

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

In the Matter of

COUNTY OF HUDSON,

Public Employer,

-and-

LOCAL 892, TEAMSTERS & WAREHOUSEMEN,

DOCKET NO. RO-77-125

Petitioner,

-and-

TEAMSTERS LOCAL UNION 286,

Intervenor,

-and-

UNITED NURSES ORGANIZATION,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a Petition for Certification of Public Employee Representative filed by Local 892, Teamsters & Warehousemen, seeking a collective negotiations unit limited to non-supervisory employees at the County's Youth House and Youth Shelter. The Director, agreeing with the findings of a Hearing Officer, determines that an existing unit comprised of all County blue and white collar employees would be the most appropriate unit for the representation of the Youth House and Youth Shelter employees. Additionally, the Director, agreeing with the Hearing Officer, determines, contrary to the assertions of the County and Teamsters Local Union 286, that the evidence does not demonstrate that the Youth House and Youth Shelter employees had been accreted into the countywide unit through recognition by the employer. The Director sets forth the procedures by which representation of the Youth House and Youth Shelter employees may be accomplished.

D.R. NO. 79-11

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UNITED NURSES ORGANIZATION,

Intervenor.

Appearances:

For the Public Employer,
Murray, Meagher & Granello, Esqs.
(John A. Meagher, of Counsel)

For the Petitioner,
Krieger and Chodash, Esqs.
(Stephen E. Klausner, of Counsel and Philip Feintuch,
Esq.)

For the Intervenor,
Teamsters Local Union 286
(Pat D. Nardolilli, Business Agent)

DECISION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees employed by the County of Hudson (the "County") at the Hudson County Youth House and the Youth Shelter (the "Youth House" and "Youth Shelter"), ^{1/} hearings were held on August 16 and 17, 1977, in Newark, New Jersey, before Commission Hearing Officer Arnold H. Zudick, at which all parties were provided an opportunity to examine and cross-examine witnesses, to present evidence, and to argue orally. The Petitioner, Local 892, Teamsters and Warehousemen (the "Petitioner") and the County filed timely written briefs after the close of the hearing.

The Hearing Officer issued his Report and Recommendations on December 15, 1977, H.O. No. 78-9, a copy of which is attached hereto and made a part hereof. In his report, the Hearing Officer evaluated the respective positions of the County and Teamsters Local Union 286 ("Local 286"), an intervenor in the proceedings, that the Youth House and Youth Shelter employees are included in Local 286's countywide collective negotiations unit and the Petitioner's position that the Youth House and Youth Shelter employees are unrepresented. The Hearing Officer also evaluated the County's additional argument that the only appropriate unit for the petitioned-for employees is the existing countywide unit. He recommended that

^{1/} More specifically, Petitioner seeks to represent a proposed unit which would include all cooks, kitchen aids, switchboard operator-clerk, clerk-typists, clerk-bookkeeper, building maintenance worker and attendants in the Youth House and Youth Shelter. During the course of the hearing, the Hearing Officer accepted the Petitioner's amendment to its Petition to exclude nurses from the proposed unit.

there was insufficient evidence in the record to find that the employees in question had been accreted into the collective negotiations unit represented by the Intervenor when the Youth House and Youth Shelter were merged into the County Corrections Department on May 1, 1976. However, the Hearing Officer concluded that the approval of a separate unit of Youth House and Youth Shelter employees, requested by the Petitioner, would not be consistent with the Commission's concept of favoring broad-based negotiations units. He therefore recommended that the petitioned-for unit be found inappropriate and that the Petition be dismissed. Finally, finding that a community of interest exists between employees represented in the Intervenor's countywide unit and the petitioned-for employees, the Hearing Officer recommended that an election be conducted to allow the employees in question to decide by majority vote whether or not they wished to be represented by Local 286 in the countywide unit.

The Petitioner filed exceptions to the Hearing Officer's Report and Recommendations on January 25, 1978. These exceptions may be summarized as follows: (1) Local 286 was not a proper party to the proceeding and should not have been granted status as an intervenor in the proceeding; (2) Petitioner objects to the Hearing Officer's characterization of the Petition as an attempt at severance; (3) The countywide unit is not the most appropriate unit for the employees in question and that the applicable statute, N.J.S.A. 34:13A-1 et seq., as amended, only requires an appropriate

unit; (4) Petitioner objects to the Hearing Officer's consideration of a written statement submitted by Local 286, which, it is alleged, was not served upon Petitioner; (5) The Hearing Officer's finding of a community of interest between the petitioned-for employees and the countywide unit is incorrect; (6) The Hearing Officer incorrectly states that Petitioner seeks a unit of attendants; (7) Local 286 and United Nurses Organization were improperly granted status as intervenor; and (8) The election ordered by the Hearing Officer interfered with the employees' statutory rights of free choice of a majority representative.

