

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

In the Matter of

GLEN ROCK BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-81-109

GLEN ROCK EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, dismisses a petition filed by the Glen Rock Education Association seeking to add various nonprofessional titles represented by the Glen Rock Association of School Secretaries to an existing unit of teachers and other professional employees of the Glen Rock Board of Education. The Director determines that the controlling factor herein is the established negotiations history that the employer has maintained in two separate units of clerical and teaching employees, and, therefore, the existing unit structure should not be disturbed.

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Appearances:

For the Public Employer
Martin R. Pachman, P.A.

For the Petitioner
Schneider, Cohen, Solomon & DiMarzio, attorneys
(Bruce D. Leder of counsel)

DECISION

On October 15, 1980, ^{1/} 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 the Glen Rock Education Association (the "Petitioner"), seeking to add various nonprofessional

^{1/} The processing of this Petition was held in abeyance pending the determination of an unfair practice charge filed by the Board on July 30, 1980, alleging the existence of an agreement between the Board and the Secretaries' Association pre-dating the filing of the Petition. A decision, In re Glen Rock Bd. of Ed., P.E.R.C. No. 82-11, 7 NJPER 454 (¶ 12201 1981), was issued on July 22, 1981, and the finding therein that there was no contract effectively disposes of the merits of the Board's contract bar claim in the instant proceeding pursuant to N.J.A.C. 19:11-2.8(c). Thereafter, the processing of the instant matter resumed, an informal conference was conducted on October 22, 1981, and additional statements by the parties were finalized by April 1, 1982.

titles currently represented by the Glen Rock Association of School Secretaries (the "Secretaries Association") ^{2/} to the existing unit of teachers and other professional employees employed by the Glen Rock Board of Education (the "Board").

In accordance with N.J.A.C. 19:11-2.6, the undersigned has caused an administrative investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts.

On the basis of the administrative investigation to date, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based on 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 Glen Rock 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 the Petition and is subject to the provisions of the Act.

^{2/} The Secretaries Association represents clerical aides, switchboard operator, supplementary secretaries, school secretaries, accounting clerks, and secondary school executive secretaries.

3. The Glen Rock Education Association and the Glen Rock Association of School Secretaries are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Petitioner seeks to add secretaries, clerical aides, account clerks, and the switchboard operator to its collective negotiations unit of teachers and other professional employees.

5. The Secretaries Association, which is the current representative of a unit of the above employees, has not intervened in this matter.

6. The Board does not consent to an election. The Board asserts that there is an established and successful negotiations relationship between it and the Secretaries Association dating back to 1968, which has resulted in several collective negotiations agreements, and that this relationship should not be modified. Further, by letter dated March 30, 1982, the Board, through its attorney, advised the Commission that since 1968, the Petitioner and the Secretaries Association have always negotiated separate agreements, there had never been coalition negotiations between the Board and the two units involved herein, and that, as of the filing of the instant Petition, the two organizations had been represented by completely different negotiators. In view of this information, the Board argued that the petitioned-for unit was inappropriate.

7. In support of its claimed unit, the Petitioner argues that (1) both representatives support the combining of units, (2) negotiations in the secretarial unit always follow the completion of teacher unit negotiations, (3) benefits secured by teachers are "unilaterally" granted to the secretaries (health and dental insurance benefits are listed as examples of such action), (4) a teacher was the chief spokesperson for secretaries in negotiations for the 1980-82 agreement, (5) a teacher currently is chief spokesperson for the secretaries for a successor agreement, and (6) teachers and secretaries have established a pattern of "cooperative effort," i.e. a secretary is the Secretary of the Glen Rock Education Association, mutual demonstrations in support of a teachers contract have been held, there has been common attendance at Board meetings to protest the closing of a school.

The significant issue raised herein concerns the appropriateness of the petitioned-for unit vis-a-vis the existing unit structure. The appropriate unit must be examined in the context of the given case. In the instant matter, the unit structure has already been established and the Petitioner seeks an alteration of that structure. The Board specifically relies upon the existing structure and argues for the maintenance of the status quo.

In In re Englewood Bd. of Ed., P.E.R.C. No. 81-100, 7 NJPER 141 (¶ 12061 1981) ("Englewood I"), the Commission reviewed the undersigned's determination to conduct self-determination elections where the employer and an incumbent desired to maintain the existing unit structure and where the petitioner sought to

include the unit employees in another collective negotiations unit. The Commission held:

The Director determined that, under the circumstances presented herein, a self-determination election was the proper vehicle for fixing the collective negotiations unit structure. We do not disapprove of the utilization of the self-determination election as a vehicle for unit determination. However this procedure should be employed where it has been determined that all of the factors which are normally considered in establishing appropriate units are so balanced as to permit the desires of the employees to be the controlling factor. This preliminary determination is particularly necessary where, as in the instant matter, it is asserted that there is an established history of collective negotiations in the existing unit structure. (footnotes ommitted)

Further examination of the facts involved in Englewood revealed a 12 year negotiations relationship between the Board and the respective employee representatives without any change in the established unit structure. During this 12 year period the negotiations relationships were stable and there was no evidence that employees received less than fair and effective representation. Both the employer and the representative of custodial/maintenance employees opposed the addition of the blue collar employees into the teachers' unit.

