

D.R. NO. 92-38

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

In the Matter of

MONTCLAIR BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-92-173

MONTCLAIR EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a representation petition filed by the Montclair Education Association seeking to represent five employees in a separate unit.

The Director determined that the most appropriate unit is the wall-to-wall unit of certificated and support personnel. Accordingly, the Director dismissed this petition for a "residual" unit.

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Appearances:

For the Public Employer  
McCarter & English, attorneys  
(Teresa L. Moore, of counsel)

For the Petitioner  
New Jersey Education Association  
(Carol Rosenfeld, UniServ Field Rep.)

DECISION

On April 9, 1992, the Montclair Education Association/NJEA filed a Petition for Certification of Public Employee Representative seeking to represent a separate unit composed of the computer operator/TV technician, creative projects specialist, public relations specialist and technician-testing/evaluations-registration employed by the Montclair Board of Education. The petition was accompanied by an adequate showing of interest. N.J.A.C.  
19:11-1.2.

The Board maintains that the proposed unit is not appropriate and lacks a community of interest. The Association

urges that these employees constitute an appropriate unit essentially because they have never before exercised their rights under the Act.

On June 10, 1992, the Board advised that in September 1992, the Board is abolishing the television studio technician position and creating a "teacher-television Arts and Sciences" position which it anticipates will be eligible for inclusion in the existing bargaining unit.

On June 18, 1992, we issued a tentative decision dismissing the petition. Neither party responded.

The Board and the Association are parties to a collective agreement covering a unit of teachers, librarians, psychologists, social workers, guidance counselors and other certificated personnel, secretaries, custodians and aides working more than 20 hours per week. The agreement extends from July 1, 1991 to June 30, 1993.

The job description for the public relations specialist was created in 1979 and revised in 1982 and 1988. The specialist writes and distributes news releases, assists in providing publications, serves as liaison with the press, etc. The position requires an undergraduate degree and other work experience. The position "assists the Superintendent."

The creative project specialist position was created in 1985 and reports to the Superintendent. Its primary function is to

"design" and "execute" promotional and curriculum materials; it plans communication projects and produces layout for brochures, posters, etc. The position requires an undergraduate degree and some work experience.

The technician-testing evaluation position was created in 1984 and reports to the Assistant Superintendent for Instruction and to the Superintendent. Major responsibilities include registering students, maintaining registration files, scheduling, notifying parents, etc. The position does not require a degree.

The data processing operator/programmer position was created in 1978 and the description was revised in 1981. It reports to the manager of data processing. Major responsibilities include organizing the computer system and operating equipment; analyzing operating procedures and preparing daily computer schedule, etc. The position does not require an undergraduate or technical degree.

The television technician title was created in 1989 and reports to the Director of School and Visual Performing Arts and to the Principal. Its primary function is to supervise the operation of the television studio.

#### Analysis

The issue here is whether the petitioned-for unit of 5 technical/operational employees is appropriate.

The Commission is charged with determining in each instance which unit is appropriate. N.J.S.A. 34:13A-6. Where more than one unit is potentially appropriate, the Commission must determine which

unit configuration is most appropriate. State v. Prof. Assn. of N.J. Dept. of Ed., 64 N.J. 231 (1974). N.J.S.A. 34:13A-5.3 requires that negotiations units be defined "with due regard for the community of interest among the employees concerned." However, in making unit determinations, we must consider the general statutory intent of promoting stable and harmonious employer - employee relations. The desires of the employees and the desires of the parties, while relevant, are not paramount. We consider the totality of circumstances of the particular case, including the history of the negotiations unit and extent of organization of the employer's employees. Township of Teaneck, P.E.R.C. No. 88-20, 13 NJPER 483 (¶18270 1987); Passaic County Board of Freeholders, P.E.R.C. No. 87-141, 13 NJPER 483 (¶18179 1987); Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1981).

The Commission has favored structuring negotiations units along broad-based, functional lines and has been reluctant to find appropriate units which are structured along occupational or departmental lines. See State of New Jersey, P.E.R.C. No. 68 (1972); South Plainfield Bd. of Ed., P.E.R.C. No. 46 (1970); Bergen Co. Bd. of Freeholders, P.E.R.C. No. 69 (1972); Piscataway Tp. Bd. of Ed., P.E.R.C. No. 88-124, 10 NJPER 272 (¶15134 1984); Bordentown Reg. Bd. of Ed., P.E.R.C. No. 84-126, 10 NJPER 276 (¶15136 1984), aff'd App. Div. Dkt. No. A-4503-83T6 (4/4/85); Ridgewood Bd. of Ed., P.E.R.C. No. 82-14, 7 NJPER 462 (¶12204 1981).

This case involves a residual group of 5

technical/operational Board employees. In deciding whether to grant requests for certification of residual units, the Commission must balance the rights of public employees who desire representation against the effect such organization will have on the employer's overall labor stability. Where the Commission finds that a residual employee group more appropriately belongs in an existing, overall, broad-based unit, a request to represent the residual group separately will fail, absent exceptional circumstances. See Tp. of Teaneck; Camden Bd. of Ed., P.E.R.C. No. 87-53, 12 NJPER 847 (¶17326 1986); County of Camden, D.R. No. 88-3, 13 NJPER 663 (¶18251 1987); Bd. of Ed. of the City of Camden and Camden City School Psychologists, E.D. No. 76-32, 2 NJPER 123 (1976) ("Camden I").

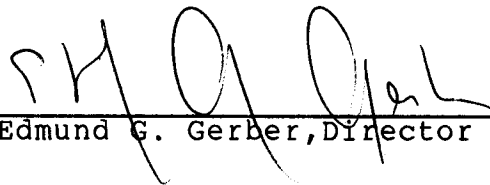
Contrast Bergen Pines County Hospital, D.R. No. 87-3, 12 NJPER 619 (¶17234 1982), where virtually all organizable employees were organized into 12 separate, narrowly defined units. Similarly, in University of Medicine and Dentistry of New Jersey, P.E.R.C. No. 84-28, 9 NJPER 598 (¶14253 1983), the representative of the existing, broad-based faculty unit twice refused to represent the graduate faculty employees, and the community of interest between the residual unit and the broad-based unit was weak.

Here, one unit represents virtually all eligible employees of the Board. No facts suggest that the petitioned-for employees have anomalous work hours or work in buildings that are not the work sites of other unit employees. Moreover, the skills of the petitioned-for employees appropriately fit within the broad

configuration of titles already included in the existing negotiations unit. Salaries also fit within negotiated guidelines. No facts suggest that these employees share any unusual or atypical working conditions. Accordingly, I find that the petitioned-for employees have a strong community of interest in the existing wall-to-wall unit.

The petitioned-for unit is inappropriate. Nothing prevents the filing of a petition for these employees in the appropriate, overall unit. Such a petition will be considered when timely filed. This petition, however, must be dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: June 30, 1992  
Trenton, New Jersey