The County submitted an untimely brief in response to Petitioner's exceptions. However, the undersigned has accepted the County's assertion and proofs which tend to show that the Commission's untimely receipt of its brief was due to a defect in delivery by the Postal Service rather than an untimely submission. The undersigned has, therefore, considered the County's brief as if it were timely filed pursuant to N.J.A.C. 19:10-3.1. Basically, the County's brief supports the conclusions of the Hearing Officer and argues, specifically, against the exceptions filed by the Petitioner.

The undersigned has considered the entire record herein and the Hearing Officer's Report and Recommendations and on the facts in this case finds and determines as follows:

1. The County of Hudson is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A.

34:13A-1 et seq., as amended (the "Act"), is the employer of the employees involved herein, and is subject to the provisions of the Act.

2. Local 892, Teamsters and Warehousemen, Teamsters Local Union 286 and United Nurses Organization are employee organizations within the meaning of the Act and are subject to its provisions.

3. A Petition for Certification of Public Employee Representative, supported by an adequate showing, has been filed with the Public Employment Relations Commission (the "Commission") by the Petitioner and a dispute exists concerning unit representation and unit definition. Accordingly, a question concerning the representation of public employees has been raised, a dispute exists, and the matter is properly before the undersigned for determination.

4. The undersigned has carefully considered the exceptions to the Hearing Officer's report filed by Petitioner and finds them to be without merit. Treating Petitioner's exceptions seriatim, the undersigned finds: (1) The Hearing Officer did not improperly grant intervenor status to Local 286, or to the United Nurses Organization. The undersigned, upon the issuance of a Notice of Hearing, captioned Local 286 and United Nurses Organization, and granted intervenor status to these organizations. Intervention was granted to Local 286 in accordance with then Rule Section 19:11-1.13 on the basis of Local 286 having submitted to the Commission on February 24, 1977 "a current or recently expired agreement with the public employer covering any of the employees involved." The

recognition clause of the proffered agreement constituted prima facie evidence of the inclusion of employees petitioned-for. Since the Petition has been amended to delete nurses from the proposed unit, there is no need to consider the exception regarding the United Nurses Organization. (2) Petitioner misconstrues Hearing Officer's finding #4. The Hearing Officer herein framed the issues involved in the proceeding in light of the parties' positions. There is no basis for Petitioner's assertion of implied bias. (3) Petitioner's assertion that the Act requires only the establishment of an appropriate, rather than the most appropriate unit is clearly incorrect and, in the face of a dispute as to unit appropriateness, is inconsistent with the decision of the Supreme Court in In re State of New Jersey and Professional Association of New Jersey Department of Education, 64 N.J. 231 (1974). (4) The undersigned finds that the consideration by the Hearing Officer of the written statement submitted by Local 286 worked no injustice upon Petitioner in that it was a statement of position, not a factual submission, and merely restated that position which Local 286 had orally stated on the record. (5) The undersigned finds that the Hearing Officer correctly applied traditional labor relations indicia of community of interest to the facts in this matter and, his findings of a general community of interest in a countywide unit are consistent with Commission precedent. ^{2/}

^{2/} In re Board of Chosen Freeholders of the County Burlington, P.E.R.C. No. 58 (1971), and In re Bergen County Board of Chosen Freeholders, P.E.R.C. No. 69 (1972).

(6) The undersigned finds that the Hearing Officer properly fulfilled his obligation to consider the appropriateness of the unit petitioned for, the unit claimed to be appropriate by the employer, or any other unit which might be most appropriate. See In re State of New Jersey and Professional Association, supra. The Hearing Officer gave special consideration to the title of attendant because of Petitioner's claim of a lack of community of interest between this title and the titles contained in the countywide unit. The undersigned adopts the Hearing Officer's finding that the appropriate placement of this title is in the countywide unit. (7) The substance of this exception is similar to first exception and is rejected for the reasons stated, supra. (8) Owing to the undersigned's conclusion herein, infra, it is unnecessary to address Petitioner's final exception which contends that the election recommended by the Hearing Officer would be improper.

