

D.R. NO. 88-19

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

In the Matter of

HAMILTON TOWNSHIP BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-88-44

HAMILTON TOWNSHIP EDUCATION  
ASSOCIATION/NJEA/NEA,

Petitioner.

Synopsis

The Director of Representation directs an election to determine whether certain secretarial and custodial employees employed by the Hamilton Township Board of Education should be added to the collective negotiations unit of certificated employees. The Director found the Commission's policy favoring broad-based units applied in this case. The Director rejected the Board's arguments that these employees more appropriately belong in a separate unit, that the petitioned-for unit would cause over-fragmentation and that part-time employees should be excluded from the unit.

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Appearances:

For the Public Employer  
Dr. Philip E. Geiger

For the Petitioner  
New Jersey Education Association  
(Eugene Sharp, UniServ Rep.)

DECISION AND DIRECTION OF ELECTION

On October 1, 1987 a Petition for Certification of Public Employee Representative ("Petition") was filed by the Hamilton Township Education Association/NJEA/NEA ("Association") seeking to add all secretarial and custodial employees employed by the Hamilton Township Board of Education ("Board") to the existing unit of certificated employees. The Petition is timely and supported by an adequate showing of interest.

On October 19, 1987, a Commission staff attorney conducted an investigatory conference. Representatives of the Board and the Association attended. The Board refused to consent to a

representation election. It asserts that the secretaries and custodians do not share a community of interest with the certified employees, the proposed unit would overly fragment the Board's employees and the inclusion of support staff employees in a unit with teachers would make negotiations more difficult. The Board also asserts confidential, supervisory and part-time personnel should be excluded from any unit.

The Association asserts that the teachers and the support staff share a community of interest and argues that the Commission's preference for broad-based units requires finding the petitioned-for unit appropriate.

We conducted an administrative investigation in this matter (N.J.A.C. 19:11-2.6). The administrative investigation reveals the following:

The disposition of this matter is properly based on our administrative investigation. We have not found any substantial and material factual disputes which may be more appropriately resolved at a hearing. See N.J.A.C. 19:11-2.6(b).

The Hamilton 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. ("Act"), is subject to its provisions, and is the employer of the petitioned-for employees.

The Hamilton Township Education Association is a public employee representative within the meaning of the Act and is subject to its provisions. The Association is the majority representative

of a collective negotiations unit composed of all full-time certificated personnel including classroom teachers, nurses, librarians, reading teachers, teachers of special subjects and the speech therapist. The current collective negotiations agreement covers the period from July 1, 1985 through June 30, 1988.

No other employees of the Board are represented. The Board employs supervisory and administrative personnel, bus drivers, clerical and custodial employees.

Teachers and secretaries work a seven and one-half hour day. Custodial employees work an eight-hour day. Three custodians and one secretary are part-time employees. They each work between 15 and 20 hours per week. Most of the custodians and secretaries are twelve month employees. Two secretaries work eleven months each year. Teachers work ten months each year.

All Board employees are accountable to the Board and the Superintendent. All employees work at two schools at adjoining sites. Employment benefits of the custodial and clerical employees are patterned after those of the teachers. However, holiday and vacation benefits of twelve-month employees are different from those employees who work less than twelve months.

The Board states that teachers may direct the work of secretaries or complain to the administration about a clerical or custodial employee and that such complaints could result in discipline to the employee.

The Board asserts that the custodians and clerical employees do not share a community of interest with the teachers and should be permitted to form separate units. The Board states that the support staff have different hours and interests than the teachers have. It argues that the interests of the support staff would not be adequately represented and that other districts in the area have separate units for support staff.

The petitioned-for unit appears to be appropriate. In Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984), the Commission found:

When a dispute concerning the propriety of including one or more groups of supportive staff with teachers and professional school district employees has arisen, the Commission since 1969 has consistently found, ...that teachers and supportive staff have a community of interest stemming from such factors as their shared goals, the central authority controlling their working conditions, and their common working facilities and environment and that this community of interest generally warrants giving teachers and supportive staff the opportunity to choose a unified representative in a single unit if they so desire....In the Commission's judgment, affording teachers and supportive staff such an opportunity promotes labor stability since unified employee representation may permit negotiations with an already centralized and unified employer to proceed more smoothly. (Citations omitted, emphasis in original.) Piscataway, at p. 274. See Ridgefield Bd. of Ed., D.R. No. 85-65, 11 NJPER 464 (¶16166 1985).

In certain circumstances, the Commission has found a long-established, stable history of separate negotiations units an important consideration in determining the appropriate unit.

Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229

1981). In Englewood, the Commission found the history of established and stable units of professionals and custodians and the absence of claims of changed circumstances or instability compelling. However, the Commission has specifically held that Englewood does not apply to situations where, as here, the petitioned-for employees are not and have not been represented. Piscataway, 11 NJPER at 275 n. 5.

The Board's concern with over-fragmentation appears to be misplaced. Over-fragmentation occurs where there is a proliferation of units. Here, the Association is seeking to add employees to one broad-based unit. Broad-based, employer-wide units are favored over narrowly defined units organized along departmental or occupational lines. See City of Hackensack, D.R. No. 86-2, 11 NJPER 570 (¶16199 1985), citing N.J. State Nurses Assn., 64 N.J. 231 (1974).

The Board asserts that part-time employees should be excluded from any unit. Part-time employees in permanent positions who regularly work at least 1/6 the number of hours worked by full-time employee are eligible for inclusion in a collective negotiations unit with full-time employees. County of Bergen, P.E.R.C. No. 84-2, 9 NJPER 451 (¶14196 1983); Tp. of North Brunswick, D.R. No. 85-15, 11 NJPER 155 (¶16068 1985); Lawrence Tp. Bd. of Ed., D.R. No. 82-49, 8 NJPER 278 (¶13125 1982). Since the Board's part-time employees each work at least 15 hours per week, it appears that they are eligible for inclusion in a negotiations unit.

There is no dispute that the Secretary to the Superintendent and the Secretary to the Board Secretary are confidential employees and that the Supervisor of Custodians and the Superintendent of Buildings and Grounds are supervisors within the Act. Accordingly, these titles are excluded from the negotiations unit.

Accordingly, we direct that a secret ballot election be conducted among the employees in the petitioned-for unit, which is comprised as follows:

Included: All full-time and part-time secretarial, clerical and custodial employees to be added to the existing unit of certificated employees employed by the Hamilton Township Board of Education.

Excluded: Confidential employees, managerial executives, police employees, firefighter employees, craft employees, supervisors within the meaning of the Act, Secretary to the Superintendent, Secretary to the Board Secretary, Superintendent of Buildings and Grounds, Supervisor of Custodians and all other employees.<sup>1/</sup> All full-time and part-time clerical, secretarial and custodial employees shall vote on whether they wish to be represented for purposes of collective negotiations by the Hamilton Township Education Association. All full-time certificated

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<sup>1/</sup> Because the parties disagree concerning the unit status of the Secretary to the Assistant Superintendent and the Assistant Superintendent of Buildings and Grounds, these employees may vote by challenge ballot.

employees shall vote on whether they wish to be included in a unit with nonprofessional employees.

The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote are the employees in the unit set forth 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 out ill, 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 before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the public employer is directed to file with us an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the unit, together with their last known mailing addresses and job titles. Separate lists must be prepared for the nonprofessional and professional employees. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be filed simultaneously with the employee organization with a statement of service filed with us. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

The exclusive representative of the secretarial, clerical and custodial employees, if any, shall be determined by a majority of the valid votes cast in the election by these employees. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: December 16, 1987  
Trenton, New Jersey