

D.R. NO. 87-13

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

In the Matter of

WILLINGBORO TOWNSHIP BOARD  
OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-87-75

WILLINGBORO EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation directs an election to determine whether certain support staff employees employed by the Willingboro Board of Education should be added to the collective negotiations unit containing teachers and other professional employees. The Director found that the Commission's long-standing policy favoring broad-based units comprised of teachers and support staff is applicable in this matter. The Director rejected the Board's arguments that the petition filed in this matter should be dismissed because of a history of successful separate negotiations and the combination of professionals and support staff might have the effect of reducing compliance with legal process and court orders.

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Appearances:

For the Public Employer  
Barbour & Costa, Esqs.  
(John T. Barbour, of counsel)

For the Petitioner  
New Jersey Education Association  
(George Suleta, UniServ Rep.)

DECISION AND DIRECTION OF ELECTION

On October 14, 1986, the Willingboro Education Association, NJEA/NEA ("WEA") filed a timely Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission") seeking to add certain support staff personnel<sup>1/</sup> employed by the Willingboro Township Board of

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<sup>1/</sup> The petitioned-for unit of support staff employees includes all full and part-time clerical support staff employed by the Willingboro Board of Education including employees serving as administrative secretaries (except for the secretary to the Superintendent), school secretaries, other secretaries, administrative clerk-typists, clerk-typists, learning resource

Footnote Continued on Next Page

Education ("Board") to the existing unit of professional teaching staff employees.<sup>2/</sup> The Petition was accompanied by an adequate showing of interest. The petitioned-for employees are currently included in a separate unit represented by the Willingboro Educational Secretaries Association ("WESA"). The WESA has not sought to intervene in this matter and, in a letter dated November 11, 1986, advised the Commission that it does not wish to assert any representational interest herein.

In accordance with N.J.A.C. 19:11-2.2, an administrative investigation was conducted concerning this matter. On October 28, 1986, a Commission staff attorney convened an informal investigatory conference during which representatives of the Board and the WEA met for the purpose of setting forth their respective positions.

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1/ Footnote Continued From Previous Page

center aids, PBS operators, accounts payable clerks, account receivable clerks, head payroll clerks, assistant payroll clerks and graphic arts personnel.

2/ The existing professional unit of teaching staff employees consist of all professional personnel currently included in the negotiations unit represented by the Willingboro Education Association, NJEA/NEA including employees serving as classroom teachers, nurses, librarians, ten and twelve month counselors, social workers, speech therapists, learning disability teacher-consultants, ten and twelve month psychologists, certificated T.V. professional personnel, head nurses, non-supervisory professional personnel in the summer credit make-up session and summer curricular project and non-supervisory professional personnel in the Saturday/Sunday suspension program.

On the basis of the information gathered at the informal conference, we advised the parties that we were inclined to direct an election in order to determine whether the petitioned-for support staff employees wish to be represented by the WEA and whether professional employees wish to be represented in a collective negotiations unit which includes nonprofessionals. We invited the parties to bring to our attention any additional material facts or arguments and submit other documentary or evidentiary materials. We provided the parties with a time frame within which to make such submission, however, neither party filed a response. Consequently, the disposition of this matter is properly based on our administrative investigation. We have not discovered any substantial and material factual disputes which may more appropriately be resolved at hearing. See N.J.A.C. 19:11-2.6(b).

The Board did not agree to enter into an Agreement for Consent Election for two reasons. First, the Board asserts that since there is a long-standing history of separate negotiations in units for the professional employees and the support staff, it is inappropriate now to combine these employees into a single unit.

Second, the Board contends that the combination of the professional and support staff units might have the effect of reducing compliance with legal process and court orders and thus encourage the potential for illegal activity. The Board cites a job action which occurred in the school district in 1977 where teachers refused to obey a court order enjoining them from further

participation in the job action. Thus, the Board argues that if a single unit of professionals and support staff were allowed to form, greater numbers of employees might participate in a job action than if the individual units remained in tact. Therefore, the Board takes the position that the Petition should be dismissed since it does not further the New Jersey Employer-Employee Relations Act's goal of stability in labor relations.

The Commission has a long-standing preference for broad-based units. See State of New Jersey v. Professional Ass'n of N.J. Department of Education, 64 N.J. 231 (1974); Camden Board of Education, P.E.R.C. No. 87-53, 12 NJPER \_\_\_\_ (¶ , 1986); Piscataway Twp. Board of Education, P.E.R.C. No. 84-124, 10 NJPER 272 (¶ 15134 1984); Bergen County Board of Chosen Freeholders, P.E.R.C. No. 69 (1972).

