

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

In the Matter of

PASSAIC COUNTY COMMUNITY COLLEGE,

Public Employer,

-and-

SUPPORTIVE STAFF ASSOCIATION OF  
PASSAIC COUNTY COMMUNITY COLLEGE;  
NEW JERSEY EDUCATION ASSOCIATION,

DOCKET NOS. CU-78-22  
CU-78-24

Petitioner,

-and-

ADMINISTRATIVE STAFF ASSOCIATION OF  
PASSAIC COUNTY COMMUNITY COLLEGE;  
NEW JERSEY EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, based upon an administrative investigation, clarifies collective negotiations units of supportive staff and administrative staff of the public employer as including categories of employees which would generically be identified within the units' composition, notwithstanding the contention of the employer that the employees in these classifications should not be included in the units since they are employed under the Comprehensive Employment and Training Act. The Director cites the consistent policy of the Commission that CETA employees are includable in collective negotiations units with other employees, and notes an absence of facts which would distinguish the instant matter and require a different result.

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ADMINISTRATIVE STAFF ASSOCIATION OF  
PASSAIC COUNTY COMMUNITY COLLEGE:  
NEW JERSEY EDUCATION ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer  
Sterns, Herbert & Weinroth  
(John M. Donnelly, of Counsel)

For the Petitioners  
Jackson, Lewis, Schnitzler & Krupman  
(Patrick Vaccaro, of Counsel)

DECISION

On December 1, 1977 and on December 7, 1977, Clarification of Unit Petitions were filed with the Public Employment Relations Commission (the "Commission") by the Supportive Staff Association of Passaic County Community College; New Jersey

Education Association (CU-78-22) and by the Administrative Staff Association of Passaic County Community College; New Jersey Education Association (CU-78-24) 1/ seeking clarification concerning the composition of two collective negotiations units consisting of supportive staff personnel 2/ and administrative personnel, 3/ respectively. More particularly, the Associations seek a determination which would identify individuals employed under the federal Comprehensive Employment and Training Act ("CETA") as included in their respective negotiations units. 4/

Based upon the administrative investigation, 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 disputed factual issues exist which may more appropriately be resolved after a hearing. Pursuant to N.J.A.C. 19:11-2.6(c) there is no necessity for a hearing where,

1/ The Petitioners are hereinafter the "Associations" collectively.

2/ Including blue collar and white collar employees, e.g., secretaries, accounting and bookkeeping personnel, and maintenance and custodial personnel.

3/ Including various Directors and Coordinators and an Assistant Dean, a Systems Analyst, a Counselor and the Registrar.

4/ The Associations originally sought to clarify their units to include employees under the provisions of the federal anti-recession program. At an informal conference conducted on January 27, 1978, the Associations amended their Petitions to include the issues related to CETA employees. Said amendments were finalized on June 16, 1978. Simultaneously, the Associations withdrew those aspects of the Petitions relating to the anti-recession personnel, inasmuch as these issues have been resolved.

as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The Passaic County Community College (the "College") 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 provisions of the Act. <sup>5/</sup>

3. The Supportive Staff Association of Passaic County Community College; New Jersey Education Association and the Administrative Staff Association of Passaic County Community College; New Jersey Education Association are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Associations have filed Petitions for Clarification of Unit seeking a determination as to whether CETA personnel are public employees within the meaning of the Act and whether they may be included with non-CETA personnel in an otherwise appropriate unit.

The Associations submit that personnel employed by the College under the CETA program share the same working conditions, perform the same work, and hold similar job titles or titles related to titles of non-CETA unit personnel <sup>6/</sup> and that the only

<sup>5/</sup> While originally a question was raised by the College as to whether the College or the Passaic County Board of Chosen Freeholders was the employer of these employees, all parties, including the County, subsequently agreed that the College was the employer.

