

D.R. NO. 87-17

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

In the Matter of

WEYMOUTH TWP. BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-87-93

WEYMOUTH TWP. EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation orders that an election be conducted involving a unit of part-time teachers/professionals. Weymouth Township Education Association filed a petition seeking to add this unit to the existing unit of full-time teachers employed by Weymouth Township Board of Education. The Board refused to consent to an election on the basis that the part-time teachers would be inappropriate for collective negotiations purposes, to be included with the full-time teachers, i.e., benefit packages and salaries.

The Director of Representation found the unit sought to be prima facie appropriate and concluded that a mail ballot election should be conducted.

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Appearances:

For the Public Employer
William Cappuccio, Esq.

For the Petitioner
New Jersey Education Association
(Eugene Sharp, UniServ Rep.)

DECISION AND DIRECTION OF ELECTION

A timely Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission ("Commission") by Weymouth Township Education Association/NJEA ("Association") seeking to add part-time teachers/professionals to the existing unit of full-time teachers employed by Weymouth Township Board of Education ("Board"). The Petition, filed on October 28, 1986, is supported by an adequate showing of interest. The employees sought by the Petition have never been previously organized.

An administrative investigation into the matters and allegations involved in the Petition was conducted pursuant to

N.J.A.C. 19:11-2.2 and N.J.A.C. 19:11-2.6. The investigation revealed the following facts:

The disposition of this matter is properly based on our administrative investigation. We have not found any substantial and material factual disputes which may be more appropriately resolved at a hearing. See N.J.A.C. 19:11-2.6(b).

The petitioned-for employees consist of part-time teachers and one professional designated as "nurse." At an informal conference between the parties, the Board acknowledged that the title of "nurse" is included in the recognition clause of the collective negotiations agreement covering the negotiations unit of full-time professional employees and is therefore included in the professional/teacher unit. Accordingly, the Association amended its petition and now seeks to add only the remaining three part-time teachers to the unit of full-time teachers/professionals.

The Board refused to consent to an election and claimed that the inclusion of part-time teachers with full-time teachers is not appropriate because the part-time teachers have fewer responsibilities as compared to the full-time teachers. Further, the Board objected to the part-time teachers receiving the benefits packages that were agreed upon by the Board and the Association for the unit of full-time teachers.

The Board refused to consent to an election. However, it declined to submit any evidence in support of its position. No substantial material factual disputes have been found which may more appropriately be resolved at hearing. See N.J.A.C. 19:11-2.6(b).

In correspondence dated December 4, 1986, the parties were provided an opportunity to present evidence and argument in support of their respective positions. No response was received to that correspondence.

N.J.S.A. 34:13A-5.3 provides in part:

Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of their rights, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity...

The inclusion of regular part-time employees in a unit with full-time employees is prima facie appropriate. City of Rahway, D.R. No. 83-9, 8 NJPER 538 (¶ 13247 1983); West Milford, P.E.R.C. No. 56 (1970).^{1/}

Accordingly, I direct that a secret mail ballot election be conducted among the employees in the petitioned-for unit, which is comprised as follows:

Included: All part-time teachers to be added to the existing unit of full-time teachers employed by Weymouth Township Board of Education.

Excluded: All other employees, including supervisors, managerial executives and confidential employees within the meaning of the Act and police and fire employees.

^{1/} The inclusion of part-time employees in an existing unit of full-time employees means only that there is an obligation to negotiate the terms and conditions of employment of the part-time employees. It does not follow that part-time employees, newly added to an existing unit, are entitled to the benefits already negotiated for full-time employees under the existing contract.

The election shall be conducted no later than thirty (30) days from the date of this decision, pursuant to the Commission's Rules.

The ballots shall be mailed Friday, January 23, 1987. Completed ballots must be returned to the Commission's post office box by Friday, February 6, 1987, 9:00 a.m. The count shall take place at 11 a.m., February 6, 1987 in the P.E.R.C. Offices, 495 West State Street, Trenton, New Jersey and witnessed by a P.E.R.C. staff agent.

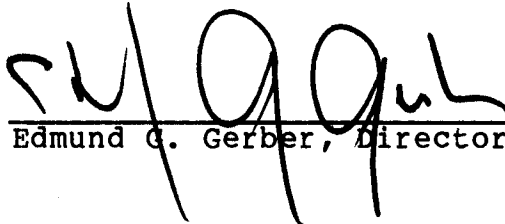
Those eligible to vote are those employees in the unit set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work because they were out ill, on vacation or temporarily laid off, including those in the military service. Ineligible 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 me 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. In order to be timely filed, the eligibility list must be received by me 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 employee organization and a statement of service

filed with me. I 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 they desire to be represented for the purpose of collective negotiations by Weymouth Township Education Association/NJEA. The mail ballot election shall be conducted in accordance with the Commission's Rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: January 16, 1987
Trenton, New Jersey