

D.R. NO. 79-20

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

In the Matter of

WILDWOOD BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-79-117

WILDWOOD EDUCATION ASSOCIATION,
NEW JERSEY EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among all secretarial/clerical employees employed by the Wildwood Board of Education to ascertain whether they desire to be represented by the Wildwood Education Association for purposes of collective negotiations. An election is also directed among the teachers and other professional employees already represented by the Wildwood Education Association to determine whether or not they desire to be included in a unit with nonprofessional employees.

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

In the Matter of

WILDWOOD BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-79-117

WILDWOOD EDUCATION ASSOCIATION,
NEW JERSEY EDUCATION ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer
Bruce M. Gorman, Esq.

For the Petitioner
Greenberg & Mellk, Esqs.
(Arnold M. Mellk, of Counsel)

DECISION AND DIRECTION OF ELECTION

On October 17, 1978, 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 Wildwood Education Association (the "Petitioner") seeking to add secretarial/clerical personnel employed by the Wildwood Board of Education (the "Board") to the existing unit of professional employees represented by the Petitioner. The undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order

to determine the facts.

All parties have been advised of their obligation under N.J.A.C. 19:11-2.6, and have been afforded an opportunity thereunder to present documentary and other evidence as well as statements of position, relating to the Petition.

On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after a 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 Wildwood 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 this Petition, and is subject to the provisions of the Act.

3. The Wildwood Education Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Petitioner is seeking to add nonprofessional employees employed by the Board, specifically, secretarial/clerical employees to an existing unit of professional employees. ^{1/}

^{1/} The Petitioner currently represents teachers, nurses, librarians, guidance counsellors and specialists.

5. The Board's custodial and cafeteria employees are currently represented in two separate units. Secretarial/clerical employees are currently represented in a separate negotiations unit. ^{2/}

6. The Petitioner agrees to a secret ballot election among employees in the petitioned-for unit, including a professional option election, if necessary. See N.J.S.A. 34:13A-6(d).

7. The Board does not consent to a secret ballot election, contending that a unit consisting of professional and non-professional employees is inappropriate in that there is no community of interest between teachers and nonprofessional school secretaries.

8. On January 25, 1979, the undersigned advised the parties that the evidence proffered to date did not appear to place in dispute any substantial and material factual issues and that the unit sought by the Petitioner is a prima facie appropriate unit in light of existing Commission policy concerning unit definition for employees of a school district. The undersigned further analyzed the position advanced by the Board in opposition to the petitioned-for unit.

With respect to the claim that a community of interest does not exist between professional and nonprofessional school employees, including teachers and secretarial employees, the undersigned advised that the Commission has consistently held that a

^{2/} The incumbent organization representing the secretarial/clerical employees has not sought intervention in this proceeding.

community of interest exists between these professional and non-professional school employees. The Commission has generally concluded that a community of interest arises among employees in a school district because employees in a school district have a common employer, work in the same buildings, and have similar goals and purposes, i.e., the education and betterment of students. The undersigned notes, in passing, that the Act itself, at N.J.S.A. 34:13A-6(d) envisions the appropriateness of units containing professional and nonprofessional employees. ^{3/} When making unit determinations the Commission has sought to avoid fragmentation of negotiations units and has favored the formation of units along broad-based, functional lines rather than by title or by distinct occupational groupings. ^{4/}

The undersigned advised the Petitioner and the Board of his intention to direct an election based on the investigation unless documentary and other evidence raising substantial and material disputed factual issues and necessitating the conduct of an evidentiary hearing was provided within seven days. No further evidentiary proffer or statement of position has been provided by either party.

^{3/} See, for example, In re West Milford Township Board of Education, P.E.R.C. No. 56 (1971), wherein the Commission found appropriate a petition seeking to add nonprofessional clerical employees and building aides to a unit of professional employees: teachers, nurses and instructional aides. See also In re Jefferson Township Board of Education, P.E.R.C. No. 61 (1971) with respect to the appropriateness of a unit of professional and nonprofessional employees. The Commission determined that the existing unit of mixed personnel was not prima facie inappropriate.

^{4/} In In re State of New Jersey v. Professional Association of New Jersey Department of Education, 64 N.J. 231 (1974), the Supreme Court endorsed the Commission's adoption of the concept of broad-based, functional negotiations units.

The specific evidence proffered to date does not place in dispute any substantial and material factual issues which may more appropriately be resolved after a hearing. The Petition is timely filed and a valid question concerning representation exists in a prima facie appropriate collective negotiations unit. Accordingly, the undersigned shall direct an election based upon the administrative investigation.

The undersigned finds that the appropriate unit for collective negotiations is: All secretarial/clerical personnel and all teachers, librarians, nurses, specialists, and guidance counselors, employed by the Wildwood Board of Education, but excluding managerial executives, confidential employees, employees currently represented in other units, police employees, craft employees, and supervisors within the meaning of the Act.

The undersigned finds, therefore, that secretarial/clerical personnel may properly be included in the existing unit of teachers, librarians, nurses, specialists and guidance counselors, subject to two conditions to be met in the election directed herein. For purposes of this election two voting groups are established:

Voting Group I

All secretarial/clerical employees employed by the employer, excluding professional, police, craft and confidential employees, managerial executives, and supervisors within the meaning of the Act.

Voting Group II

All teachers, librarians, nurses, specialists and guidance counselors employed by the employer, excluding secretarial/clerical, craft, police and confidential employees, managerial executives and supervisors within the meaning of the Act.

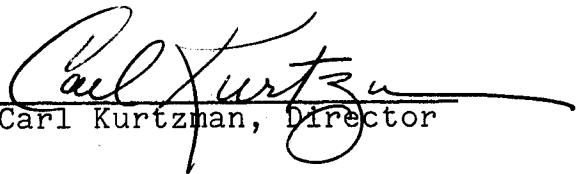
DIRECTION OF ELECTION

A secret ballot election shall be conducted among the eligible employees in the two groups described above. Those eligible to vote are employees in the groups 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 ill, on vacation, temporarily laid off or on military leave. 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. Those in Group I shall vote on the question of whether they desire to be represented for the purposes of collective negotiations by the Wildwood Education Association. If a majority of those voting vote in the affirmative, they shall have thereby indicated their desire to be included in the existing unit (i.e., Group II). That inclusion, however, is subject to the requirements of the Act that professional employees be permitted the opportunity

to vote on the question of inclusion with nonprofessionals. Therefore, those in Group II shall vote on the question of whether or not they wish to be included with nonprofessional employees for purposes of collective negotiations. If a majority of those voting in each group vote affirmatively on the respective questions, a single certification shall issue combining the classifications in Groups I and II in one unit. If Group I votes for representation, but Group II votes against inclusion, a separate certification of representative shall issue covering Group I.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: March 1, 1979
Trenton, New Jersey