

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

In the Matter of

ENGLEWOOD BOARD OF EDUCATION,

Public Employer,

-and-

ENGLEWOOD TEACHERS ASSOCIATION.  
NEW JERSEY EDUCATION ASSOCIATION,

DOCKET NO. RO-81-92

Petitioner,

-and-

LOCAL 29, RWDSU, AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs that an election conducted among the Board's aides, secretarial/clerical and custodial/ maintenance employees to determine whether these employees wish to be represented by the Petitioner, in a unit including professional teaching staff. These three nonprofessional groups of employees are currently represented in separate collective negotiations units, and, therefore, employees in each unit shall be afforded separate choices as to their representation. The current representatives of the aides and the secretarial/clerical units have not intervened in this proceeding. However, the representative of the custodial/maintenance employees unit has intervened; Therefore, employees in that unit are being provided an opportunity to continue their current unit status by voting for the incumbent representative or to select representation by the Petitioner in a larger unit.

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

In the Matter of

ENGLEWOOD BOARD OF EDUCATION,

Public Employer,

-and-

ENGLEWOOD TEACHERS ASSOCIATION,  
NEW JERSEY EDUCATION ASSOCIATION,

DOCKET NO. RO-81-92

Petitioner,

-and-

LOCAL 29, RWDSU, AFL-CIO,

Intervenor.

Appearances:

For the Public Employer  
John Miraglia, Consultant

For the Petitioner  
Vincent Giordano, UniServ Representative

For the Intervenor  
Yudenfriend & Patterson, attorneys  
(Lester Yudenfriend of counsel)

DECISION AND DIRECTION OF ELECTION

On October 14, 1980, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was timely filed with the Public Employment Relations Commission (the "Commission") by the Englewood Teachers Association, New Jersey Education Association (the "Teachers Association") seeking to add all

aides, secretarial/clerical employees, and custodial/maintenance employees to the existing unit of professional certificated personnel, which is currently represented by the Teachers Association. Collective negotiations Agreements which have been submitted by the Englewood Board of Education (the "Board"), show that the aides are currently represented by the Englewood Aides Association, NJEA; the secretarial/clerical employees are currently represented by the Englewood Educational Secretaries Association, NJEA; and the custodial/maintenance employees are currently represented by Local 29, RWDSU, AFL-CIO ("Local 29"). All of the above mentioned units of employees are covered by Agreements which expire June 30, 1981.

The undersigned has caused an administrative investigation to be conducted into the matters concerning the Petition in order to determine the facts. There is no agreement for a secret ballot election.

The Board has not provided a statement of position to date. The Board's representative has orally advised the Commission that it is not willing to consent to a secret ballot election, alleging that the requisite community of interest between professional and nonprofessional employees is lacking. Local 29 has indicated by Mailgram that it objects to the conduct of a "global election," and "insists that if there is an election, it be held for the individual unit." The Englewood Aides Association, NJEA and the Englewood Educational Secretaries Association, NJEA has advised the Commission that it does not seek to intervene in this

proceeding or to appear on a ballot in any election the Commission might conduct.

Based upon 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 Englewood Board of Education 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. The Englewood Teachers Association, NJEA, the Englewood Aides Association, NJEA, the Englewood Educational Secretaries Association, NJEA and Local 29, RWDSU, AFL-CIO, are employee organizations within the meaning of the Act and are subject to its provisions.

4. The Teachers Association is seeking to add currently represented nonprofessional employees employed by the Board, specifically aides, secretarial/clerical employees, and custodial/maintenance employees to the existing unit of professional employees. The Board employs approximately 250

certificated professional employees, 58 aides, 31 secretarial/ clerical employees and 45 custodial/maintenance employees.

5. The Teachers Association agrees to a secret ballot election for the petitioned-for unit, including a professional option election, if necessary. See N.J.S.A. 34:13A-6(d).

6. The Board and Local 29 do not consent to an election, contending that a unit comprised of professional and nonprofessional employees is inappropriate, given the history of separate collective negotiations units in the district.

The specific evidence proffered to date does not appear to place in dispute any substantial and material factual issues. Rather, the primary question in issue appears to be whether a community of interest exists between professional and nonprofessional employees in a school district, and whether the petitioned-for unit is appropriate given a history of collective negotiations for separate units of nonprofessional staff.

