

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

In the Matter of

MONMOUTH COUNTY VOCATIONAL
REGIONAL BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-79-162

LOCAL 68, INTERNATIONAL UNION
OF OPERATING ENGINEERS, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation directs that a secret ballot election be conducted among all custodians and head custodians employed by the public employer. The Director, in determining the appropriate collective negotiations unit, reiterates Commission policy that collective negotiations units, in circumstances similar to those involved in the instant matter, include both full-time and part-time employees.

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Appearances:

For the Public Employer
Hanlon, Dempsey & McHeffey
(Joseph N. Dempsey, of Counsel)

For the Petitioner
Thomas P. Giblin, President

DECISION AND DIRECTION OF ELECTION

On January 16, 1979, 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 Local 68, International Union of Operating Engineers, AFL-CIO ("Local 68") with respect to a proposed collective negotiations unit consisting of head and night custodians employed by the Monmouth County Vocational Regional Board of Education (the "Board"). 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.

All parties have been advised of their obligations under N.J.A.C. 19:11-2.6(a), and have been 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 an evidentiary 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 Monmouth County Vocational Regional 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. Local 68, International Union of Operating Engineers, AFL-CIO is an employee representative within the meaning of the Act and is subject to its provisions.

4. Local 68 seeks to represent a unit consisting of all custodians and head custodians employed by the Board and

agrees to a secret ballot election to be conducted among employees in the petitioned-for unit. 1/

5. The Board does not consent to a secret ballot election among employees in a unit consisting of all custodians and head custodians.

6. During the course of the investigation, the parties entered into an Agreement for Consent Election with respect to a claimed appropriate collective negotiations unit including all full-time custodians and head custodians employed by the Board and submitted such agreement to the undersigned for his consideration. The Board represented to the undersigned that the parties agreed that "part-time employees are not to be included in the unit...." The investigation conducted by the Commission has revealed the possibility that there is one individual employed by the Board on a part-time basis.

The parties were advised on March 29, 1979, that the undersigned could not approve the consent agreement since such approval would be inconsistent with Commission policy. In determining appropriate unit structure, under circumstances similar to those presented herein, the Commission does not distinguish between full-time and part-time personnel. 2/

Thus, on March 29, 1979, Local 68 was advised that its Petition would be processed if it indicated to the Commission that it desired to represent all custodians, both full-time and

1/ The Board has advised that it does not employ custodians under the title of night custodians.

2/ The proposed unit consists of approximately twelve individuals.

part-time. On April 4, 1979, Local 68 advised the Commission that it desired "to proceed with an Election immediately for all Custodians and Head Custodians...."

7. On April 10, 1979, the undersigned advised both the Board and Local 68 that the petitioned-for unit, consisting of all custodians and head custodians, constituted a prima facie appropriate collective negotiations unit. The undersigned stated that, in the absence of the presentation of a dispute raising substantial and material factual issues and in the absence of facts which would distinguish the instant matter from those circumstances requiring the application of standard Commission policy, an election would be directed among the employees in the unit described above. ^{3/} The Board has not provided a response to the undersigned's correspondence.

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. The undersigned finds that the appropriate unit for collective negotiations is: all custodians and head custodians employed by the Monmouth County Vocational Regional Board of Education excluding managerial executives, professional employees, craft employees, police employees, confidential employees and supervisors within the meaning of the Act.

The undersigned directs, pursuant to N.J.A.C. 19:11-2.6(b)(3), that a secret ballot election be conducted among the above described employees. The election shall be conducted no later than thirty (30)

^{3/} The parties are advised that, pursuant to standard Commission procedures, any party may assert a challenge to the public employee status of a voter during the election.

days from the date set below.

Those eligible to vote are the employees described 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 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 Local 68 an eligibility list, consisting of an alphabetical listing of the names of all eligible employees together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with Local 68 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 purpose of collective negotiations by Local 68, International Union of Operating Engineers, AFL-CIO.

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 provisions of the Commission rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: April 23, 1979
Trenton, New Jersey