

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

In the Matter of

BERGEN PINES COUNTY HOSPITAL,

Public Employer,

-and-

DOCKET NO. RO-81-53

COUNCIL NO. 5, NEW JERSEY
CIVIL SERVICE ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, and in the absence of substantial and material disputed factual issues, directs an election among supervisory, professional and nonprofessional hospital employees. The Director orders a professional option election among the professional employees, as mandated by the Act.

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Appearances:

For the Public Employer
Michael B. Ryan, attorney

For the Petitioner
Hogan & Palace, attorneys
(Thomas A. Hogan of counsel)

DECISION AND DIRECTION OF ELECTION

On September 22, 1980, a Petition for Certification of Public Employee Representative, was filed with the Public Employment Relations Commission (the "Commission") by Council No. 5, New Jersey Civil Service Association (Bergen Pines County Hospital Supervisory Unit) (the "Petitioner") with respect to a proposed unit consisting of supervisory employees employed by the Bergen Pines County Hospital (the "Hospital").

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

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

1. The disposition of this matter is properly based upon 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(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 Bergen Pines County Hospital 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 who are the subject of this Petition, and is subject to the provisions of the Act.

3. Council No. 5, New Jersey Civil Service Association (Bergen Pines County Hospital Supervisory Unit) is an employee representative within the meaning of the Act and is subject to its provisions.

4. On September 22, 1980, the Petitioner filed a Petition for Certification of Public Employee Representative seeking to represent a unit of supervisory employees employed by the Hospital. The Petitioner agrees to a secret ballot election

to be conducted among the employees in the petitioned-for unit, including the necessary professional option election required pursuant to N.J.S.A. 34:13A-6(d).

5. The Hospital has not objected to the proposed unit, but raises objections to the conduct of a professional option election among the professional employees in the supervisors unit.

On December 31, 1980, the undersigned notified the parties that the language of the Act specifically mandated the right of professional employees for self-determination regardless of their status as supervisory employees. N.J.S.A. 34:13A-6(d) states, in part, "no unit shall be appropriate which includes, ... (2) both professional and non-professional employees unless a majority of such professional employees vote for inclusion in such a unit." The parties were informed that on the basis of the administrative investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation exists in a prima facie appropriate unit. The undersigned provided an additional opportunity to the parties to present evidence as well as statements of position relating to the Petition. The undersigned stated that in the absence of any substantial and material factual issues, he would thereafter issue a decision and direction of election. No further evidentiary proffer or statement has been provided to the undersigned, other than a statement from the Hospital indicating that it is prepared to meet with the Petitioner

and a representative of the undersigned to reach agreement on which employees are professional employees within the meaning of the Act.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Therefore, the undersigned finds that the appropriate unit for collective negotiations is: all professional and nonprofessional supervisory employees employed by Bergen Pines County Hospital, but excluding all other employees including managerial executives, confidential employees, craft employees and police.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. In the election, professional employees shall be provided a professional option as mandated by statute. The election shall be conducted no later than thirty (30) days from the date set forth below. The parties are directed to meet with a representative of the undersigned on February 10, 1981, 11 a.m., at the PERC Offices, Room 838, 1180 Raymond Boulevard, Newark, New Jersey, to review the list of professional employees prepared by the Hospital. Said list shall be submitted by the Hospital to the undersigned and the Petitioner no later than February 3, 1981. Employees whose status cannot be established prior to the election, will be permitted to vote subject to challenge. The status of the voter may be resolved subsequent to the election, if necessary, in an appropriate proceeding.

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 Public Employer is directed to file with the undersigned and with the Petitioner, an election eligibility list in each unit 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 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. The Hospital is reminded of its additional obligation to provide a list of professional employees to the undersigned and the Petitioner as directed above.

Those eligible to vote shall vote on whether or not they wish to be represented for the purpose of collective negotiations by Council No. 5, NJCSA (Bergen Pines County Hospital Supervisory Unit).

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: January 28 , 1981
Trenton, New Jersey.