Given the above facts, the Commission did not find the factors to be sufficiently in balance so as to permit the exercise of self-determination by employees. Rather, the Commission deferred to the long-standing, uninterrupted negotiations history,

and preserved the existing unit structure. In re Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶ 12229 1981) ("Englewood II").

Thus, the Commission in Englewood utilized a balancing test to determine whether self-determination elections could be afforded. In that case, the facts did not warrant such an election, and the unit structure continued undisturbed. However, in two subsequent decisions an examination of the negotiations relationship did not reveal that this factor was a compelling consideration.

In In re Moonachie Bd. of Ed., D.R. No. 82-28, 8 NJPER 58 (¶ 13023 1981), the petitioner sought to add custodians to an existing professional employee unit. The Board alleged that the proposed unit was inappropriate because both the custodians and the professionals had a negotiations history of separate units. The facts, however, revealed that the custodians' unit had a three year history, that only one written agreement had been reached which was not reduced to a formal contract and that the incumbent organization was no longer interested in representing those employees. Consequently, the custodians' negotiations relationship was not comparable to the ten year negotiations history in Englewood. Similarly, in In re Lacey Tp. Bd. of Ed., D.R. No. 82-48, 8 NJPER 269 (¶ 13116 1982), an election was directed notwithstanding the Board's assertion that the Englewood case applied. The petitioner sought to add employees in an existing blue collar unit to an existing white collar unit (teachers and secretaries). There, the facts revealed that the

claimed undisturbed negotiations relationships had, in fact, been altered two years prior when the Board had agreed to the expansion of the teachers unit to include secretaries. In contrast, there had been no alteration of any of the units in Englewood.

In the instant matter, there has been no alteration of the existing unit structure and there has been a lengthy and undisturbed history of separate negotiations and separate collective agreements in both units. It appears that the two units herein have consistently been serviced by different New Jersey Education Association representatives as their chief negotiators, and there has been no overlap of negotiators. The placement of a teacher on the secretaries' negotiations committee is not evidence of coalition bargaining. Nor does this fact alone, or in conjunction with the other proffers of commonality of interest by the Association, warrant deviation from the analysis. It is not uncommon for employees of various negotiations units to enjoy some identical benefits, particularly medical benefits. The undersigned does not attribute significance herein to the claim that the ripple effect of according the cited teachers' benefits to the secretaries warrants a self-determination option to alter the current, established unit structure.

By letter dated May 13, 1982, the undersigned notified the parties that on the basis of the administrative investigation, it appeared that no substantial and material factual issues had been placed in dispute and that the petitioned-for unit did not appear to be appropriate in the instant circumstances. The

undersigned provided an additional opportunity to both parties to present evidence as well as statements of position relating to the Petition. The undersigned stated that in the absence of any substantial and material factual issues, he would thereafter issue a decision dismissing the Petition.

The Petitioner responded to the undersigned's letter of May 13, 1982 and argued, inter alia, that:

[T]he instant matter is distinguishable from Englewood in that there is no other employee organization objecting to the proposed unit structure. The Glen Rock Association of School Secretaries has already expressed no interest in the continued representation of the unit of secretaries.

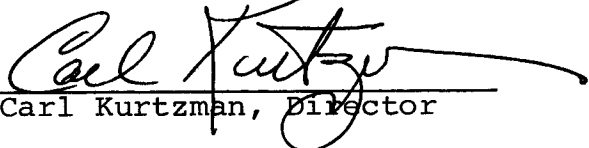
Although the incumbent organization may support the efforts of the Petitioner to assume majority status, its activities hardly evidence a lack of continuing interest for the representation of unit employees. The Commission has been recently provided with a collective negotiations agreement covering the period of July 1, 1982 to June 30, 1984 which the Board and the Secretaries Association entered into on June 28, 1982. Clearly, the Glen Rock Association of School Secretaries evidences a willingness to engage in the continued representation of the unit of secretaries, even assuming its willingness to subsequently defer to the Petitioner if it proves successful in this proceeding.

Secondly, the Petitioner claims that the most appropriate unit standard compels the addition of the secretaries to its unit. In the context presented, however, the maintenance of the existing unit structure is most appropriate.

Accordingly, the undersigned finds that the above facts with respect to negotiations history present the same pattern of uninterrupted negotiations relationships which were present in Englewood. The instant negotiations history is the compelling factor herein. The Board has never previously agreed to change these units, and the facts show that the units have always acted as separate entities, independent of one another. The undersigned has considered all proffers, and based thereon concludes that all of the relevant factors in considering appropriate units are not in balance because of the lengthy and well established separate negotiations history of the instant units. The dominance of this factor mandates the conclusion that the existing unit structure is the most appropriate under the present circumstances. State of New Jersey and Assoc. of N.J. Dept. of Ed., 64 N.J. 231 (1974).

Accordingly, for the above reasons, the undersigned determines that the petitioned-for unit is not appropriate and the Petition must, therefore, be dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: July 23, 1982
Trenton, New Jersey