

D.R. NO. 89-32

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

In the Matter of

COUNTY OF PASSAIC,

Public Employer,

-and-

LIBERTY COUNCIL 65,

Docket No. RO-89-82

Petitioner,

-and-

OPEIU, LOCAL 153,

Intervenor.

SYNOPSIS

The Director of Representation orders that an election be conducted among certain employees of Passaic County's Youth Center, pursuant to a petition filed by Liberty Council 65. The Director finds that the intervenor's assertion that the petitioner is not a valid employee organization is without merit.

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Appearances:

For the Public Employer  
Thomas F. Portelli, Labor Counsel

For the Petitioner  
Reinhardt & Schachter, Esqs.  
(Denise Reinhardt, of counsel)

For the Intervenor  
Schneider, Cohen, Solomon, Leder & Montalbano, Esqs.  
(Bruce D. Leder, of counsel)

DECISION AND DIRECTION OF ELECTION

On January 26, 1989, Liberty Council 65 filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission") seeking to represent certain employees employed by Passaic County ("County") at its Youth Center. Local 153, OPEIU requested to intervene in the petition pursuant to N.J.A.C. 19:11-2.7 based upon its recently expired collective negotiations agreement with the County. We grant

intervenor status to Local 153. Local 153 opposes the petition and refuses to consent to a secret ballot election. The County does not oppose the petition and is willing to consent to a secret ballot election. On April 14, 1989, we wrote to the parties informing them of our findings and intent to order an election and seeking any additional contrary facts. None of the parties responded to our letter.

We have conducted an administrative investigation in this matter, N.J.A.C. 19:11-2.2, and make the following factual findings.

1. Liberty Council 65 petitioned to represent a unit which includes: senior juvenile detention officer, juvenile detention officer, part-time juvenile detention officer, maintenance repairer, building maintenance worker, clerical workers, and food service workers employed at the Passaic Youth Center. It excludes: confidential employees, professional employees, supervisors, managerial executives, guards, and all other employees of the County.<sup>1/</sup> The petitioner seeks the unit presently represented by Local 153.

2. Local 153 has represented the petitioned-for unit for at least 8 years.<sup>2/</sup>

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<sup>1/</sup> At the informal conference Liberty Council 65 stated that "police" should be substituted for "guards" in its exclusions.

<sup>2/</sup> The Commission issued a Certification of Representative on May 19, 1981, which certified Local 153 as the representative of all employees employed by Passaic County at all facilities of the Youth Center, excluding professional employees, supervisors, managerial executives, police, craft and confidential employees.

3.The recognition clause of the County-Local 153 agreement contains the following:

2.0 RECOGNITION

2.1 The County hereby recognizes the Union as the exclusive and sole representative for the purpose of collective negotiations concerning salaries, hours of work and other terms and conditions of employment for all employees of the County employed in Unit I and Unit II as:

- Sr. Juvenile Detention Officer
- Juvenile Detention Officer
- part-Time Juvenile Detention Officer
- Maintenance Repairers
- Clerk-Typist
- Principal Accounts
- Clerk Typist
- Receptionist-Typist
- Sr. Receptionists
- Senior Accounts
- Senior Clerk Typist
- Operations Supervisor
- Food Service Worker - Full Time
- Food Service Worker - Part Time

2.2 Unless otherwise indicated, the term "employee" under this Agreement refers to all persons represented by Local 153, exclusive of confidential employees, craft employees, police and supervisory personnel within the meaning of the Act.

ANALYSIS

Local 153 questions the validity of Liberty Council 65 as an employee organization under the Act and refuses to consent to a secret ballot election.<sup>3/</sup> N.J.S.A. 34:13A-3(e) contains:

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<sup>3/</sup> At the informal conference Local 153 demanded to see a constitution or by-laws; Liberty Council refused, but has since submitted its By-Laws with its position statement.

[employee representative] shall include any organization, agency, or person authorized or designated by a public employer, public employee, group of public employees, or public employee association to act on its behalf and represent it or them.

In prior decisions considering a petitioner's organizational structure, the Commission has interpreted the Act's requirements to allow for a wide range of appropriate structures. This is supported by the public policy underlying the Act permitting organization of all public employees who desire collective negotiations. N.J.S.A. 34:13A-2. In Camden Police Department, P.E.R.C. No. 82-89, 8 NJPER 226 (¶13094 1982), the Commission explained, "we particularly emphasize that a petitioner is not required to have certain attributes in order to file a representation petition. N.J.S.A. 34:13A-3(e). It is only required not to have an illegal structure. Beyond enforcing the Act's specific prohibitions, we will not interfere in a petitioner's internal affairs." 8 NJPER at 227, n. 2.

Here, there is no allegation of an illegal structure. Local 153 has not proffered any facts or evidence which cast doubt on Liberty Council 65's organizational status. Liberty Council 65 has submitted a copy of its By-Laws which contain the following statement of purpose:

LIBERTY COUNCIL #65 has been formed for the purpose of representing JUVENILE DETENTION OFFICERS and related employees at the Passaic County Department of Youth Services, Youth Center, for purposes of collective negotiation and for other mutual aid and protection; in order to promote their dignity, their rights to equality, and their rights to decent, fair, safe and healthful working conditions; and to

represent other employees with regard to their employment.

Based upon the above statement of purpose, the broad requirements of the Act at subsection 13-3(e), and the evidence before us now, we find that Liberty Council 65 is an employee representative within the meaning of the Act. Accordingly, we order an election pursuant to the petition and historic unit definition, as contained in the above-cited recognition agreement. The unit shall consist of:

Included: All employees of the Passaic County Youth Center, including: Sr. Juvenile Detention Officers, Juvenile Detention Officers, Part-Time Juvenile Detention Officers, Maintenance Repairers, Clerk-Typists, Senior Clerk Typists, Receptionist-Typists, Sr. Receptionists, Senior Accounts, Principal Accounts, Operations Supervisor, Food Service Worker - Full-Time, Food Service Worker - Part-Time.

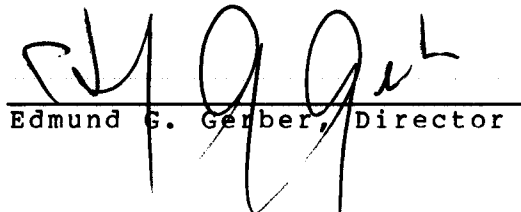
Excluded: All other employees, professional employees, managerial executives, police, craft, confidential employees, fire fighters, supervisors within the meaning of the Act, and all employees in other negotiations units.

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 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



Edmund G. Gerber, Director

DATED: May 5, 1989  
Trenton, New Jersey