

P.D.D. No. 2010-1

STATE OF NEW JERSEY
BEFORE A DESIGNEE OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERNARDS TOWNSHIP SCHOOL DISTRICT,

Public Employer,

-and-

Docket No. PD-2009-004

BERNARDS TOWNSHIP EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

Bernards Township Education Association filed a petition for payroll deduction determination pursuant to N.J.S.A. 34:13A-5.5 and N.J.A.C. 19:19-2.2 requesting that the Commission order the Bernards Township School District to deduct a representation fee in lieu of dues from the salaries of employees who are not voluntary dues paying members of the majority representative. The Commission Designee found that the Association's petition met all of the requirements under the statute and rules and that the Association was entitled to a Commission order directing the District to institute the deduction of the representation fee.

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Appearances:

For the Public Employer,
Valerie A. Goger, Superintendent

For the Petitioner,
Henry John Klein, UniServ Field Representative

DECISION

On May 26 and June 15, 2009, the Bernards Township Education Association (Association) filed a Petition for Payroll Deduction Determination and amendment with the Public Employment Relations Commission (Commission) seeking an order directing the Bernards Township School District (District) to deduct representation fees in lieu of dues from the salaries of non-member employees in a negotiations unit consisting of all personnel required to hold certification for their respective employment, all secretarial/clerical personnel, and service personnel including: basic skills instructional assistants, child study team, curriculum specialists, custodians, elementary teacher

specialists, guidance counselors, laboratory technicians, librarians, maintenance personnel, math lab instructors, media technicians, nurses and nurse coordinators, secretarial and clerical personnel, speech therapists, physical therapists, occupational therapist, supplemental instructors, teachers (art, classroom, instrumental and vocal music, physical education and special education), transportation mechanics and writing lab instructors employed by the District; but excluding employees in the positions: superintendent, assistant superintendent, board secretary, assistant board secretary/ school business administrator, principals (vice and assistant principals), department chairpersons, directors, supervisors, custodial forepersons, executive secretaries, assistants (custodial, data processing, maintenance, personnel, purchasing, transportation and technology), bus/van drivers, assistants, attendance officer, night supervisor, maintenance supervisor, plant engineer, computer specialist, classroom assistants, career resource room assistants, manager of personnel services, comptroller, technology coordinator, athletic trainers and parking lot attendant. The petition was filed pursuant to N.J.S.A. 34:13A-5.5 and N.J.A.C. 19:19-2.2. Proper service was effected upon the District. The law authorizes the Commission to conduct an investigation and to order a payroll deduction of representation fees in lieu of dues if a majority of employees in the

negotiations unit are voluntary dues paying members of the majority representative and the majority representative maintains a demand and return system as required by N.J.S.A. 34:13A-5.6. The Association has filed documents in support of its claim that a majority of employees in the unit are voluntary dues paying members of the union and that it maintains the required demand and return system.

The Respondent had the opportunity to respond to the petition pursuant to N.J.A.C. 19:19-3.2(a), but did not file a written response. The Respondent did not dispute that the Association proposed instituting the collection of representation fees in lieu of dues for non-member unit employees but that no agreement had been reached at the time the instant petition had been filed.

The investigation has revealed the following:

1. The District and the Association have negotiated concerning the subject of representation fees in lieu of dues, but no agreement has been reached regarding such payments.

2. The Association is the majority representative of a collective negotiations unit consisting of all personnel required to hold certification for their respective employment, all secretarial/clerical personnel, and service personnel including: basic skills instructional assistants, child study team, curriculum specialists, custodians, elementary teacher

specialists, guidance counselors, laboratory technicians, librarians, maintenance personnel, math lab instructors, media technicians, nurses and nurse coordinators, secretarial and clerical personnel, speech therapists, physical therapists, occupational therapist, supplemental instructors, teachers (art, classroom, instrumental and vocal music, physical education and special education), transportation mechanics and writing lab instructors employed by the District; but excluding superintendent, assistant superintendent, board secretary, assistant board secretary/ school business administrator, principals (vice and assistant principals, department chairpersons, directors, supervisors, custodial forepersons, executive secretaries, assistants (custodial, data processing, maintenance, personnel, purchasing, transportation and technology), bus/van drivers, assistants, attendance officer, night supervisor, maintenance supervisor, plant engineer, computer specialist, classroom assistants, career resource room assistants, manager of personnel services, comptroller, technology coordinator, athletic trainers and parking lot attendant.

