

D.R. NO. 81-41

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

In the Matter of

RIDGEWOOD BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-81-102

RIDGEWOOD EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation directs an election among part-time supportive staff to ascertain whether they wish to be represented by the association within a negotiations unit comprised of full-time professional staff.

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

In the Matter of

RIDGEWOOD BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-81-102

RIDGEWOOD EDUCATION ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer
Aron, Till & Salsberg
(David A. Wallace, Esq. of counsel)

For the Petitioner
Goldberg & Simon
(Theodore M. Simon, Esq. of counsel)

DECISION AND DIRECTION OF ELECTION

On October 15, 1980, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by the Ridgewood Education Association (the "Association"), seeking to represent "certified non-supervisory instructional personnel commonly known as 'supplemental teachers' (also referred to variously as instructional associates, comprehensive education teachers, supplemental teachers, Title I teachers, English as a second language teachers, gifted and talented coordinator, administrative assistant and others...) employed by the Ridgewood Board of Education. The Association requests that the petitioned-for employees be combined in a unit with "all certified

instructional personnel of the Ridgewood School system exclusive of individuals who are members of the Ridgewood Administrators Association or are superintendents", currently represented by the Association.

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 set forth in the Petition to determine the facts.

To date, the investigation has revealed the following:

1. The Ridgewood Board of Education is a public employer within the meaning of the Act, is the employer of the employees who are the subject of the Petition, and is subject to the provisions of the Act.

2. The Ridgewood Education Association is an employee organization within the meaning of the Act, and is subject to its provisions.

3. The Association seeks to represent supplemental teachers, within a unit of certified instructional personnel which it currently represents, and is willing to consent to an election to be conducted among the supplemental employees to ascertain their representational desires. The Association contends that these employees share a community of interest with currently represented employees, and are appropriate for inclusion within the existing collective negotiations unit.

4. The Board objects to the proposed inclusion of the supplemental teachers, who are certified instructional personnel, in the negotiations unit of "regular" certified instructional staff.

The Board argues that the requisite community of interest between the two groups of employees is lacking.

5. The parties have entered into an agreement stipulating that the group of employees sought by the Association may appropriately be defined as follows:

All non-supervisory personnel commonly known as "supplemental", whose employment functions require a certificate under State Law, as distinguished from personnel defined as "teaching staff members" under Title 18A who are in the currently recognized unit represented by the R.E.A., excluding managerial executives, supervisory employees, casual employees, non-professional employees and confidential employees. 1/

6. The undersigned has previously found that a community of interest exists among various groups of professional educational personnel. In re Newark Board of Education, D.R. No. 80-1, 5 NJPER 314 (¶ 10170 1979 (part-time psychiatrists); In re Fair Lawn Board of Education, D.R. No. 78-22, 3 NJPER 389 (1977) (support teachers added to a unit of regular teaching personnel). More specifically, the undersigned has found that supplemental teachers are most appropriately included in a unit of regular teaching personnel in that supplemental teachers are engaged in providing specialized and individualized instruction to regular classroom students, a function which is immediately related and necessarily adjunct to the education functions performed by full-time classroom teachers. In re Hamilton Township Board of Education, D.R. 80-23, 6 NJPER 99 (¶ 11051 1980) and East Orange Board of Education, D.R. No. 81-7, 6 NJPER 481 (¶ 11244 1980).

1/ This stipulation was only intended to define the unit petitioned-for without prejudice to the respective positions of the parties concerning the appropriateness of including the supplemental staff with the "regular" certified instructional staff.

In response to a letter dated January 23, 1981 indicating the intent of the undersigned to order an election based upon the administrative investigation, the Board provided a lengthy list of differences in its employment practices applicable to supplemental and regular teaching employees. The undersigned has carefully reviewed this list and has determined that, in the main, these factors have been previously considered in the earlier decisions which have found the requisite community of interest among similar groupings of teachers. From this review, it appears that differences in the applicable employee benefits arise essentially from the part-time nature of supplemental teacher employment. These differences do not suggest that a community of interest is lacking among the various elements of the Board's professional instructional staff and that an incompatibility of interest must inevitably arise in negotiations over terms and conditions of employment. Likewise, full-time staff engage in expanded job responsibilities compared to the part-timers but this does not suggest that a successful collective negotiations relationship establishing applicable terms and conditions of employment cannot be sustained. Supplemental teachers are entitled to representation under the Act and the public policy thereof is not served by establishing a framework which permits a fragmented unit structure to develop. See In re State of New Jersey, 64 N.J. 231 (1974). 2/ In addition, the Board cites the difference in statutory tenure entitlement, which is accorded to certified teachers by statute and unavailable for supplemental teachers. However, this is merely one factor in weighing an

2/ The Board has not proposed an alternative unit structure which would more appropriately accommodate the representation of supplemental teachers.

individual's community of interest with other employees. The Board's argument, assuming for the present purpose its correctness, does not overcome the overall community of interest or the other considerations cited above which are controlling.

Accordingly, there existing no substantial and material factual issues in dispute herein 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 certificated personnel of the Ridgewood School system, and supplemental personnel (whose employment functions require a certificate under State Law) but excluding managerial executives, confidential employees, craft employees, superiors and police employees within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the supplemental teachers. The election shall be conducted no later than thirty (30) days from the date set forth below.

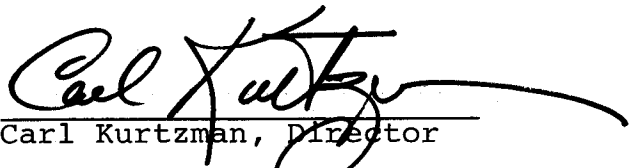
Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees 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 before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with the Ridgewood Education Association an election eligibility list 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 list must be received by the undersigned 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 Ridgewood Education Association with statement of service to the undersigned. The undersigned 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 or not they desire to be represented for the purpose of collective negotiations by the Ridgewood Education Association.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: May 15, 1981
Trenton, New Jersey