

D.R. No. 2005-8

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

In the Matter of

CAMDEN BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-2005-044

COMMUNICATIONS WORKERS OF AMERICA,

Petitioner.

SYNOPSIS

The Director of Representation directs an election for a unit of food service satellite managers and assistant managers employed by the Camden Board of Education. Despite agreement that the unit was appropriate, the Board refused to consent to an election and did not provide any legal basis for its refusal. Since no valid reason was offered as to why this election should not be held, the Director ordered an election in the petitioned-for unit.

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Appearances:

For the Public Employer,
Genova, Burns & Vernoia, attorneys
(Timothy Averell, of counsel)

For the Petitioner,
Timothy Dubnau, Organizing Coordinator

DECISION AND DIRECTION OF ELECTION

On October 21, 2004, the Communications Workers of America filed a Petition for Certification with the Public Employment Relations Commission seeking to represent a unit of approximately 38 full and part-time food service satellite managers and satellite assistant managers employed by the Camden Board of Education.

The Commission's assigned staff agent convened an investigatory conference on November 5, 2004. CWA consents to a secret ballot election. On November 23, 2004, the Board advised that it does not consent to an election, but has not offered any legal basis for its refusal to consent.

The parties stipulated that the negotiations unit sought is appropriate. The unit is comprised of food service satellite managers and assistant managers who work primarily in the Board's elementary schools, where there are limited kitchen facilities. The workers heat and serve school meals to students usually in the classrooms. These employees do not prepare or cook the food that is served to the students. The parties also stipulate that employees in the sought-after unit are not supervisors within the meaning of the Act.^{1/}

We have conducted an administrative investigation of this matter in accordance with N.J.A.C. 19:11-2.2 and 2.6. There being no known substantial or material factual issues in dispute, the disposition of this matter is based on the following:

FINDINGS OF FACT

The unit sought to be represented is all regularly employed full and part-time food service satellite managers and satellite assistant managers employed by the Camden Board of Education. The Board has employed such individuals for more than 20 years. There are approximately 38 employees in the proposed unit. The employees in the proposed unit manage food operations; they

^{1/} The unit of food service satellite managers and assistant managers is distinguished from the Cafeteria Managers Association, affiliated with the NJEA, as certified by the Public Employment Relations Commission on May 1, 1997. The employees in the Cafeteria Managers Association are supervisors within the meaning of the Act and perform different functions than the employees that are the subject of this petition.

possess no authority to hire, fire, discipline or effectively recommend the same with regard to other Board employees.

To our knowledge, none of the employees in the proposed unit have ever been represented for the purposes of collective negotiations nor have other organizations ever expressed an interest in representing the petitioned-for employees. There are several narrowly-defined negotiations units employed by the Camden Board of Education. Presently, there are approximately between 10 and 12 negotiations units in the district.

ANALYSIS

N.J.S.A. 34:13A-5.3 gives public employees the right to organize and negotiate collectively. The Commission is charged with the responsibility of conducting secret ballot elections so that public employees may have an opportunity to select a majority representative.

Where there are no substantial material factual issues in dispute, I may find the appropriate negotiations unit and direct a secret ballot election among the employees. N.J.A.C. 19:11-2.6(c)(3).

Here, the proposed unit of food service managers is prima facie appropriate. While the Commission generally prefers broad-based units,^{2/} this Board has already permitted unit fragmentation

^{2/} See State of New Jersey and Professional Ass'n of N.J. Dept. Of Education, P.E.R.C. No. 68, NJPER Supp. 273 (¶68 1972), rev'd NJPER Supp. 2d 14 (¶7 App. Div. 1973), rev'd 64 N.J. 231 (1974).

by permitting the formation of several more narrowly defined units. Accordingly, I find in this case, that the following unit is appropriate for collective negotiations:

Included: All full- and part-time food service satellite managers and satellite assistant managers employed by the Camden Board of Education

Excluded: Managerial executive, confidential employees, supervisors within the meaning of the Act; professional employees, craft employees, employees already represented in other collective negotiations units.

An election among the employees in the proposed unit will effectuate the policies of the Act and allow the employees in question to determine by free choice whether they wish to have CWA as their majority representative. The Board of Education has offered no reason why this election should not be held. Therefore, I will order an election in the petitioned-for unit.

ORDER

I order an election among the employees in the unit described above to determine whether they wish to be represented by the Communications Workers of America, AFL-CIO.

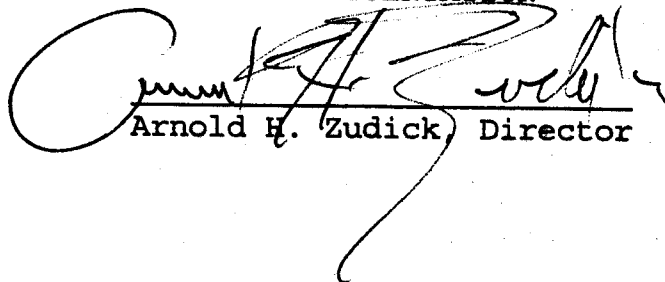
The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote must have been employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation 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. 19:11-10.1, 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



Arnold H. Zudick, Director

DATED: December 22, 2004
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by January 4, 2005.