5. The undersigned having carefully considered the entire record in this matter, hereby adopts the following findings and conclusions recommended by the Hearing Officer: (1) There is insufficient evidence in the record to find that the employees in question had been accreted into the collective negotiations unit represented by the Intervenor, Local 286, when the Youth House and Shelter were merged into the Hudson County Correction Department on May 1, 1976; and (2) the instant Petition proposes a unit for collective negotiations which is inconsistent with the Commission's

policy favoring broad-based units and is not found to be the most-appropriate unit. ^{3/} Thus, although it is found that the employees in the Youth House and the Youth Shelter have not been included in the countywide-unit, the undersigned finds that the most-appropriate unit for their inclusion is the countywide unit currently represented by Intervenor, Local 286.

6. Accordingly, having found that the petitioned-for unit is not the most appropriate unit at this time, the instant Petition is hereby dismissed.

The undersigned notes that several procedures are available to add the employees petitioned for herein to the existing unit represented by Local 286 in order to accomplish representation for collective negotiations of those employees within the most appropriate unit structure. Local 286 may request recognition from the County on behalf of the inclusion of these employees in its collective negotiations unit. Failing recognition, Local 286 may at the appropriate time for the filing of a Petition for Certification of Public Employee Representative, petition for the inclusion of the employees here involved in the most appropriate unit. ^{4/} In the event that Local 286 fails to petition for such an inclusion, the Petitioner, or any other employee organization may petition anew for the unrepresented employees; and, the undersigned advises that

3/ In re State of New Jersey and Professional Association, supra.

4/ The undersigned notes that at such time any employee representative may file a Petition for Certification of Public Employer Representative in the most appropriate collective negotiations unit.

such Petition will be considered in the context of that portion of the New Jersey Supreme Court decision In re State of New Jersey and Professional Association, supra, which indicates that a later determination may be made, under circumstances then existing, which might allow for the authorization of a unit of less than the total body. ^{5/}

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

Carl Kurtzman, Director

DATED: October 11, 1978
Trenton, New Jersey

^{5/} See, In re Parsippany-Troy Hills Tp. Board of Education,
D.R. No. 79-7, 4 NJPER _____ (1978).

STATE OF NEW JERSEY
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-and-

TEAMSTERS & WAREHOUSEMEN,
LOCAL 892,

Petitioner,

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DOCKET NO. RO-77-125

TEAMSTERS LOCAL UNION NO. 286,

Intervenor,

-and-

UNITED NURSES ORGANIZATION,

Intervenor.

SYNOPSIS

A Commission Hearing Officer, in a Petition for Certification of Public Employee Representative proceeding, recommends that an election be directed among specific employees of the Hudson County Youth House and Shelter as to whether they wish to be represented in the existing county-wide unit or whether they wish no representation.

The Hearing Officer finds that the Youth House and Shelter employees in question have not been and are not now represented in the existing county-wide unit. The Hearing Officer also concludes that a separate unit of Youth House and Shelter employees would not be consistent with the Commission's concept of favoring the broad based unit, and the petitioned-for unit is therefore inappropriate.

A Hearing Officer's Report and Recommendations is not a final administrative determination of the Public Employment Relations Commission. The Report is submitted to the Director of Representation who reviews the Report, any exceptions thereto filed by the parties and the record, and issues a decision which may adopt, reject or modify the Hearing Officer's findings of fact and/or conclusions of law. The Director's decision is binding upon the parties unless a request for review is filed before the Commission.

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DOCKET NO. RO-77-125

Appearances:

For the Public Employer-Respondent
Murray, Meagher & Granello, Esqs.
(John A. Meagher, Of Counsel)

For the Petitioner
Krieger & Chodash, Esqs.
(Stephen E. Klausner, Of Counsel)

For the Intervenor
Teamsters Local Union No. 286
Pat D. Nardolilli, Business Agent

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") on January 31, 1977 by Teamsters & Warehousemen, Local 892 (the "Petitioner"), seeking to represent a unit of employees employed by the County of Hudson (the "County") at the Hudson County Youth House and the Youth Shelter (hereinafter "House" and "Shelter").