3. There is no material dispute regarding the list of dues paying members attached to the Association's petition.

4. There is no material dispute that the negotiations unit consists of 736 employees, of which 548 (74%) are currently voluntary dues paying members of the Association.

5. The Association maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6.

Consequently, having found that the Association has satisfied the conditions mandated in N.J.S.A. 34:13A-5.5 and N.J.A.C. 19:19-2.2, I find that it is entitled to the receipt of a representation fee in lieu of dues from unit employees who are not dues paying members of the Association, subject to compliance with the Public Employment Relations Commission Appeal Board rules, N.J.A.C. 19:17-1.1 to -4.5.

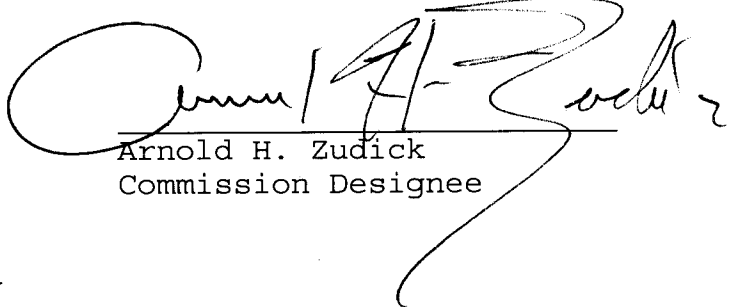
ORDER

Bernards Township School District is **ORDERED** to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the negotiations unit employees who are not members of the Association after being notified by the Association that it has complied with the requirements of N.J.A.C. 19:17-3.3 and -4.1.

The District must post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice shall, after being signed by the Respondent's authorized representative, be posted immediately and maintained by it for at least sixty (60)

consecutive days. Reasonable steps shall be taken to ensure that such notices are not altered, defaced, or covered by other materials.

Within twenty (20) days of receipt of this decision, notify the Commission Chair of the steps the Respondent has taken to comply with this order.



Arnold H. Zudick
Commission Designee

DATED: July 16, 2009
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:19-4.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:19-4.3.

Any request for review is due by July 27, 2009.



NOTICE TO EMPLOYEES



**PURSUANT TO
AN ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION
AND IN ORDER TO EFFECTUATE THE POLICIES OF THE
NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,
AS AMENDED,**

We hereby notify our employees that:

Pursuant to N.J.S.A. 34:13A-5.5, the Public Employment Relations Commission must order a public employer to institute a payroll deduction of a representation fee in lieu of dues from the wages or salaries of employees in a negotiations unit who are not members of the majority representative if a majority representative petitions the Commission to conduct an investigation and the investigation shows that a majority of negotiations unit employees are voluntary dues paying members of the majority representative and that the majority representative maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6.

On May 26, and June 15, 2009, the Bernards Township Education Association filed a Petition for Payroll Deduction Determination-Representation Fees and amendment. The Commission conducted an investigation and determined that a majority of employees in the unit consisting of: all personnel required to hold certification for their respective employment, all secretarial/clerical personnel, and service personnel including: basic skills instructional assistants, child study team, curriculum specialists, custodians, elementary teacher specialists, guidance counselors, laboratory technicians, librarians, maintenance personnel, math lab instructors, media technicians, nurses and nurse coordinators, secretarial and clerical personnel, speech therapists, physical therapists, occupational therapist, supplemental instructors, teachers (art, classroom, instrumental and vocal music, physical education and special education), transportation mechanics and writing lab instructors employed by the District are voluntary dues paying members of the Association and that the Association maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6. Accordingly, the Commission has ordered the public employer to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the negotiations unit employees who are not members of the Association after being notified by the Association that it has complied with the requirements of N.J.A.C. 19:17-3.3 and -4.1.

Docket No. PD-2009-004

Bernards Township School District
(Public Employer)

Date: _____

By: _____

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with the Public Employment Relations Commission, 495 West State Street, PO Box 429, Trenton, NJ 08625-0429 (609) 984-7372