

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

In the Matter of

MATAWAN REGIONAL SCHOOL DISTRICT BOARD OF EDUCATION,

Public Employer,

-and-

NEW JERSEY PUBLIC EMPLOYEES ORGANIZING COMMITTEE,

Docket No. RO-77-56

Petitioner,

-and-

LOCAL #11, a/w INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,

Intervenor.

SYNOPSIS

In the absence of substantial and material factual issues necessitating a hearing, the Director of Representation Proceedings, on the basis of an administrative investigation, directs an election among custodial and maintenance employees of the Board of Education.

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Appearances:

For the Public Employer, Gerald F. Dorf, P.A.  
(Mr. Richard M. Salsberg, of Counsel)

For the Petitioner, Mr. Max Wolf, Coordinator  
of Organization

For the Intervenor, Messrs. Schneider, Cohen & Solomon, Esqs.  
(Mr. Scott E. Tanne, of Counsel)

DECISION AND DIRECTION OF ELECTION

On October 7, 1976, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed by the New Jersey Public Employees Organizing Committee, (hereinafter the "Committee"), with respect to a unit of all custodial workers, including custodians, cleaners, maintenance and groundskeepers, repairman and laborers employed by the Matawan Regional School District Board of Education, (hereinafter the "Board"), The Committee seeks certification by the Commission as the exclusive collective negotiations representative of the unit of above-described employees. Local #11

affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, (hereinafter 'Local #11'), the incumbent representative, is hereby granted intervention in this proceeding on the basis of a collective negotiations agreement covering all custodial and maintenance employees employed by the Board, which agreement is effective July 1, 1975 through June 30, 1977.

The undersigned Director of Representation Proceedings has caused an administrative investigation of the Petition to be conducted in order to determine the facts. All parties have been provided with an opportunity to present documentary and other evidence raising substantial and material factual disputed issues which would warrant the convening of a hearing pursuant to N.J.A.C. 19:11-1.12 (c).

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. 19:11-1.12 (c), 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 Matawan Regional School District Board of Education is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, (herein after the "Act"), is the employer of the employees described herein, and is subject to the Act's provisions.

3. Both the Committee and Local #11 are employee representatives within the meaning of the Act and are subject to its provisions.

4. A Petition for Certification of Public Employee Representative

having been filed, a question concerning the representation of certain employees exists. Inasmuch as Local #11 declines to consent to a secret ballot election, a dispute exists and the instant matter is properly before the undersigned for determination.

5. The Board takes no position with respect to the instant Petition. Local #11, while initially indicating to the undersigned by letter received November 5, 1976, that it "desires to be on the ballot if an election is called for," does not consent to a secret ballot election.

6. On November 30, 1976, all parties participated in an informal conference with the undersigned's designated investigatory agent. During this conference it appeared that there was no dispute with respect to the appropriateness of the petitioned-for unit, the unit being coextensive with that already represented by Local #11. Further, it appeared that the instant petition was filed in accordance with N.J.A.C. 19:11-1.15 (c)(3) which provides inter alia that a Petition for Certification of Public Employee Representative involving school district employees may be filed between September 1 and October 15 within the last 12 months of an existing written agreement covering substantive terms and conditions of employment. The undersigned determines that the Petition, which was filed on October 7, 1976, is a timely filed petition.

Local #11 does not dispute that the Petition was filed in conformity with the above-cited Commission rule. However, at the informal conference it generally raised questions as to the wisdom of the rule.

7. On December 9, 1976, the undersigned notified all parties that it appeared that the Petition was timely and that there were no substantial and material factual issues in dispute. The undersigned noted Local #11's general objection and provided an additional opportunity to all parties to

provide the undersigned with documentary and other evidence as well as statements of position relating to the Petition. The undersigned stated that in the absence of any substantial and material disputed factual issues, he would thereafter issue a decision and direction of election herein. No further evidentiary proffer or statements have been provided.<sup>1/</sup>

8. Accordingly, there exists no material and factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Accordingly, based upon the above, the undersigned finds that the appropriate unit for collective negotiations is all custodial and maintenance employees employed by the Matawan Regional School District Board of Education, but excluding managerial executives, professional and craft employees, confidential employees, police and supervisors within the meaning of the Act.

9. The undersigned directs, pursuant to N.J.A.C. 19:11-1.12 (b)(3), that an election be conducted among the employees described above. 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 that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or

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<sup>1/</sup> Local #11 requested a week's extension of time to submit arguments and was orally granted an additional two days, until December 22, 1976. No submission has been received as of this writing.

reinstated before the election date.

Pursuant to Rule Section 19:11-2.7, the Public Employer is directed to file with the undersigned an election eligibility list, consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. Such list must be received no later than ten (10) days prior to the date of the election. The undersigned shall make the eligibility list immediately available to all parties to the election. Failure to comply with the foregoing shall be grounds for setting aside the election upon the filing of proper post-election objections pursuant to the Commission's Rules.

Those eligible to vote shall vote on whether they desire to be represented for purposes of collective negotiations by the New Jersey Public Employees Organizing Committee, Local #11 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or neither.

The majority representative shall be determined by a majority of the valid ballots cast. The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules.

BY ORDER OF THE DIRECTOR OF  
REPRESENTATION PROCEEDINGS



CARL KURTZMAN, DIRECTOR

DATED: December 28, 1976  
Trenton, New Jersey