Prior Commission decisions have consistently held that a community of interest exists between professional certificated employees and nonprofessional support staff of a school district. <sup>1/</sup> In general, employees in a school

<sup>1/</sup> See In re West Milford Tp. Bd. of Ed., P.E.R.C. No. 56 (1971), wherein the Commission found appropriate a petition seeking to add nonprofessional clerical employees and building aides to a unit of professional employees: teachers, nurses and instructional aides. See also In re Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971) with respect to the appropriateness of a unit of professional and nonprofessional employees. The Commission determined that the existing mixed professional and nonprofessional unit, which included cafeterial personnel, was not prima facie inappropriate. See also, more recently, In re Spring Lake Heights Bd. of Ed., D.R. No. 79-20, 5 NJPER 98 (¶ 10054 1979).

district have a common employer, work in the same buildings, and have similar goals and purposes, i.e., the education and the betterment of the students. When making unit determinations the Commission has sought to avoid fragmentation of negotiations units and has favored the formation of units along broad-based functional lines rather than by title or by distinct occupational groupings. <sup>2/</sup>

Local 29 argues that "a global election" is inappropriate in the circumstances presented herein because there is a history of separate collective negotiations for each of the three units petitioned-for by the Teachers Association for inclusion in the professional unit. See In re Haddonfield Bd. of Ed., D.R. No. 80-22, 6 NJPER 80 (¶ 11040 1980), wherein the undersigned gave due consideration to the history of separate collective negotiations units. The undersigned found the petitioned-for unit appropriate, but nevertheless directed that the employees in each separate unit vote independently on their choice of representative.

After providing the above analysis to the parties, the undersigned, on December 18, 1980, provided an additional opportunity to the parties to present evidence as well as

<sup>2/</sup> In In re State of New Jersey v. Professional Association of New Jersey Dept. of Education, 6 N.J. 231 (1974), the Supreme Court endorsed the Commission's adoption of the concept of broad-based, functional negotiations units.

statements of position relating to the instant Petition, and advised that in the absence of the presentation of evidence raising substantial and material disputed factual issues concerning this matter which would warrant the convening of an evidentiary hearing, the undersigned would direct an election.

In a statement filed January 6, 1981, Local 29 stated its further objections to the ordering of an election herein. Local 29, as the representative of custodial/maintenance employee, states that: "The procedure contemplated by the Commission would, by administrative decision, put an end to collective bargaining with recognized appropriate units." Local 29 further states that "the Commission's statement that it will order a separate election within the custodial unit is truly not an answer. In effect the Commission, if it orders the election it contemplates is unwittingly giving a premium to 'bigness'. It is allowing the NJEA to use its sheer size to convince employees to go with a group which represents the other employees in the system." Additionally, Local 29 says that a showing of interest among the employees currently represented by Local 29 should be required.

Contrary to the opinion of Local 29, the election procedures directed herein will not "put an end to collective bargaining with recognized appropriate units." Rather, the undersigned's determination recognizes the continued appropriateness of a unit limited to custodial/maintenance employees

and it further recognizes the appropriateness of broad-based units.

Custodial/maintenance employees may be included in a unit with other employees of the Board. Whether the custodial/maintenance employees choose to remain in a separate unit represented by Local 29, whether the employees choose to be represented in a larger unit by the Teachers Association, or whether the employees choose not to be represented by any employee representative, is a decision to be made by these employees. Presumably, this decision will be made by the employees with the benefit of campaign literature which will discuss the benefits or lack of benefits regarding the size and composition of the unit in which employees may be represented. Finally, the undersigned notes that, consistent with the practice of the Commission, a separate 30% showing of interest from among the custodial/maintenance employees was required of the Teachers Association for the processing of the instant Petition.

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 disposition of this matter is properly based upon the administrative investigation herein. Therefore, the undersigned finds appropriate a unit for collective negotiations consisting of: all aides (including: instructional aides, lunchroom aides, library media aides, clerical aides, bus



aides, safety aides and part-time clerical aides), secretarial and clerical office personnel (excluding: the secretary to the Superintendent, the secretary to the Assistant Superintendent, the secretary to the Board of Education, and the assistant secretary to the Superintendent), all custodial and maintenance employees, and professional certificated personnel currently represented by the Englewood Teachers Association, NJEA employed by the Englewood Board of Education, but excluding managerial executives, confidential and 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 set forth below.

Since the voting employees are currently represented in separate units, the results of the election shall be determined in accordance with the designations of the majority of voting employees in each separate unit. Accordingly, the majority of voting employees in each separate unit -- aides; secretarial/clerical; custodial/maintenance -- shall independently indicate their choice of representation. Professional employees shall be accorded a professional option election, consistent with N.J.S.A. 34:13A-6(d).

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 the Teachers Association and Local 29, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters, by unit, 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 the election. A copy of the eligibility list shall be simultaneously filed with the Teachers Association and Local 29 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 aides and secretarial/clerical employees eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Englewood Teachers Association, NJEA, and the custodial/maintenance employees eligible to vote shall vote on whether or not they desire to be represented for the purpose of

collective negotiations by Englewood Teachers Association, NJEA, or Local 29, RWDSU, AFL-CIO or neither.

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: January 9, 1981  
Trenton, New Jersey