

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

In the Matter of

STATE OF NEW JERSEY  
(WOODBINE STATE SCHOOL),

Public Employer,

-and-

DOCKET NO. RO-83-139

LPN ASSOCIATION OF NEW  
JERSEY, INC.

Petitioner,

-and-

COUNCIL 1, AMERICAN FEDERATION OF  
STATE, COUNTY & MUNICIPAL EMPLOYEES,  
AFL-CIO,

Intervenor.

SYNOPSIS

Pursuant to an administrative investigation, the Director dismisses a Petition for Certification of Public Employee Representative with respect to certain State employees who are currently represented by AFSCME and covered by a contract. The Petition was not timely filed.

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Appearances:

For the Public Employer  
Irwin I. Kimmelman, Attorney General  
(Melvin E. Mounts, Deputy Attorney General)

For the Petitioner  
Thomas L. Dargon, LPN Economic Security Coordinator

For the Employee Representative  
Al Wurf, Executive Director

DECISION

On February 7, 1983, a Petition for Certification of Public Employee Representation was filed with the Public Employment Relations Commission ("Commission") by Licensed Practical Nurse Association of New Jersey, Inc. ("Petitioner"), seeking to

represent a collective negotiations unit described in the Petition as "all practical nurses and cottage attendant nurses who are licensed practical nurses employed by the State of New Jersey at Woodbine State School."

Council 1, American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME") is the current exclusive representative of a statewide collective negotiations unit of healthcare and rehabilitation services employees, which includes employees in the title practical nurse. AFSCME has been granted intervenor status on the basis of N.J.A.C. 19:11-2.7.

In accordance with N.J.A.C. 19:11-2.6, the undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition in order to determine the facts.

On the basis of the administrative investigation, 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 State of New Jersey ("State") is a public employer within the meaning of the New Jersey Employer-Employee Relations

Act, N.J.S.A. 34:13A-1 et seq. ("Act"), is the employer of the employees at Woodbine State School, and is subject to the provisions of the Act.

3. Licensed Practical Nurse Association of New Jersey, Inc. and Council 1, American Federation of State, County and Municipal Employees, AFL-CIO are employee representatives within the meaning of the Act, and are subject to its provisions.

4. Petitioner seeks to represent all practical nurses employed at the Woodbine State School. AFSCME is the current exclusive representative of a broad-based statewide collective negotiations unit of healthcare and rehabilitation services employees in which the petitioned-for employees are included. <sup>1/</sup>

5. The State asserts that the Petition is not timely filed pursuant to N.J.A.C. 19:11-2.8, and has submitted a collective negotiations agreement effective July 1, 1981 through June 30, 1983, between it and AFSCME to support its claim. Additionally, the State opposes the Petition on the basis that the unit petitioned for would fragment an existing collective negotiations unit.

6. AFSCME also contends that the Petition has not been timely filed pursuant to N.J.A.C. 19:11-2.8.

N.J.A.C. 19:11-2.8 provides that:

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a petition for certification

<sup>1/</sup> By letter dated February 25, 1983, the State advised that the title in state use is "Practical Nurse" rather than "Licensed Practical Nurse."

of public employee representative or a petition for decertification of public employee representative normally will not be considered timely filed unless:

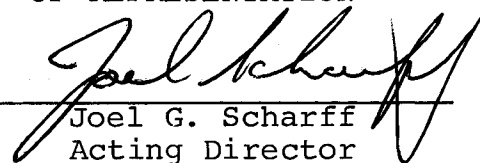
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1. In a case involving employees of the State of New Jersey, any agency thereof, or any State authority, commission or board, the petition is filed not less than 240 days and not more than 270 days before the expiration or renewal date of such agreement....

7. The aforementioned written agreement has been reviewed. It contains terms and conditions of employment for a negotiations unit, statewide in scope, which includes Practical Nurses. Its terms are effective July 1, 1981 through June 30, 1983. Thus, the undersigned's review substantiates the claims that N.J.A.C. 19:11-2.8 precludes the instant Petition filed on February 7, 1983, from consideration.

On March 11, 1983, the Petitioner was advised of the applicability of N.J.A.C. 19:11-2.8 to its Petition and was afforded an opportunity to withdraw the Petition. In the absence of a withdrawal of the Petition, the undersigned, in accordance with the terms of the March 11 correspondence, hereby dismisses the Petition.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Joel G. Scharff  
Acting Director

DATED: March 25, 1983  
Trenton, New Jersey