In the instant matter, the combination of the professional unit with the support staff unit would be keeping with the Commission's general policy favoring broad-based units. The Commission has on numerous occasions specifically found that professional teaching staff and support staff personnel share a community of interest and that unit structures which contain both professional and support staff employees constitute an appropriate unit. See Piscataway Twp. Board of Education, supra; Glen Rock Board of Education, P.E.R.C. No. 84-125, 10 NJPER 275 (¶ 15135 1984); Haddonfield Board of Education, D.R. No. 80-22, 6 NJPER 80 (¶ 11040 1980); Spring Lake Heights Board of Education, D.R. No. 79-21,

5 NJPER 100 (¶ 10055 1979); Montgomery Twp. Board of Education, P.E.R.C. No. 27 (1969).

While it is clear that the Commission has generally given teachers and support staff employees the opportunity to choose unified representation in a single unit based on their community of interest, that approach is not automatically applicable and will not be used when especially compelling circumstances justifying the continuation of separate units are present. See Englewood Board of Education, P.E.R.C. No. 82-25, 7 NJPER 516 (¶ 12229 1981). We do not find such compelling circumstances to exist in this case. While the Board asserts that there exists a long history of separate and successful negotiations between it and WESA, we are convinced that the facts of this case do not fit within the narrow contours of Englewood. WESA has advised the Commission that it does not wish to intervene in this matter or to otherwise assert a representational interest. Thus, unlike Englewood, the incumbent majority representative is not opposed to the conduct of an election.

The Board contends that the combination of the professional and support staff units might destabilize labor relations by encouraging greater numbers of unit employees to disregard legal process. This argument amounts to pure conjecture and is insufficient to delay the further processing of the petition.

Accordingly, we direct that an election be conducted among the employees in the petitioned-for unit and employees included in the existing professional unit as follows:

Voting Unit #1: Shall consist of all full and part-time clerical support staff employed by the Willingboro Board of Education including employees serving as administrative secretaries, school secretaries, other secretaries, administrative clerk-typists, clerk-typists, learning resource center aids, PBA operators, accounts payable clerks, accounts receivable clerks, head payroll clerks, assistant payroll clerks and graphic arts personnel.

Voting Unit #2: Shall consist of all professional personnel currently included in the negotiations unit represented by the Willingboro Education Association/NJEA including employees serving as classroom teachers, nurses, librarians, ten and twelve month counselors, social workers, speech therapists, learning disability teacher-consultants, ten and twelve month psychologists, certificated T.V. professional personnel, head nurses, nonsupervisory professional personnel in the summer credit make-up session and summer curricular project and nonsupervisory professional personnel in the Saturday/Sunday suspension program. Voting Unit #2 (the professional employees) shall vote on whether they wish to be included in a unit with nonprofessional employees. Voting Unit #1 (the support staff employees as described above) shall voter on whether they wish to be represented for the purposes of collective negotiations by the Willingboro Education Association, NJEA/NEA.

If a majority of voting professional employees (Voting Unit #2) cast ballots in favor of inclusion in a unit with

nonprofessional employees and a majority of voting nonprofessional employees (Voting Unit #1) cast ballots in favor of representation by the Willingboro Education Association, NJEA/NEA, then one certification shall issue combining Voting Unit #2 with Voting Unit #1.

If a majority of voting professional employees (Voting Unit #2) do not cast ballots in favor of inclusion in a unit with nonprofessional employees but a majority of voting nonprofessional employees (Voting Unit #1) cast ballots in favor of representation by the Willingboro Education Association, NJEA/NEA, then a separate certification shall issue covering employees in Voting Unit #1 in their own collective negotiations unit represented by the Willingboro Education Association, NJEA/NEA.

If a majority of voting nonprofessional employees (Voting Unit #1) cast ballots against representation by the Willingboro Education Association, NJEA/NEA, then a certification of results shall issue indicating that Voting Unit #1 does not wish to be represented by any employee organization for the purposes of collective negotiations.

Excluded are all managerial executives, confidential employees, supervisors, police and craft employees within the meaning of the Act, the administrative secretary serving as secretary to the Superintendent and all other employees currently included in any other collective negotiations unit.




The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote are the employees in the units 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, 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 an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the unit, together with their last known mailing addresses and job titles. Separate lists must be prepared for the support staff and professional employees. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be filed simultaneously with 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 list 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

  
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Edmund G. Gerber  
Director of Representation

DATED: December 11, 1986  
Trenton, New Jersey