

D.R. NO. 92-20

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

In the Matter of

MOUNTAINSIDE BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-92-78

MOUNTAINSIDE EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation directs an election among a unit of educational support staff to determine if those employees desire representation in a single negotiations unit with certificated personnel. Dismissing the employer's objections to the proposed consolidation of the two units, the Director also ordered a professional option election for certificated personnel to determine if that group wishes to be included in a unit with nonprofessional employees.

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Appearances:

For the Public Employer
Schwartz, Pisano, Simon & Edelstein, attorneys
(Nathanya G. Simon, of counsel)

For the Petitioner
Lois Tarr, Consultant

DECISION AND DIRECTION OF ELECTION

On October 11, 1991, the Mountainside Education Association ("Association") filed a Petition for Certification of Public Employee Representative seeking to add secretaries, custodians and aides to its unit of certificated personnel represented by the Mountainside Teachers Association and employed by the Mountainside Board of Education ("Board").^{1/} The petition was accompanied by an adequate showing of interest. N.J.A.C. 19:11-1.2. Secretaries, aides and custodians are now represented in a single unit by the Mountainside Educational Support Personnel Association ("MESPA"). Before the Board formally

^{1/} The Association asserts that its name change occurred at the same time the petition was filed.

recognized this consolidated unit of support personnel in May 1991, secretaries and aides were represented in a separate negotiations unit by the Mountainside Educational Secretaries and Aides Association. Custodians were represented by the Mountainside Custodial Association in a separate unit. All three majority representatives have negotiations agreements with the Board extending from July 1, 1990 through June 30, 1992.

On November 4 and 14, 1991, the Board filed letters and copies of the negotiations agreements. It opposes the petition, citing successful negotiations histories with the majority representatives. It compared the agreements and argued that an insufficient community of interest exists in the proposed wall-to-wall unit.

We conducted an administrative investigation of the facts. On January 22, 1992, we issued a tentative decision, recommending that the petitioned-for unit is appropriate and directing an election among the secretaries, aides and custodians unit and a "professional option" election for certificated employees. No party responded.

The Board and the Mountainside Teachers Association have a collective agreement covering certificated personnel -- teachers, nurses, guidance counselors and others. The agreement runs from July 1, 1990 through June 30, 1992.

The Board and the Mountainside Secretaries and Aides Association have an agreement covering secretaries and aides and it

runs from July 1, 1990 through June 30, 1992. Excluded are the secretaries to the Board Superintendent and Board Secretary's office, the secretary/payroll and secretary/bookkeeper.

The Board and the Mountainside Custodial Association have an agreement covering all custodians, and it runs from July 1, 1990 through June 30, 1992.

On or about May 28, 1991, the Board recognized MESPA as the majority representative of a consolidated unit of secretaries, aides and custodians.

The Board employs about 37 certificated personnel, 2 secretaries, 2 aides and 5 custodians. Employees work in the same building(s).

The Mountainside Teachers Association agreement has articles concerning transfers, promotions, evaluations, teacher work year, sabbatical leave, professional development, workshops, etc.

The Mountainside Custodial Association agreement has provisions on holidays, safety equipment, black seal licensing, vacations, transfer and reassignment.

The secretaries and aides agreement has provisions for transfers, evaluations and professional improvement.

Custodians are paid hourly and teachers are salaried. All employees have health insurance, vacation and sick leave benefits.

In Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984), the Commission stated:

When a dispute concerning the propriety of including one or more groups of supportive staff

with teachers and professional school district employees has arisen, the Commission since 1969 has consistently found, ...that teachers and supportive staff have a community of interest stemming from such factors as their shared goals, the central authority controlling their working conditions, and their common working facilities and environment and that this community of interest generally warrants giving teachers and supportive staff the opportunity to choose a unified representative in a single unit if they so desire....In the Commission's judgment, affording teachers and supportive staff such an opportunity promotes labor stability since unified employee representation may permit negotiations with an already centralized and unified employer to proceed more smoothly. (Citations omitted; emphasis in original.) Piscataway, at p. 274. See Ridgefield Bd. of Ed., D.R. No. 85-65, 11 NJPER 464 (¶16166 1985).

The Commission generally gives teachers and support staff employees the opportunity to choose unified representation in a single unit based on their community of interest, except where compelling circumstances justify continuing separate units. Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1981).

The secretaries, aides and custodians share a community of interest with the teachers, based on the groups' goal to provide for the students' education. The employees work in the district schools and the Board controls the personnel policies for all employees.

The Commission has also found that giving employees a chance to select unified representation in a single unit appropriate even where there is a lengthy negotiations history of separate support staff units, provided that the support staff welcomes the proposed unit and the existing unit is not the subject of a

longstanding certification. Piscataway Bd. of Ed., Bordentown Reg. Bd. of Ed., P.E.R.C. No. 84-126, 10 NJPER 276 (¶15136 1984), aff'd App. Div. Dkt. No. A-4503-83T6 (4/9/85); Bergen Cty. Vocational Schools Bd. of Ed., P.E.R.C. No. 84-127, 10 NJPER 279 (¶15137 1984); Freehold Reg. Bd. of Ed., P.E.R.C. No. 84-128, 10 NJPER 280 (¶15138 1984); and Barrington Bd. of Ed., P.E.R.C. No. 84-129, 10 NJPER 282 (¶15139 1984).^{2/}

The petitioned-for unit is appropriate. The Board has not presented any facts or "compelling circumstances" which show that the proposed consolidation should be rejected. Accordingly, I direct that an election be conducted among employees in the secretaries, aides and custodians unit to determine if a majority desires to be represented by the Mountainside Education Association. Certificated employees shall be given a choice (professional option) as to whether they wish to be included in a unit with non-professional employees. N.J.A.C. 34:13A-6. I am inclined to direct an election among employees in the following proposed unit:

Included: All secretaries, aides and custodians to be added to the existing unit of all certificated

^{2/} In Bergen, the Commission found a five-year history would not control where the incumbent support staff representative did not oppose unification. In Freehold, the Commission found the 10-year history of separate representation for secretaries did not control where the incumbent support staff representative did not oppose unification. In Barrington, the Commission found a history of more than 10 years of separate representation for secretaries did not control where the incumbent support staff representative did not oppose unification.

personnel, including teachers, nurses, guidance counselors, librarian, social workers, speech language specialist and remedial reading teachers employed by the Mountainside Board of Education.

Excluded: Secretaries to the Board Superintendent and Board Secretary's office, the secretary/payroll and secretary/bookkeeper, all managerial executives, confidential employees, supervisors within the meaning of the Act, craft employees, police officers, firefighters and all other employees employed by the Mountainside Board of Education.

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 two eligibility lists consisting of alphabetical listings of the names of all eligible voters, certificated and non-certificated, in the units, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility lists must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility lists 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 lists 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: March 3, 1992
Trenton, New Jersey