

D.R. NO. 81-4

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

In the Matter of

COUNTY OF MIDDLESEX,
(RARITAN BAY MENTAL HEALTH CLINIC),

Public Employer,

-and-

DOCKET NO. RO-80-169

DISTRICT 1199-J, NATIONAL UNION
OF HOSPITAL & HEALTH CARE EMPLOYEES,
RWDSU, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs the conduct of an election among the Health Clinic's professional employees to determine whether or not they desire to be represented by Petitioner. The Director finds that a unit of Health Clinic professional employees is appropriate since the employer has previously consented to the creation of negotiations units of its medical professional employees employed at a particular facility.

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Appearances:

For the Public Employer
Henry Orszulski, Labor Relations Specialist

For the Petitioner
Greenberg, Margolis, Ziegler & Schwartz, attorneys
(Arthur S. Kramer of Counsel)

DECISION AND DIRECTION OF ELECTION

On April 10, 1980, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by District 1199-J, National Union of Hospital & Health Care Employees, RWDSU, AFL-CIO ("District 1199-J") with respect to a proposed unit comprised of all nonsupervisory professional employees of the County of Middlesex (the "County") employed at the Raritan Bay Mental Health Clinic ("Health Clinic").

The undersigned has caused an administrative investigation to be conducted into the matters involved in the Petition in order to determine the facts and to obtain the positions of the parties.

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 at a 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 County of Middlesex 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. District 1199-J, National Union of Hospital and Health Care Employees, RWDSU, AFL-CIO is an employee representative within the meaning of the Act and is subject to its provisions.

4. District 1199-J has filed a Petition seeking a collective negotiations unit comprised of all full-time and part-time nonsupervisory professional employees employed at

the Raritan Bay Mental Health Clinic in Perth Amboy, New Jersey. The proposed unit would exclude supervisory employees, nonprofessional employees and other categories of employees excluded by the Act. District 1199-J states that the unit is comprised of approximately 60 individuals.

4. The County does not consent to a secret ballot election. Referring to an already existing collective negotiations unit of non-medical professional employees at its Roosevelt Hospital Complex, the County states that the non-medical professional employees of the Raritan Bay Health Clinic perform and function in the same daily job related responsibilities as similar employees of Roosevelt Hospital. The County further states that the employees of Roosevelt Hospital and the employees at the Health Clinic share a community of interest, and it objects to the "fragmentation of identical services" if a separate unit of Health Clinic employees is created. The County's position is "that Raritan Bay and Roosevelt Hospital be recognized as one unit for Union representation on all related matters."

5. District 1199-J disputes the factual assertion of the County that the employees petitioned-for have the same titles, perform the same duties and have the same salary ranges as employees at Roosevelt Hospital. District 1199-J also notes that notwithstanding the application of certain countywide employee benefits to Health Clinic employees,

the County negotiates with regard to these benefits with 27 other existing collective negotiations units. District 1199-J asserts that some of the other existing collective negotiations units are much smaller than the proposed unit. Lastly, District 1199-J argues that the Health Clinic employees were "on staff and functioning" at the time the non-medical professional unit at Roosevelt Hospital was formed. District 1199-J states that had these employees been appropriately includable in the Roosevelt Hospital unit, either PERC, the petitioner for the Roosevelt Hospital unit, or the County would have argued for a unit which included employees of both institutions. Since that argument was not raised, District 1199-J contends that the Health Clinic Employees cannot appropriately be part of the Roosevelt Hospital unit now.

Although there exist disputed facts herein, these facts are not material to a resolution of the matter at hand. It may be claimed and acknowledged that, at different levels, a community of interest exists among Health Clinic professional employees, all county health-care facility professional employees, and all county employees. The issue before the undersigned is the appropriateness of the proposed unit in light of the employer's claim that a different unit, with a broader community of interest, is more appropriate. While due regard for the community of interest of employees is a factor to be considered in such a determination, the

community of interest among employees must be examined in the context of the employer-employee relationship at hand.

Notwithstanding the presentation by the County now of the factual claim that all county employees share many identical terms and conditions of employment, and its concern for fragmentation, the undersigned takes administrative notice of Commission records which indicate that the County has nevertheless participated in and consented to the initial establishment of a multiplicity of negotiations units for the representation of its employees.^{1/} In the context of health-care related employees, the County has agreed to the formation of a unit of non-medical professional employees employed at Roosevelt Hospital and a separate unit of registered nurses and LPNs employed at Roosevelt Hospital. The unit petitioned-for at the Raritan Bay Mental Health Clinic appears to contain all professionals and to include nurses within the same unit. Moreover, there is no assertion herein that the Health Clinic and Roosevelt Hospital facilities are functionally integrated in any manner.

It appears to the undersigned from the above that although County professional employees in the health-care field may share similar interests, the County has agreed

^{1/} The County has objected to the further fragmentation of units resulting from the removal of sub-groups from already existing units.

to the establishment of negotiations units of professional health-care related employees on a facility and operational basis. The undersigned notes and is guided in these circumstances by the policy of the National Labor Relations Board that permits employees who have been excluded from collective negotiations units formed by the employer and a petitioning representative to thereafter be represented in appropriate residual units.

On July 30, 1980, the undersigned notified the parties that on the basis of the administrative investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation exists in a prima facie appropriate unit. The undersigned provided an additional opportunity to the parties to present evidence as well as statements of position relating to the instant Petition. The undersigned stated that in the absence of any substantial and material factual disputed issues, he would thereafter issue a decision and direction of election. No further evidentiary proffer or statement has been submitted to the undersigned.

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 appropriate unit is: all full-time and part-time nonsupervisory professional employees employed by the County of

Middlesex at the Raritan Bay Mental Health Clinic in Perth Amboy, but excluding supervisory employees, nonprofessional employees, managerial executives, confidential employees, craft employees and police 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.

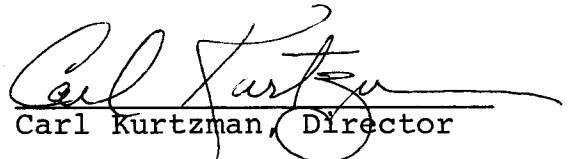
Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with District 1199-J an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be

received by the undersigned no later than ten (10) days prior to the date of election. A copy of the eligibility list shall be simultaneously filed with District 1199-J 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 District 1199-J, National Union of Hospital and Health Care Employees, RWDSU, 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's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: August 14, 1980
Trenton, New Jersey