

D.R. NO. 95-1

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

In the Matter of

STATE OF NEW JERSEY  
(DEPARTMENT OF HUMAN SERVICES),

Public Employer,

-and-

NUHHCE, DISTRICT 1199J,  
AFSCME, AFL-CIO,

Docket No. RO-94-131

Petitioner,

-and-

C.W.A., AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a representation petition filed by District 1199J/AFSCME for a proposed unit of about 50 Assistant Director of Nursing Services I employed by the State of New Jersey. CWA intervened, pursuant to N.J.A.C. 19:11-2.7(a).

The State opposed the petition, arguing that the proposed unit was not appropriate and that the petitioned-for title was a managerial executive.

The Director determined that the petitioned-for unit was not appropriate, in light of already-existing, broad-based units and one other proposed unit now in litigation before the Commission.

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Appearances:

For the Public Employer  
Office of Employee Relations  
(David Collins, Employee Relations Coordinator)

For the Petitioner  
Balk, Oxfeld, Mandell & Cohen, attorneys  
(Arnold H. Cohen, of counsel)

For the Intervenor  
Weissman & Mintz, attorneys  
(Steven P. Weissman, of counsel)

DECISION

On April 28, 1994, District 1199J, National Union of  
Hospital and Health Care Employees/AFSCME, AFL-CIO, filed a Petition  
for Certification of Public Employee Representative seeking to

represent a unit of about 50 full-time and regular part-time Assistant Directors of Nursing employed by the State of New Jersey (Department of Human Services). The petition was accompanied by an adequate showing of interest.

On May 17, 1994, the State filed a letter asserting that the unit sought is not appropriate and the title, more precisely termed Assistant Director of Nursing Services I is "managerial" within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). If the title is not managerial, the State argues that it more appropriately belongs in a broad-based State supervisors' unit or in a unit of highest level supervisors, now the subject of litigation.

On May 18, CWA filed a showing of interest seeking to intervene in the case. The showing is adequate to establish CWA as an intervenor, pursuant to N.J.A.C. 19:11-2.7(a).

On June 17, 1994, District 1199J, having been given an extension of time to respond, filed a letter asserting that the petitioned-for title is not a managerial executive and that it has an independent community of interest because it was not included in either the State-wide professional unit or supervisors' unit. District 1199J enclosed job description(s) of the Assistant Director of Nursing Services I.

The Commission favors structuring negotiations units along broad-based, functional lines and has been reluctant to find appropriate units structured along occupational or departmental

lines. State v. Prof. Assn. of N.J. Dept. of Educ., 64 N.J. 231 (1974). The Commission must consider the general statutory intent of promoting stable and harmonious employer-employee relations. The desires of the employees, while relevant, is not paramount. We consider the totality of the circumstances, including the extent of organization of the employer's employees.

The State already negotiates with CWA concerning primary level and higher level supervisors' units. In the former category are "head nurse" titles; in the latter, a "supervisor of nursing services" title. Assuming that the petitioned-for title is supervisory only, I must allow that it also may be eligible for inclusion in a "highest level" supervisors' unit - now being litigated under docket no. RO-94-91. The State has traditionally sought and has historically achieved collective negotiations rights and duties with broad-based units. The petitioned-for unit offers an impermissible fragmentation, especially in light of the possible appropriate units identified above.

The petition is dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: July 11, 1994  
Trenton, New Jersey