

D.R. NO. 80-40

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

In the Matter of

GARFIELD BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NOS. RO-80-165
RO-80-166

GARFIELD FEDERATION OF TEACHERS,
LOCAL 3977, NJSFT, AFT, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation, in the absence of substantial and material disputed factual issues, directs a secret ballot election among Title I teachers and psychologists, respectively, to ascertain whether these employees desire to be represented in separate negotiations units by the Garfield Federation of Teachers.

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Appearances:

For the Public Employer
Nasarenko & Colacino, attorney
(Nicholas P. Nasarenko of counsel)

For the Petitioner
Dorothy Gutenkauf, Staff Representative

DECISION AND DIRECTION OF ELECTIONS

On April 7, 1980, two Petitions for Certification of Public Employee Representative, accompanied by adequate showings of interest, were filed with the Public Employment Relations Commission (the "Commission") by the Garfield Federation of Teachers, Local 3977, NJSFT, AFT, AFL-CIO (the "GFT") with respect to a unit of all Title I teachers (RO-80-165) and a unit comprised of all school psychologists (RO-80-166) employed by the Garfield Board of Education (the "Board"). The undersigned has caused an

administrative investigation to be conducted into the matters and allegations set forth in the Petitions in order to determine the facts.

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 at 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 Garfield 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 Garfield Federation of Teachers, Local 3977, NJSFT, AFT, AFL-CIO, is an employee representative within the meaning of the Act and is subject to its provisions.

4. The GFT seeks to represent a unit comprised of all Title I teachers and a unit comprised of school psychologists employed by the Board and agrees to secret ballot elections to be conducted among the employees.

5. By letter dated April 7, 1980, the undersigned requested the Board to submit the following information: (a) an alphabetized list of employees described in the Petitions together with their job classifications for the payroll period immediately preceding receipt of the copies of the Petitions; and (b) written statements of position concerning whether it would consent to secret ballot elections to be conducted by the Commission among the employees.

The Board certified that the Commission's standard Notice to Public Employees had been posted for the Title I teachers' unit, but has declined to post the Notice to Public Employees for the school psychologists' unit and has declined to provide either the list of employees in the units or provide statements of position as to whether it agrees to secret ballot elections in the units. The Board has not taken a position as to the appropriateness of the proposed units.

6. An informal conference was scheduled for April 30, 1980 with the assigned Commission agent. Prior to the opening of the conference, the attorney for the Board telephoned the Commission agent to advise that he would not be available for the conference. During the telephone conversation, the attorney indicated that the Board would agree to execute Agreements for Consent Election in both units. Based on that representation, the GFT executed the Agreements for Consent Election which were then forwarded to the Board. The Board failed to execute the Agreements.

On May 19, 1980, the undersigned notified the parties that on the basis of the administrative investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation exists in prima facie appropriate units. The undersigned provided an additional opportunity to the parties to present evidence as well as statements of position relating to the instant Petitions. The undersigned stated that in the absence of any substantial and material factual disputed issues, he would thereafter issue a decision and direction of elections. No further evidentiary proffer or statement has been submitted to the undersigned.

Accordingly, there existing no substantial and material 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. Therefore, the undersigned finds that the appropriate unit in Docket No. RO-80-165 is: all Title I teachers, but excluding all other employees including other professionals, managerial executives, police, craft and confidential employees and supervisors within the meaning of the Act. In Docket No. RO-80-166, the undersigned finds that the appropriate unit is: all school psychologists, but excluding all other employees including other professionals, managerial executives, police, craft and confidential employees and supervisors within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that elections 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 the 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 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 the undersigned and with the GFT, an election eligibility list in each unit consisting of alphabetical listings of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility lists must be received by the undersigned no later than ten (10) days prior to the date of the elections. A copy of the eligibility lists shall be simultaneously be filed with the GFT with statements of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility

lists except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Garfield Federation of Teachers, Local 3977, NJSFT, AFT, AFL-CIO.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kuntzman, Director

DATED: May 28, 1980
Trenton, New Jersey