

D.R. 87-22

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

In the Matter of

EWING TOWNSHIP BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. CU-87-19

AFSCME, COUNCIL 73, LOCAL 2289,

Petitioner.

SYNOPSIS

The Director clarifies a custodial unit represented by AFSCME, Council 73, Local 2289, to include the new title of head custodian. Rejecting Local 2289's arguments, the Director concludes that the head custodian is not a supervisor and does not share a greater community of interest with members of a supervisory custodial unit.

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Appearances:

For the Public Employer
John Gusz, Assistant Superintendent

For the Petitioner
Gerard J. Meara, Staff Rep.

DECISION

On November 5, 1986, AFSCME, Council 73, Local 2289 ("Local 2289") filed a petition to clarify its unit of nonsupervisory custodians and cleaners employed by the Ewing Township Board of Education ("Board"). Local 2289 claims that the recently created title of lead custodian is supervisory and shares a greater community of interest with members of the Ewing Township Maintenance Management Association, NJEA ("Association"), which represents a unit of head and assistant head custodians. The Board disagrees, claiming that the title is not supervisory and belongs in the unit of custodians represented by Local 2289.

On December 5, 1986, a Commission staff agent convened an informal conference and began an investigation. The results of the

investigation follow.

The Ewing Township school district includes a high school, a junior high school and four elementary schools. The secondary schools and the largest elementary school are staffed with head custodians and crews. The three smaller elementary schools are staffed with two custodians, each working one of two shifts. In addition to the custodial staffs located at each of the buildings, the Board employs an outside maintenance crew, which is responsible for the maintenance of all school grounds and athletic fields, making deliveries and collecting garbage.

The Coordinator of Custodial and Maintenance Services generally oversees the custodial staffs at each school and the outside maintenance crew. Approximately two years ago, the Board employed a separate supervisor, Mr. Fort, to supervise the outside maintenance crew. However, when Mr. Fort died, approximately one-and-one-half years ago, the Board did not fill the outside maintenance supervisor position. Instead, the Board created a new position, lead custodian, to oversee the outside maintenance crew. The Board also transferred the supervisory duties of Mr. Fort's old supervisory position to the Coordinator of Custodial and Maintenance Services.

The lead custodian works under the direction of the Coordinator and relays assignments made by the Coordinator to the outside crew. Head custodians and the custodians working at the three smaller elementary schools, where there are no supervisory

personnel, also report directly to the Coordinator.

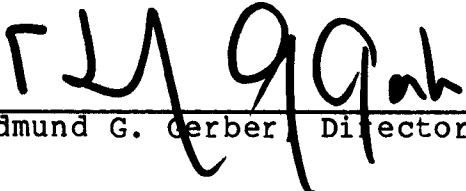
The parties have stipulated that the lead custodian is not involved in the hiring process, that he is not involved in employee evaluations, that he has never been involved in a grievance concerning a Local 2289 member, and that he is not involved in the disciplinary procedure for the maintenance crew.

On January 28, 1987, we advised the parties that we were inclined to clarify Local 2289's unit to include the the lead custodian because the facts suggest that the lead custodian is not a supervisor as that term has been defined by the Commission. A supervisor within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act") has been defined as one having the authority to hire, discharge, discipline, or to effectively recommend these personnel actions. The lead custodian is not involved in hiring, discharge or discipline, nor does it appear that the lead custodian has an actual or potential substantial conflict of interest with other Local 2289 members. See, Board of Education of West Orange v. Wilton, 57 N.J. 404 (1971). This absence of any supervisory functions from the duties performed by lead custodians is in contrast to the responsibilities of head custodians who routinely perform employee evaluations and have been involved in the discipline of Local 2289 members.

On January 28, 1987, the parties were given the opportunity to file, within seven days, additional evidentiary materials in support of their positions. The parties were advised that, absent

the submission of material evidence to the contrary, we would issue a decision clarifying Local 2289 to include the title of lead custodian. No additional materials were filed. Accordingly, for the reasons set forth above, it is hereby ordered that Local 2289 is clarified to include the title of lead custodian.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Cerber, Director

DATED: February 17, 1987
Trenton, New Jersey