. Pursuant to N.J.A.C. 19:11-2.6, there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The Jersey City Medical Center is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., as amended (the "Act"), is the employer of the employees described herein, and is subject to the provisions of the Act.

3. District 1199-J, National Union of Hospital & Health Care Employees, RWDSU, AFL-CIO is an employee representative within the meaning of the Act and is subject to its provisions.

4. District 1199-J filed a timely Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, requesting a secret ballot election to be conducted to determine if the employees in question desire to be represented for the purposes of collective negotiations by the Petitioner. District 1199-J has indicated a willingness to consent to an election in the proposed unit.

Jersey City Medical Center has not consented to an election. Thus, there exists a question concerning the representation of public employees before the Commission, and the Medical Center not having consented to a secret ballot election, the matter is appropriately before the undersigned for determination.

5. An informal conference was conducted by the investigatory agent assigned to the case on September 20, 1977. At this conference tentative agreement was reached on the composition of a collective negotiations unit for a secret ballot election. The attorney for the Medical Center agreed to present the tentative agreement to the Medical Center's Board of Trustees for its approval. The Board has not advised the Commission as to acceptance or rejection of the agreement.

6. A representative of Council 52, AFSCME, AFL-CIO, attended the conference as the majority representative of a non-professional blue and white collar collective negotiations unit at the hospital. AFSCME has not moved to intervene in this matter as a participant in a representation election, but rather submits that personnel in the title of "Community Worker" appropriately belong in the AFSCME unit. Therefore, AFSCME challenges the includability of these personnel in the proposed unit.

7. No party disputes the appropriateness of the petitioned-for unit, and the undersigned finds the unit prima facie appropriate for collective negotiations. District 1199-J had previously filed two separate petitions to represent (1) certain professional social workers at the hospital and (2) professional employees at the Jersey City Community Mental Health Center. In both matters, the Medical Center declined to consent to elections for these proposed units established along departmental lines and took the position that an overall professional unit for the entire hospital would be more appropriate and consistent with the Commission's policy favoring the establishment of broad-based units. District 1199-J subsequently withdrew both petitions and filed the instant petition covering all unrepresented professional employees.

8. On January 5, 1978, the undersigned notified all parties that on the basis of the investigation to date, it appeared that the petition was timely filed pursuant to N.J.A.C. 19:11-2.8(a), that both parties had not consented to a secret ballot election, and that the proposed unit was prima facie appropriate for collective negotiations. The undersigned stated that in the absence of the presentation of documentary or other evidence which would raise substantial and material factual issues warranting the convening of an evidentiary hearing he would issue a determination based upon the investigation. The undersigned afforded the parties a further opportunity to proffer any additional evidence as well as statements of position which would raise substantial and material factual issues in this matter. There has been no such further evidentiary proffer.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Therefore, the undersigned shall direct an election, pursuant to N.J.A.C. 19:11-2.6(b)(3), based on the administrative investigation.

Those eligible to vote will be: All full-time and regular part-time professional employees employed by the Jersey City Medical Center not presently included in existing professional negotiations units including: Social Workers, M.S.W., Psychiatric Social Workers, Primary Therapists, Primary Clinicians, Counsellors, Therapeutic Instructors, Coordinators of Consultation and Education, Vocational Rehabilitation Counsellors, Medical Librarians. Excluding: Administrative and Clerical Employees, Non-professional Employees, Managerial Executives, Confidential Employees, Craft Employees, Police and Supervisors within the meaning of the Act.

The title of Community Worker shall vote subject to challenge. Those challenges, if determinative will be resolved in accordance with the Commission's usual procedures. If the challenges are not determinative, the status of these employees may be resolved

by a clarification of unit petition filed by either party or AFSCME in accordance with the Commission's Rules, assuming that a certification of representative issues.

The undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

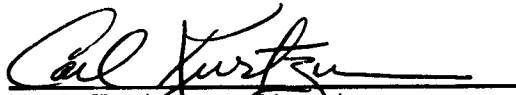
Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit 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 the undersigned and with the employee organization an election eligibility list, consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with District 1199-J with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they desire to be represented for the purposes of collective negotiations by District 1199-J, National Union of Hospital and Health Care Employees, RWDSU, AFL-CIO.

The exclusive representative shall be determined by a majority of the valid ballots cast. The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: January 30, 1978
Trenton, New Jersey