

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

In the Matter of

BURLINGTON COUNTY VOCATIONAL
AND TECHNICAL HIGH SCHOOL
BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-82-88

BURLINGTON COUNTY VOCATIONAL
AND TECHNICAL SCHOOL EDUCATION
ASSOCIATION, N.J.E.A.,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among all support staff and custodial/maintenance personnel employed by the Board to determine whether a majority desire to be represented for the purpose of collective negotiations by the Petitioner within the existing unit of certificated personnel. The Director found the Board of Education's argument that the requisite community of interest is lacking to be without merit.

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Petitioner.

Appearances:

For the Public Employer
John Queenan, attorney

For the Petitioner
James M. George, UniServ Representative

DECISION AND DIRECTION OF ELECTION

On October 15, 1981, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was timely filed with the Public Employment Relations Commission (the "Commission") by the Burlington County Vocational Technical School Education Association, New Jersey Education Association ("Education Association"), seeking to add support staff and custodial/maintenance personnel, the former represented by the Burlington County Vocational Technical Supportive Staff Association, affiliated with New Jersey Education Association

(the "Support Staff Association") and the latter represented by the Burlington County Vocational Technical Custodian and Maintenance Association, affiliated with New Jersey Education Association (the "Custodial & Maintenance Association"), to the existing unit of teachers, all employed by the Burlington County Vocational Technical Board of Education (the "Board").

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 in order to determine the facts.

Based upon the administrative investigation to date, 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 Burlington County Vocational Technical Board of Education 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 the Petition, and is subject to the provisions of the Act.

3. The Burlington County Vocational Technical School Education Association, New Jersey Education Association, the

Burlington County Vocational Supportive Staff Association, New Jersey Education Association, and the Burlington County Vocational Technical Custodial and Maintenance Association, New Jersey Education Association, are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Education Association seeks to add all support staff and custodial/maintenance personnel to its collective negotiations unit of teachers and agrees to a secret ballot election including a professional option election. See N.J.S.A. 34:13A-6(d). ^{1/}

5. The respective presidents of the Supportive Staff Association and the Custodial/Maintenance Association have advised the Commission that these representatives support the "consolidation" of their unit into the teachers' unit. Neither representative has intervened in this matter.

6. The Board does not consent to an election. Although it has not provided a written position, the Board has orally advanced the argument that the employees proposed to be added to the unit do not share a community of interest with the professional employees currently included.

The undersigned has given due consideration to the issue raised by the Board in opposition to the petitioned-for

^{1/} N.J.S.A. 34:13A-6(d) provides: "The division shall decide in each instance which unit of employees is appropriate for collective negotiation, provided that, except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes ... both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit ... "

unit. The Act does not preclude the intermingling of professional and nonprofessional employees in the same negotiations unit. Rather, the Act provides that a mixed professional/nonprofessional unit may be deemed appropriate provided that professional employees have been afforded the opportunity to exercise a professional option as to their inclusion therein. Prior Commission decisions and decisions of the undersigned have found that a community of interest exists between professional and nonprofessional employees in an educational setting. In re West Milford Tp. Bd. of Ed. P.E.R.C. No. 56 (1971); In re Wildwood Bd. of Ed., D.R. No. 79-20, 5 NJPER 98 (¶ 10054 1979); In re Spring Lake Heights Bd. of Ed., D.R. No. 79-21, 5 NJPER 100 (¶ 10055 1979); In re Glassboro Bd. of Ed., D.R. No. 79-28, 5 NJPER 155 (¶ 10086 1979). Accordingly, in the absence of specific evidentiary proffers indicating that a community of interest herein is lacking, it appears to the undersigned that the proposed unit is prima facie appropriate for the purpose of collective negotiations.

On January 29, 1982, the undersigned advised the parties that it appeared a valid question concerning representation existed in an appropriate unit and reminded the parties of their obligation to present an evidentiary proffer pursuant to N.J.A.C. 19:11-2.6 which would raise substantial and material disputed factual issues, and in the absence thereof the undersigned would direct an election.

By letter dated February 3, 1982, the Education Association advised the undersigned that it continued to believe the support

staff should be included in the existing unit of teachers and consents to an election to resolve the issue, but did not desire to offer any supplementary evidence. No response has been received by the undersigned from the Board.

Accordingly, the undersigned finds the following unit appropriate: All teachers, custodians and maintenance personnel, secretaries, clerks, and aides employed by the Burlington County Vocational Technical High School Board of Education.

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. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are: Voting Unit (1) - all custodial and maintenance personnel; Voting Unit (2) - all secretaries, clerks, and aides. The employees in Voting Unit 1 and Voting Unit 2 shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Burlington County Vocational Technical School Education Association. The professional personnel in the existing teachers unit shall constitute Voting Unit (3). Employees in Voting Unit (3) shall vote on whether or not they desire to be included in a unit with nonprofessional employees. If the majority of employees in Voting Unit (3) vote for inclusion with the nonprofessional employees, and a majority of Voting Unit (1) vote in favor of representation by Petitioner, a certification shall issue adding the maintenance and custodial employees to the existing collective negotiations

unit of teachers. Similarly, if a majority of Voting Unit (3) vote for inclusion with the nonprofessional employees, and if a majority of Voting Unit (2) vote in favor of representation by Petitioner, a certification shall issue adding those employees to the teachers unit. If a majority of Voting Group (3) vote against inclusion with nonprofessionals and a majority of Voting Group (1), voting Group (2), or both, vote in favor of representation by Petitioner, then separate certifications shall issue covering each respective existing negotiations unit.

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 Education Association, an 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 lists must be received by the undersigned no later than ten (10) days prior to the election. A

copy of the eligibility lists shall be simultaneously filed with the 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.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election 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: March 3, 1982
Trenton, New Jersey