

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ADMINISTRATOR OF REPRESENTATION PROCEEDINGS

In the Matter of

EAST ORANGE BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-84-59

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO,

Petitioner.

SYNOPSIS

The Administrator of Representation Proceedings directs an election among all employees of the Electronic Data Processing Department in the East Orange Board of Education. The Administrator holds that the Board's efficiencies of operation in the department are best served by negotiations with one employee unit and that a community of interest has been demonstrated among employees in the unit by their previous inclusion in a City-wide white collar unit prior to a transfer of the data processing function to the Board.

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Appearances:

For the Public Employer
Love & Randall, attorneys
(Melvin Randall of counsel)

For the Petitioner
Carol Gay, Staff Representative, CWA

DECISION AND DIRECTION OF ELECTION

On November 22, 1983, the Communications Workers of America, AFL-CIO ("CWA") filed a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, with the Public Employment Relations Commission ("Commission") seeking to represent a unit consisting of all employees in the Electronic Data Processing Department ("EDP employees") of the East Orange Board of Education ("Board").

The undersigned has caused an administrative investigation to be conducted into the matters and allegations raised by

the Petition in order to determine the facts and to obtain the parties' positions. On December 22, 1983, an informal conference was conducted among the parties with an assigned Commission staff agent. There is no agreement for a secret ballot election.

On the basis of the administrative investigation, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon an administrative investigation, it appearing that no substantial and material factual issues exist which may more appropriately be resolved by an evidentiary hearing. Pursuant to N.J.A.C. 19:11-2.6(c), 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 East Orange 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. ("Act"), is subject to its provisions, and is the employer of the employees who are the subject of the instant Petition.

3. Communications Workers of America, AFL-CIO is an employee representative within the meaning of the Act, and is subject to its provisions.

4. CWA has filed a Petition seeking a collective negotiations unit comprised of all employees of the Electronic Data Processing Department employed by the Board. The unit is comprised of approximately 30 professional and nonprofessional employees.

5. Employees occupying titles in the petitioned-for unit were formerly members of a CWA affiliated negotiations unit, certified by the Commission on May 31, 1979, consisting of all full time professional and nonprofessional white collar employees employed by the City of East Orange ("City") (Docket No. RO-79-168). In October 1982, however, the EDP employees were transferred from the City's payroll to the Board's payroll. Personnel and equipment were moved from City offices to Board offices in July 1983.

6. The Electronic Data Processing Department functions under its new setting in the same manner as it functioned under municipal supervision. The Electronic Data Processing Department engages in data processing activities for the Board, the City and for other municipalities and surrounding school districts which have contracted with the Board for computer services. Approximately 10% of the work performed by EDP employees is performed exclusively for the Board.

7. The duties performed by EDP personnel on the Board's payroll and in Board offices are identical to the duties they performed while on the City's payroll in City offices. EDP employees have no interchange with other Board employees.

8. The collective negotiations agreement between the City and the CWA expired on December 31, 1982. The Board has maintained the terms of the expired City/CWA agreement, including salary and benefits.

9. On February 6, 1984, the Board filed an amended statement of position opposing the proposed unit and proposing separate units of professional and nonprofessional employees on the ground that the Board's existing negotiations unit structures also demonstrated a separation of professional and nonprofessional employees. Therefore, the Board proposes two units of EDP employees formed along professional/nonprofessional lines. ^{1/}

For the reasons which follow, the undersigned finds that the appropriate unit in this matter should include both professional and nonprofessional employees. As noted above, the Board contends that two units, one clerical and one professional, would facilitate its management of the Electronic Data Processing Department. The basis of the Board's position is that it has a successful collective negotiations history with other units of Board employees which are structured as professional, nonprofessional and para-professional.

The Board does not contend that the petitioned-for employees do not share a community of interest. Indeed, such an argument would ignore the apparently successful unit integration of EDP professional and nonprofessional employees in their previous negotiations relationship with the City. Nor, as noted earlier, is the Board contending that these employees should be integrated

^{1/} The Board's initial position was that certain of the data processing department's clerical positions should be placed in a unit represented by the East Orange Secretaries Association and that the position of messenger should be placed in the East Orange Service Building Employees Association. Those Associations informed the Commission that they did not wish to intervene in this representation proceeding and did not wish to represent the titles. The Board's amended position accedes to the desires of the above organizations and therefore it has withdrawn its initial position as to unit structure.

into existing District-wide negotiations units. The limited question herein is the appropriate unit structure for thirty EDP employees whose department has been accorded separate treatment by the employer.

In light of all considerations, the undersigned cannot endorse the view that the employees in this limited departmental operation should have unit structures which mirror negotiations units established on a District-wide basis. The employer has not posited an argument to establish that the professional and nonprofessional EDP employees have unique interests that may only be accommodated by separate negotiations structures.

More persuasive, in the undersigned's judgment, is the functional narrowness of the department's operation and the commonality of interests shared by all employees. First, it would appear that the Board's efficiencies in the operation of the EDP department as a cohesive administrative unit are best served by negotiations with one employee unit. Second, the employees have a demonstrated history in a mixed unit. Their identity of interest has only been heightened by their removal as municipal employees and their separate treatment under Board auspices.

Accordingly, the undersigned finds that the appropriate unit is: all employees of the Electronic Data Processing Department of the East Orange Board of Education excluding the EDP Director and Assistant Director, ^{2/} managerial employees, confidential

^{2/} At the December 22, 1983 conference, the parties agreed that the EDP Directors and Assistant Director should be excluded from the unit as supervisors.

employees, and supervisors 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 in the above-described unit of employees. N.J.S.A. 34:13A-6(d). The election shall be conducted no later than thirty (30) days from the date set forth below.

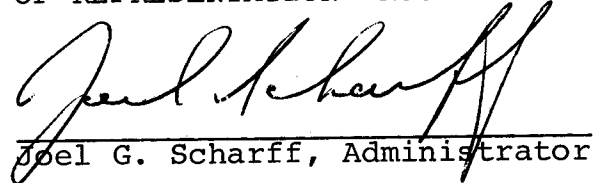
Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees 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 the CWA, an 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 the election. A copy of the eligibility list shall be simultaneously filed with CWA 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 the Communications Workers of America, 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 shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE ADMINISTRATOR
OF REPRESENTATION PROCEEDINGS



Joel G. Scharff, Administrator

DATED: May 1, 1984
Trenton, New Jersey