

D.R. NO. 89-28

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

In the Matter of

NORTH BERGEN BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-16

NORTH BERGEN FEDERATION OF
TEACHERS, LOCAL 1060,

Petitioner.

SYNOPSIS

Having found that a community of interest exists between the currently separate professional and supportive staff units, the Director of Representation orders the conduct of a consolidation election. The Board of Education opposed the conduct of an election on the grounds that separate professional and support staff units are the most appropriate. The professional employees shall vote a professional option.

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Appearances:

For the Public Employer
Ruderman & Glickman, Esqs.
(Mark S. Ruderman, of counsel)

For the Petitioner
Dwyer & Canellis, Esqs.
(Paul J. Burns, of counsel)

DECISION AND DIRECTION OF ELECTION

On September 1, 1988, the North Bergen Federation of Teachers, Local 1060, NJSFT, AFT, AFL-CIO ("Federation") filed a Petition for Certification of Public Employee Representative (Docket No. RO-89-16), supported by an adequate showing of interest, with the Public Employment Relations Commission ("Commission"). By its petition, the Federation seeks to add the clerical unit, which consists of all clerical employees of the Board, to the professional unit, which consists of certificated teachers and other professional

employees. The Federation is the majority representative of both collective negotiations units.^{1/}

The Board opposes the Federation's consolidation petition. It argues that the most appropriate unit structure for the employees at issue here is the current structure: a unit comprised solely of clerical employees and a separate unit of only professional employees. The Board contends that, given the previous collective negotiations history with separate clerical and professional units and a significant period of stable labor relations, the separate clerical and professional units should not be consolidated. The Board concludes that the Federation's consolidation petition should be dismissed.

On March 28, 1989, we sent the Board and the Federation a letter indicating that on the basis of the facts before us, we were inclined to order an election. The parties were given an opportunity to submit position statements and supporting affidavits and other documentary materials. Neither party responded.

^{1/} On September 20, 1988, the North Bergen Education Association, NJEA, NEA ("Association") filed a Petition for Certification of Public Employee Representative (Docket No. RO-89-28), supported by an adequate showing of interest, seeking to represent the employees included in the clerical unit. We wrote to the parties and stated that we intended to first proceed with an election to determine the majority representative of the existing clerical unit and pend the Federation's consolidation petition. See Barnegat Bd. of Ed., D.R. No. 88-15, 14 NJPER 16 (¶19005 1987). The parties executed an Agreement for Consent Election and we conducted an election among the clerical employees on November 15, 1988. On February 28, 1989, a Certification of Representative was issued certifying the North Bergen Federation of Teachers, Local 1060, as the majority representative of the employees included in the clerical unit.

There are no substantial and material factual disputes which may more appropriately be resolved through the conduct of a formal hearing. See N.J.A.C. 19:11-2.6(b). Accordingly, the disposition of the Federation's petition is properly based on our administrative investigation.

In Barnegat Bd. of Ed., D.R. No. 88-31, 14 NJPER 160 (¶19065 1988), request for rev. den. P.E.R.C. No. 88-79, 14 NJPER 223 (¶19081 1988), mot. for recon. den. P.E.R.C. No. 88-91, 14 NJPER 256 (¶19096 1988), the Barnegat Federation of Teachers, Local 3751, NJSFT, AFT, AFL-CIO ("Local 3751"), represented clerical and professional employees in separate collective negotiations units. Local 3751 sought to consolidate the professional and support staff units into a single, mixed unit. The Barnegat Board of Education objected to the consolidation on the same grounds raised by the North Bergen Board of Education ("Board") in this matter. In Barnegat, we found that a combined unit of professional employees and supportive staff employees constitutes an appropriate unit. We relied on Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984) ("Piscataway"). In Piscataway, the Commission said:

When a dispute concerning the propriety of including one or more groups of supportive staff with teachers and professional school district employees has arisen, the Commission, since 1969, has consistently found...that teachers and supportive staff have a community of interest stemming from such factors as their shared goals, the central authority controlling their working conditions and their common working facilities and environment and that this community of

interest generally warrants giving teachers and supportive staff the opportunity to choose a unified representative in a single unit if they so desire. See, e.g., West Milford [Bd. of Ed., P.E.R.C. No. 56 (1971)]. In the Commission's judgment, affording teachers and supportive staff such an opportunity promotes labor stability since unified employee representation may permit negotiations with an already centralized and unified employer to proceed more smoothly. State of New Jersey and Professional Assn. of New Jersey Department of Education, [64 N.J. 231 (1974), aff'g P.E.R.C. No. 68 (1972)]. [Piscataway Tp. Bd. of Ed., 10 NJPER at 274. Emphasis in original.]

To carry out its statutory goal of promoting labor stability, the Commission has stated a policy favoring a broad-based unit structure.^{2/} Here, the professional employees and the supportive staff have a community of interest. For example, both groups of employees share similar terms and conditions of employment and common work facilities. Moreover, the incumbent majority representative supports the unit consolidation. See Barnegat Bd. of Ed., 14 NJPER at 162.^{3/} In accordance with Piscataway, it appears that the professional employees and the supportive staff employees should have the opportunity to express their choice on whether they wish to be represented by a unified representative in the petitioned-for negotiations unit.

^{2/} This is not to suggest that unit structures including only professional teaching staff or only supportive staff employees may not also be appropriate in particular situations.

^{3/} Cf. Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1981) (where the incumbent majority representative opposed the petition filed by a competing employee organization and the incumbent enjoyed a long history of successful negotiations in the existing unit structure, we declined to consolidate the units).

Accordingly, we direct that an election be conducted among the employees in the petitioned-for unit. Additionally, employees serving in titles included in the professional unit shall vote on whether they wish to be included in a collective negotiations unit with non-professional employees.


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 Board 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. Separate lists must be prepared for the support staff unit and the professional unit. In order to be timely filed, the eligibility lists 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 lists 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: April 18, 1988
Trenton, New Jersey