

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

In the Matter of

MULLICA TOWNSHIP BOARD OF
EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-82-120

MULLICA TOWNSHIP SUPPORT
STAFF ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among cafeteria employees, custodians, teacher aides and secretarial employees to determine whether they desire to be represented by the Petitioner for the purpose of collective negotiations. The Board, having declined to consent to a secret ballot election, "questions the sufficiency of the showing of interest among the various possible categories of employees within this potential unit and/or units." The Board also objects to the appropriateness of the unit claiming that the unit is overly broad and could impinge on the rights of some noncertificated employees in the district. However, the Director determines that the Petitioner has submitted a sufficient showing of interest pursuant to N.J.A.C. 19:11-1.1. As to the Board's argument that the petitioned-for unit is inappropriate, the Commission's policy has been to favor the establishment of broad-based functional units and rejecting claims for narrowly defined units based upon specific occupational distinctions.

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Appearances:

For the Public Employer
Donio & Greco, attorneys
(Louis Greco of counsel)

For the Petitioner
Eugene Sharp, UniServ Representative

DECISION AND DIRECTION OF ELECTION

On December 9, 1981, 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 Mullica Township Support Staff Association, New Jersey Education Association (the "Association"). The Association initially sought to represent a collective negotiations unit consisting of cafeteria employees, custodians, and instructional aides, ^{1/} employed by the Mullica Township

1/ The Board of Education's official designation for such employees is teacher aide.

Board of Education (the "Board"), excluding supervisors and certificated employees.

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 December 28, 1981, the assigned Commission staff agent conducted an informal conference with the parties at which the Association indicated its desire to amend the Petition to include secretarial employees, excluding confidential employees. Subsequently, the Association filed a formal amendment to the Petition on January 8, 1982. The collective negotiations unit claimed to be appropriate in the amended petition is: "cafeteria [employees], custodians, and instructional aides, secretarial employees excluding all supervisors and certificated employees, confidential employees."

The Board declines to consent to a secret ballot election and objects to the composition of the petitioned-for unit.

Based upon 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 Mullica Township 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.

3. The Mullica Township Support Staff Association, New Jersey Education Association, is an employee representative within the meaning of the Act and is subject to its provisions.

3. The Association seeks to represent a collective negotiations unit consisting of all support staff of the Mullica Township School District, i.e., cafeteria employees, custodians, teacher aides and secretarial employees. The petitioned-for unit consists of approximately 29 employees. All of the petitioned-for categories of employees are currently unrepresented.

The Board is unwilling to consent to a secret ballot election among the petitioned-for employees. By letter dated December 21, 1981, the Board, through its attorney, advised the Commission that the Board "questions the sufficiency of the showing of interest among the various possible categories of employees within this potential unit and/or units." The Board also objects to the appropriateness of the unit, claiming that the unit is overly broad, and could impinge on the rights of some noncertificated employees in the district.

N.J.A.C. 19:10-1.1 defines showing of interest as "a designated percentage of public employees in an allegedly appropriate unit, or a negotiations unit determined to be appropriate,

who are members of an employee organization or have designated it as their exclusive negotiations representative ... " Further, N.J.A.C. 19:11-1.2(a)8 requires that "A petition for certification of public employee representative shall be accompanied by a showing of interest as defined in N.J.A.C. 19:10-1.1 of not less than 30 percent of employees in the unit alleged to be appropriate." There is no requirement in the instant circumstance that the Association provide the required percentage in each separate category of employees. Furthermore, N.J.A.C. 19:11-2.1 provides that: "The Director of Representation shall determine the adequacy of the showing of interest and such decision shall not be subject to collateral attack." During the initial processing of the instant matter, the undersigned has determined that the Petitioner has submitted a sufficient showing of interest, as required by the Commission's rules, to warrant the investigation of this matter.

With regard to the Board's argument that the petitioned-for unit is inappropriate, the Board has been apprised of the Commission's policy favoring the establishment of broad-based functional units and rejecting claims for narrowly defined units based upon specific occupational distinctions. See In re State of New Jersey, P.E.R.C. No. 68 (1971), aff'd 64 N.J. 231 (1974). The Commission has applied this policy to employees in an educational setting. Prior Commission decisions involving school district support staff have found appropriate units comprised of some or all of the following categories of employees: teacher

aides, classroom aides, custodians, secretarial employees, clerical employees, custodial and maintenance employees, cafeteria employees, and professional employees. ^{2/}The Commission has consistently held that a community of interest exists among school employees. Generally, employees in a school district have a common employer, work in the same buildings, and have similar goals and purposes.

On February 22, 1982, the undersigned advised the parties that based upon the administrative investigation, it appeared to the undersigned, that the unit sought by the Association is prima facie appropriate. The Board having declined to consent to an election and it appearing that no substantial and material factual issues had been placed in dispute, the parties were reminded of their obligation to present documentary and other evidence as well as statements of position pursuant to N.J.A.C. 19:11-2.6. The undersigned afforded the parties an additional opportunity to present supplementary evidence as well as statements of position relevant to the instant Petition and advised that in the absence of any substantial and material disputed factual issues, the undersigned would issue a decision and direction of election. No response has been received by the undersigned from the parties.

^{2/} In re Garfield Bd. of Ed., P.E.R.C. No. 16 (1969); In re Montgomery Tp. Bd. of Ed., P.E.R.C. No. 27 (1969); In re South Plainfield Bd. of Ed., P.E.R.C. No. 46 (1970); In re Bd. of Ed. of West Milford Tp., P.E.R.C. No. 56 (1971); In re Asbury Park Bd. of Ed., E.D. No. 76-41, 2 NJPER 170 (1976); In re Wildwood Bd. of Ed., D.R. No. 79-20, 6 NJPER 98 (¶ 10054 1979); In re Haddonfield Bd. of Ed., D.R. No. 80-22, 6 NJPER 80 (¶ 11040 1980); Evesham Tp. Bd. of Ed., D.R. No. 80-41, 6 NJPER 311 (¶ 11150 1980); and Moonachie Bd. of Ed., D.R. No. 82-28, 8 NJPER 58 (¶ 13023 1981).

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 cafeteria employees, custodians, teacher aides and secretarial employees, but excluding managerial executives, confidential and 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 no later than thirty (30) days from the date set forth below.

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 Mullica Township Support Staff Association, New Jersey Education 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. 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 the Mullica Township Support Staff Association, New Jersey 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 provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: March 5, 1982
Trenton, New Jersey