

P.E.R.C. NO. 2011-84

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RAMSEY BOARD OF EDUCATION,

Respondent,

-and-

RAMSEY TEACHERS ASSOCIATION,

Docket No. RO-2011-014

Petitioner,

-and-

RAMSEY OFFICE PERSONNEL ASSOCIATION,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies the Ramsey Board of Education's request for review of D.R. 2011-8. In that decision, the Deputy Director of Representation ordered an election among clerical title employees represented by the Ramsey Office Personnel Association to determine members' interest in being added to a unit of certificated employees represented by the Ramsey Teachers Association. The Commission holds that the ordering of an election was in accordance with well-established law giving teachers and support staff employees the opportunity to choose unified representation in a single unit and that the 30-year negotiations history for the clerical unit is not a compelling circumstance to justify denying separate units.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Respondent, Taylor, Whalen and Hybbeneth
(Garry M. Whalen, Consultant)

For the Petitioner, Springstead and Maurice, attorneys
(Alfred F. Maurice, of counsel)

For the Intervenor, Bucceri and Pincus, attorneys
(Gregory T. Syrek, of counsel)

DECISION

On March 31, 2011, the Ramsey Board of Education filed a request for review of D.R. No. 2011-8, 37 NJPER 124 (¶36 2011). In that decision, the Deputy Director of Representation ordered an election among clerical title employees represented by the Ramsey Office Personnel Association to determine members' interest in being added to a unit of certificated employees represented by the Ramsey Teachers Association.

We rely on the following facts as set forth in D.R. No. 2011-8. RTA and the Board are parties to a collective

negotiations agreement with a term of July 1, 2007 through June 30, 2011. The recognition clause provides that RTA is the exclusive representative for all non-supervisory certificated personnel employed by the Board. Among the titles included in RTA's unit are classroom teachers, psychologists, guidance counselors, social workers, librarians and nurses. The recognition clause in the agreement between the Board and ROPA extends to Board secretaries and office assistants.

The last round of negotiations between the Board and RTA were long and contentious. Negotiations commenced in January 2007. The parties met five times to negotiate before the Board filed a Notice of Impasse on April 12, 2007. The parties met three times with a mediator before going to fact-finding. The fact-finder's report and recommendations issued on February 2, 2009. The Board adopted the recommendations. RTA initially rejected the recommendations. The parties reached an agreement in May 2009.

During the 28 months of those negotiations and specifically on October 8 and November 12, 2007, regular school days that year^{1/}, the district closed after a majority of the teachers requested the days off. On other dates, RTA held demonstrations at Board meetings; both parties spoke to the press regarding the

^{1/} On these dates, Ramsey schools would normally be closed in observance of Columbus Day and Veterans Day. In that year however, they were scheduled school days in Ramsey.

negotiations; and both parties communicated their positions directly to parents. RTA advised parents that until a settlement was reached, teachers would only fulfill their strict contractual requirements and that actions such as helping students before and after school, writing college letters of recommendation, meeting and corresponding with parents outside of contractual hours, and planning and chaperoning school trips and events would not be performed. RTA also filed and later withdrew two unfair practice charges against the Board.

By contrast, the Board and ROPA met five times and concluded their negotiations amicably. They agreed to suspend negotiations for 15 months while the Board focused on concluding its negotiations with RTA. During the 15 month hiatus, ROPA did not conduct any demonstrations, take any job actions, or criticize the Board at its public meetings. However, in negotiations for their predecessor agreement, the Board and ROPA went through mediation, fact-finding, and super conciliation before signing an agreement.

On September 24, 2010, RTA filed a representation petition seeking to add clerical titles represented by ROPA to its unit of certificated employees. The petition was supported by an adequate showing of interest. On October 19, ROPA intervened in the petition, based upon its current collective negotiations agreement with the Board, extending from July 1, 2008 through

June 30, 2011. ROPA consented to the election. However, the Board refused to consent to an election. An administrative investigation was conducted. On March 9, 2011, the parties received written notice of the Deputy Director's tentative findings. On March 17, the Board filed a reply. On March 25, the Deputy Director issued a decision ordering a mail ballot election among the clerical employees in ROPA, and a professional option among employees in RTA.^{2/} The Board filed a request for review of D.R. 2011-8 on March 31, 2011.^{3/} On April 5, RTA filed a response.

N.J.A.C. 19:11-8.2 sets forth, in pertinent part, as follows:

A request for review will be granted only for one or more of these compelling reasons:

1. A substantial question of law is raised concerning the implication of the Act or these rules;
2. The Director of Representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;

2/ The Deputy Director ordered that ballots be mailed on April 13, 2011, returnable to the Commission on May 4. The ballot count took place on May 6. On May 16, RTA was certified as the majority representative of the clerical employees formerly represented by ROPA.

3/ On April 15, 2011 the Board filed a request for a stay of the election. On April 29, the Chair denied the stay request.

3. The conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or

4. An important Commission rule or policy should be reconsidered.

The Board argues that it has a greater than 30-year history of good labor relations with ROPA and an election should not be ordered to merge the units for no other reason than that the bargaining units requested the merger. It further asserts that employee choice does not trump a longstanding history of successful negotiations in an existing unit structure.

RTA responds that the Board has not met the requirements of N.J.A.C. 19:11-8.2 and that it is merely attempting to reargue the same points that were properly rejected by the Director.

We deny the Board's request for review.^{4/} Nonetheless, we briefly note that the Deputy Director's ordering of an election was in accordance with well-established law giving teachers and support staff employees the opportunity to choose unified representation in a single unit based upon their community of interest except where certain compelling circumstances justify continuing separate units. Bordentown Reg. Bd. of Ed. and Bordentown Reg. Ed. Ass'n, P.E.R.C. No. 84-126, 10 NJPER 276 (¶15136 1984), aff'd 11 NJPER 337 (¶16122 App. Div. 1985); see also Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516

^{4/} We note that the Board did not identify the basis on which it seeks the request for review.

(¶12229 1981) and Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984). No compelling circumstances to support prohibiting an election have been identified here. The Board's assertion that it has a 30-year history of good labor relations with ROPA is undermined by the Deputy Director's findings that although the most recent negotiations between the Board and ROPA were amicable, negotiations were prolonged for the predecessor agreement, requiring mediation, fact-finding and super conciliation.

The Board's request for review is denied.

ORDER

The Ramsey Board of Education's request for review of D.R. 2011-8 is denied.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Colligan, Eskilson, Kregel and Voos voted in favor of this decision. None opposed. Commissioner Wall was not present.

ISSUED: June 30, 2011

Trenton, New Jersey