

D.R. NO. 81-48

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

In the Matter of

BERKELEY TOWNSHIP BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-81-200

BERKELEY TOWNSHIP TEACHERS ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of the administrative investigation, orders an election among supplemental personnel employed by the Board to determine whether a majority desire to be represented for the purpose of 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.

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

In the Matter of

BERKELEY TOWNSHIP BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-81-200

BERKELEY TOWNSHIP TEACHERS ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer
Cassetta, Brandon Associates
(Bruce Taylor, Consultant)

For the Petitioner
William Walters, NJEA Consultant

DECISION AND DIRECTION OF ELECTION

On March 4, 1981 a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by the Berkeley Township Teachers Association, N.J.E.A. (the "Teachers Association"). The Teachers Association seeks to add supplemental instructors to the existing collective negotiations unit of classroom teachers, librarians, and nurses, which it currently represents. In accordance with N.J.A.C. 19:11-2.2 the undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition. On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The Berkeley Township 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., is the employer of the employees in question and is subject to the provisions of the Act.

2. The Berkeley Township Teachers Association, N.J.E.A., is an employee representative within the meaning of the Act and is subject to the provisions thereof. The Association is a majority representative of all full-time certificated personnel under contract including classroom teachers, librarians and nurses.

3. There is currently a collective negotiations agreement in effect between the Board and the Teachers Association for the period July 1, 1980 through June 30, 1981. The parties have specifically agreed to waive the "contract bar" to a timely filing of this petition which would otherwise apply. See N.J.A.C. 19:11-2.8 (c)(3).

4. The Association claims that the supplemental teachers, ^{1/} who are not currently represented, may appropriately be included within the existing unit of full-time certificated personnel, and is willing to consent to a secret ballot election among supplemental teachers to determine whether a majority wish to be represented by the Berkeley Township Teachers Association.

5. The Board of Education contends that the inclusion of supplemental teachers with "regular" full-time certificated personnel is inappropriate in that the requisite community of interest between the two classifications is lacking.

1/ By letter dated May 4, 1981, the representative of the Board of Education advised the undersigned that the correct name for the title is "supplemental instructors."

The undersigned has previously determined that the most appropriate unit for the representation of supplemental teachers is within a unit of regular teaching personnel. Supplemental teachers, although often regular part-time personnel, are engaged in providing specialized and individualized instruction to regular classroom students, a function immediately related to and necessarily adjunct to the educational functions performed by full-time teachers. See In re Hamilton Twp. Board of Education, D.R. No. 80-23, 6 NJPER 99 (para. 11051 1980) and East Orange Board of Education, D.R. No. 81-7, 6 NJPER _____ (para. _____ 1980).

The requisite community of interest has been found, not only between supplemental and "regular" teachers, but also between various other categories of professional instructional personnel and "regular" teachers as well, notwithstanding particular specialized functions performed by such personnel, and notwithstanding the part-time or per diem nature of their employment. See, for instance, 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); and In re Newark Board of Education, D.R. No. 80-1, 5 NJPER 314 (para. 10170 1979) (part-time psychiatrists).

On May 7, 1981, the undersigned advised the parties that in the absence of documentary and other evidence, and a statement of position which would raise substantial and material factual issues, the undersigned intended to direct an election. In the absence of the presentation of the required material the undersigned shall now direct the instant election.

Accordingly, the undersigned finds that a community of interest exists between supplemental instructors and employees in the current collective negotiations unit of certificated teaching personnel, and therefore the undersigned finds that the appropriate unit for collective negotiations is: "Classroom teachers, librarians, and nurses and supplemental instructors employed by the Berkeley Township Board of Education." The undersigned hereby directs that an election be conducted among the employees in the title of supplemental instructor. The election shall be conducted no later than thirty (30) days from the date set forth below.

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

Pursuant to N.J.A.C. 19:11-9.6 the Board is directed to file with the undersigned and the Association, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses. 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 Association with statements 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 they wish to be represented for purposes of collective negotiations by Berkeley Township Teachers Association, N.J.E.A.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: June 16, 1981
Trenton, New Jersey