<sup>6/</sup> In the supportive staff unit, the titles are Laboratory Assistant and Assistant to the Bookstore Manager. In the administrative unit, the titles are Student Advisor and Staff Assistant to the Assistant Dean for Instruction.

distinction between CETA and non-CETA personnel is the source of funding for their positions.

The Associations seek a determination that CETA employees are included in their respective units.

5. The parties do not dispute the appropriateness of the inclusion of these employee titles in the collective negotiations units, but the College believes it would be inappropriate to include CETA employees in any collective negotiations units in existence at the College. Furthermore, the College maintains that "the law does not require such inclusion." The College has supplied a list of five CETA employees serving in the titles sought to be clarified and enumerated in footnote 6, supra.

6. There is a question concerning the composition of collective negotiations units and the matters are appropriately before the undersigned for determination.

7. On May 11, 1979, the undersigned advised the parties of the Commission's well established policy concerning the appropriateness of the inclusion of CETA personnel in negotiations units with regularly employed personnel. The parties were advised that the Commission, in previous contested cases, had determined in each instance that CETA employees are public employees within the meaning of the Act, are employees of the governmental unit employing such personnel, and share a community of interest with other public employees of the same generic description employed by the public employer. See, In re Township of Mine Hill, D.R.

79-4, 4 NJPER 297 (¶ 4148 1978), request for review denied, P.E.R.C. No. 79-8, 4 NJPER 416 (§ 4187 1978); In re County of Somerset, D.R. No. 79-9, 4 NJPER 397 (¶ 4179 1978); In re County of Hudson, D.R. No. 79-3, 4 NJPER 294 (¶ 4147 1978); and In re County of Passaic, D.R. No. 78-29, 4 NJPER 8 (¶ 4006 1977). The undersigned stated that in light of the examination given to the legal issues in these cases involving CETA employees, the undersigned has determined that petitions seeking the inclusion of CETA employees, whose work conforms to the generic description of the appropriate collective negotiations unit, present a unit description which is prima facie appropriate.

Thus, while the above decisions recognize that certain restrictions on the employment relationship are required by the provisions of the CETA regulatory program in order to comply with the federal funding criteria, the determinations therein reflect the Commission's judgment that these employment qualifications do not compel the conclusion that CETA funded employees are not public employees and are not entitled to collective representation rights under the New Jersey Employer-Employee Relations Act. Accordingly, in representation matters CETA funded employees are not treated differently than employees whose salary is fully funded by the local entity. The compelling consideration is job function. Applying these considerations to the clarification issues herein, it would appear that the employment of additional personnel in

job categories which are included within the scope of the definition of the respective collective negotiations units presents a prima facie case for a clarification determination in favor of including the CETA employees in those units in which their comparable or related titles are currently represented.

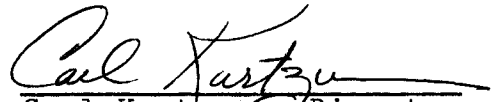
The parties were provided an opportunity, pursuant to N.J.A.C. 19:11-2.6, to provide documentary and/or other evidence as well as statements of position relating to the Petition and were advised that in the absence of evidence raising substantial and material disputed factual issues which necessitate the conduct of an evidentiary hearing, the undersigned would issue a clarification of unit determination on the basis of the administrative investigation. The undersigned stated an intent to clarify the units as including CETA employees based upon the administrative investigation to date.

Accordingly, in the absence of evidence raising substantial and material disputed factual issues, the undersigned issues the appropriate clarification:

The unit of supportive staff represented by the Supportive Staff Association of Passaic County Community College; New Jersey Education Association, is clarified as including CETA personnel in the titles of Laboratory Assistant and Assistant to the Bookstore Manager. The unit of administrative staff employees represented by the Administrative Staff Association of Passaic

County Community College; New Jersey Education Association, is clarified as including CETA personnel in the titles of Student Advisor and Staff Assistant to the Assistant Dean for Instruction.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: June 14, 1979  
Trenton, New Jersey