

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

In the Matter of

BOARD OF EDUCATION OF UNION  
COUNTY REGIONAL HIGH SCHOOL  
DISTRICT,

Public Employer,

-and-

DOCKET NO. RO-82-80

UNION COUNTY REGIONAL HIGH  
SCHOOL FEDERATION OF TEACHERS,

Petitioner,

-and-

UNION COUNTY REGIONAL HIGH  
SCHOOL TEACHERS ASSOCIATION,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, and in the absence of substantial and material factual issues, directs that two secret ballot elections be conducted; one in a unit of custodial/maintenance employees; the other in a unit of teachers/professional employees. In view of a dispute as to the appropriateness of including Title I and Compensatory Education teachers in the teachers unit, the Director provides that the employees in those positions may vote subject to challenge.

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Appearances:

For the Public Employer  
Weinberg & Manoff, P. A.  
(Irwin Weinberg of counsel)

For the Petitioner  
John Fallon, Representative

For the Intervenor  
Klausner & Hunter, attorneys  
(Stephen B. Hunter of counsel)

DECISION AND DIRECTION OF ELECTION

On October 15, 1981, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by the Union County Regional High School Federation of Teachers (the "Petitioner") seeking to represent a collective negotiations unit of all nonsupervisory,

nonconfidential employees employed by the Board of Education of Union County Regional High School District (the "Board"). The Union County Regional High School Teachers Association (the "Association"), an incumbent representative, has intervened in the instant proceeding.

In accordance with N.J.A.C. 19:11-2.2(a), the undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts.

Based upon the administrative investigation to date, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based on the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after an evidentiary 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 Board of Education of Union County Regional High School District 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 involved herein and is subject to its provisions.

3. An informal conference, which was attended by all parties, was held on November 2, 1981. The Petitioner indicated that it was seeking to represent in one negotiations unit, all nonsupervisory and nonconfidential employees employed by the Board. The Association sought to intervene herein and submitted copies of three collective

negotiations agreements covering three separate units of employees -- a unit of teachers, a unit of secretaries, and a unit of custodial/maintenance employees. On the basis thereof, the undersigned has granted the Association intervenor status, pursuant to N.J.A.C. 19:11-2.7.

4. At the conference the Board objected to the Petition and argued that one unit of employees was inappropriate in view of the history of three separate negotiations units. However, the Board indicated that it would not object to an election in the three existing negotiations units.

5. Subsequently, the Petitioner agreed to amend its Petition to seek certification in the three separate existing negotiations units, and the Association indicated its willingness to consent to such an election.

6. Thereafter, a review of the showing of interest submitted by the Petitioner revealed that there was an adequate showing of interest to support the request for an election in the teachers unit and in the custodial/maintenance unit.

7. Additionally, the Petitioner has indicated that its initial and amended Petition contemplated the addition of two positions, Title I Teachers and Compensatory Education Teachers, to the existing teachers' unit, claiming that they are appropriate for inclusion within the proposed unit. The Association has indicated that it would consent to the units sought by the Petitioner including the addition of the Title I and Compensatory Education Teacher titles to the teachers' unit. The Board, however, declines to consent to an election if the individuals in the two above titles are included in

the teachers' unit. There are approximately 12 individuals in the above two titles. The existing unit currently contains approximately 360 employees.

8. Based upon the above, it appears to the undersigned that a valid question concerning representation exists and that elections will reflect the free choice of the employees, thereby effectuating the policies of the Act. The composition of the custodians' unit is not in dispute. The sole dispute with respect to the teachers' unit concerns the appropriateness of adding twelve individuals to the unit now represented by the Association. This dispute should not delay the resolution of the question concerning representation in the teachers' unit, since the overwhelming majority of employees are clearly eligible to vote. Adequate post-election procedures are available, if necessary, to resolve the instant eligibility dispute. Any employee holding a Title I or Compensatory Education position who chooses to vote may vote subject to challenge. If challenged ballots are determinative of the results of the election, the status of these employees' eligibility will be resolved in accordance with the Commission's usual post-election challenge procedure. <sup>1/</sup> If challenges are not determinative, the status of these employees may be resolved through initiation of appropriate proceedings by either the Board or the majority representative, assuming a Certification of Representative issues.

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<sup>1/</sup> In the challenge proceeding, the parties are free to raise the question of the appropriateness of including the disputed titles in the teachers' unit or any other questions relating to voter eligibility.

By letter dated November 23, 1981, the undersigned advised the parties of the results of the administrative investigation and of the above analysis of the issues presented. All parties were provided the opportunity to present additional proffers which might raise substantial and material factual issues. No additional evidentiary proffers have been submitted.

Therefore, for the above reasons, it appears to the undersigned that the challenge ballot procedure is appropriate in this matter. There being no agreement for a consent election, and it appearing that no substantial and material factual issues have been placed in dispute warranting delay of an election, the undersigned pursuant to N.J.A.C. 19:11-2.6(b)3, directs elections in a unit of teachers and in a unit of custodial/maintenance employees, as defined in the current contractual agreements covering these employees. The employees in the two titles in dispute may vote subject to challenge in the teachers' unit election.

Accordingly, the undersigned finds that the appropriate unit for collective negotiations in the custodial/maintenance unit is: all custodial/maintenance employees currently represented in the following titles: custodian, custodian bus driver, firemen, custodian maintenance and night supervisor, but excluding the head custodian of each building, head maintenance person and the director of building and grounds, managerial executives, confidential and craft employees, professional employees, police, and clerical employees within the meaning of the Act.

The appropriate unit for the teachers unit is: all teaching personnel holding titles which are currently represented, but excluding

the Superintendent of Schools, Assistant Superintendents, Principals, Assistant Principals, Directors of Guidance, Directors of Curriculum, Directors of Pupil Personnel Services, Subject-area Coordinators, Substitute Teachers, and Psychologists, managerial executives, confidential and craft employees, nonprofessional employees, clerical employees and police within the meaning of the Act. Title I and Compensatory Education Teachers may vote subject to a challenge which may be asserted by any party.

Accordingly, the undersigned directs that the elections be conducted among the employees described above, within their respective units. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during the 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 prior to the date of the election.

Pursuant to N.J.A.C. 19:11-9.6, the Board is directed to file with the undersigned, the Petitioner and the Association, election eligibility lists 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 lists must be received by the undersigned no later than

ten (10) days prior to the date of the election. A copy of the eligibility lists shall be simultaneously filed with the Petitioner and the Association with statements of service to the undersigned. . The undersigned shall not grant an extension of time within which to file the eligibility lists except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they wish to be represented for the purpose of collective negotiations by the Union County Regional High School Federation of Teachers, or the Union County Regional High School Teachers Association, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the elections in each respective unit. The election directed shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

A handwritten signature in cursive script, reading "Carl Kurtzman", written in black ink. The signature is fluid and extends across the width of the page.

Carl Kurtzman, Director

DATED: December 4, 1981  
Trenton, New Jersey