

D.R. NO. 79-37

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

In the Matter of

ELIZABETH BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-79-111

ELIZABETH EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, and in the absence of substantial and material factual issues, directs an election among all aides employed by the Board to ascertain whether they desire to be represented by the Association for the purpose of collective negotiations

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Appearances:

For the Public Employer
Murray, Granello & Kenney
(Robert E. Murray, of Counsel)

For the Petitioner
Goldberg & Simon
(Gerald M. Goldberg, of Counsel)

DECISION AND DIRECTION OF ELECTION

On October 17, 1978, a Petition for Certification of Public Employee Representative, accompanied by an adequate showing of interest, was timely filed with the Public Employment Relations Commission (the "Commission") by the Elizabeth Education Association (the "Association") with respect to a proposed unit consisting of aides employed by the Elizabeth Board of Education (the "Board"). ^{1/}

1/ The Association's original Petition requested a unit of "teacher aides." By subsequent clarifications and amendments to the Petition, the unit now sought is described as including: "All aides (inclusive of all Title I and special funded employees) who are employed for 15 hours or more per week including those aides functioning as classroom aides, multi-purpose aides (including bus aides, lunch aides, eye clinic aides, etc.) and library aides."

The undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition in order to determine the facts.

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 disputed factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), 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 Elizabeth Board of Education is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

3. The Elizabeth Education Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Association seeks to represent a unit consisting of all aides (inclusive of all Title I and special funded employees) who are employed for 15 hours or more per week including those aides functioning as classroom aides, multi-purpose aides (including bus aides, lunch aides, eye clinic aides, etc.) and

library aides. The Association agrees to a secret ballot election to be conducted among the employees in the petitioned-for unit.

5. The Board does not consent to a secret ballot election. Citing the alleged vagueness of the instant Petition, the Board initially stated that "it is not in a position to designate that unit or units which would be the most appropriate unit." The Board further stated that upon clarification of the proposed unit by the Association, it would be able to provide the Commission with its designation of the appropriate unit.

6. Accordingly, a Petition for Certification of Public Employee Representative having been filed and there being no agreement for the conduct of a secret ballot election, a dispute exists and the matter is appropriately before the undersigned for determination.

7. In response to Commission inquiries, and in response to the position advanced by the Board, the Association, on March 23, April 17, and May 9, 1979, identified the composition of the proposed aides unit. The undersigned has caused an additional notice to public employees to be posted describing with particularity the description of the proposed unit.

Further, on April 6, 1979 and on May 18, 1979, the undersigned advised the parties of the clarification provided by the Association and stated that the evidence proffered in the investigation to date did not appear to place in dispute any substantial and material factual issues. The undersigned stated that the

petitioned-for unit, as clarified by the Association, was a prima facie appropriate collective negotiations unit under existing Commission policy governing unit structure for public school employees. The Board was provided an opportunity in each instance to examine the clarification of the proposed unit presented by the Association and was advised of its obligations under N.J.A.C. 19:11-2.6(a) to present documentary and other evidence as well as statements of position relating to the Petition. The undersigned stated that, in the absence of any substantial and material disputed factual issues placing in dispute the appropriateness of the proposed unit, the undersigned would thereafter issue a decision and direction of election.

To date, the Board has not presented any additional factual issues to be considered by the undersigned nor has it advanced a position identifying, in its judgment, the "most appropriate unit."

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 finds that the appropriate unit for collective negotiations is: All aides (inclusive of all Title I and special funded employees) who are employed for 15 hours or more per week including those aides functioning as classroom aides, multi-purpose aides (including bus aides, lunch aides, eye clinic

aides, etc.) and library aides, excluding managerial executives, confidential employees, craft employees, professional employees, police and supervisors within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted on Thursday, June 21, 1979, between the hours of 3:15 p.m. and 4:30 p.m. at the main entrance of Jefferson High School, Elizabeth, New Jersey.

Those eligible to vote are the 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 resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

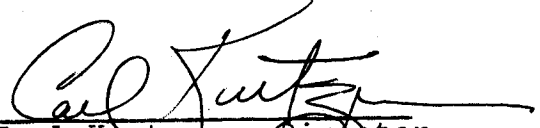
Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with the Association an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be 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 the

Association with statement of service to the undersigned.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Elizabeth Education Association.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: June 7, 1979
Trenton, New Jersey