The Petitioner originally sought to represent in a separate unit, all of the employees of the House and Shelter including -- among others -- kitchen aides, attendants, clerks and nurses. ^{1/} The County objected to the proposed unit and refused to post notices and argued that the proposed unit was inappropriate. The County argued that the employees of the House and Shelter ~~appropriately belonged and in fact were already covered by the existing county-wide unit of employees which is currently represented by Teamsters Local Union No. 286.~~

Since Teamsters Local No. 286 submitted a copy of an existing written agreement allegedly covering the employees sought to be included in the proposed unit, it has, pursuant to N.J.A.C. 19:11-2.7, been granted intervenor status in this matter. ^{2/}

Pursuant to a Notice of Hearing dated July 12, 1977, a hearing was held before the undersigned Hearing Officer on August 16 and 17, 1977 in Newark, New Jersey at which all parties were given an opportunity to examine and cross-examine witnesses to present evidence and to argue orally. The Petitioner and the County filed written briefs in this matter which were submitted by September 19, 1977. Upon the entire record in this proceeding, the Hearing Officer finds:

1. That the County is a Public Employer within the meaning of

^{1/} As originally filed, the Petition sought to include two nurses employed at the House and Shelter into the proposed unit. The United Nurses Organization, however, indicated that it had been certified by the Commission on June 21, 1976 as the majority representative for certain nurses employed by the County. See RO-76-110. Thereafter, the Petitioner herein decided to amend its Petition on the record during the hearing T. 1 p. 9, and by way of stipulation with the County excluded the nurses from consideration in the proposed unit.

^{2/} The contract in question was admitted into evidence, T. 2 p. 18, and marked as Employer Exhibit - 1. The effective dates of the contract are from January 1, 1976 through December 31, 1978.

New Jersey Employer-Employee Relations Act (the "Act"), is subject to its provisions, and is the employer of the employees involved in this proceeding.

2. That the Petitioner, Teamsters & Warehousemen, Local 892, and the Intervenor, Teamsters Union Local 286, are Employee Representatives within the meaning of the Act and are subject to its provisions.

3. The Petitioner is seeking to represent in one unit the following employees employed at the House and Shelter: cooks, kitchen aids, switchboard operator-clerk, clerk-typists, clerk-bookkeeper, building maintenance worker and attendants.

4. The unit sought to be represented by the Petitioner is less than county-wide in scope and represents an attempt to either sever the petitioned-for employees from the existing county-wide unit, or, an attempt to provide representation for employees who were allegedly unrepresented.

5. The County argues that the only appropriate unit for the employees in question is the existing county-wide unit. Accordingly, because the Petitioner and County could not agree on the unit placement of the instant employees, there is a question concerning representation regarding the employees of the House and Shelter and, therefore, this matter is properly before the Hearing Officer for Report and Recommendations.

BACKGROUND

The Hudson County Youth House and Shelter are facilities used to house, or maintain supervision or custody over, various juveniles in Hudson County. The Youth House is generally a closed detention center and the larger operation while the Youth Shelter is designed for juveniles in need of supervision. While both the Youth House and Shelter fall under the supervision of

one director, Joseph Colford, Superintendent, they are operated out of different facilities. In order to operate the facilities the County employs approximately 55 non-supervisory employees at the House and Shelter including the following titles which are the subject of the instant Petition: 1 cook, 3 kitchen aids, 1 switchboard operator-clerk, 3 clerk-typists, 1 clerk-bookkeeper, 1 building maintenance worker and 45 attendants.

The record reflects that prior to May 1, 1976, the Youth House and Shelter operated as independent governmental agencies apart from the County and were, therefore, not subject to any negotiations between the County and the Intervenor. Subsequent to May 1, 1976, however, the House and Shelter became a part of the Corrections Division of the Department of Public Safety for the County of Hudson. At that time, the County argues, the Youth House and Shelter also became part of the unit represented by the Intervenor. ^{3/}

The Petitioner, however, maintains that the House and Shelter did not become part of the unit represented by the Intervenor, but if it did, then both the County and Intervenor ignored the employees in question. Therefore, the Petitioner argued, the employees at the House and Shelter were entitled to form their own unit for representation.

Finally, it must be noted that although the Intervenor made an appearance on the record on the first day of hearing, the appearance was limited to making a very brief position statement on the record with a

^{3/} See T. 2 pp. 19 and 20.

promise to provide a written statement of its position. L/ The Intervenor's representative then refused to take any further part in these proceedings and left the hearing room immediately thereafter.

The undersigned must, therefore, consider the Intervenor's oral and written statements as its only position on the instant Petition.

DISCUSSION AND ANALYSIS

The undersigned believes that the issues involved in the instant matter are:

1. Whether the employees of the House and Shelter have in fact been members of the negotiating unit represented by the Intervenor.
2. If the instant employees were part of the Intervenor's nego-

L/ At T. 1 pps. 5 and 6, the Intervenor's Business Agent indicated that Teamsters Union Local 286 did not want to intervene herein if it resulted in an election between Teamsters Locals 286 and 892. The Business Agent then clarified his position by saying that the Intervenor would abide by a Commission decision, but it would not agree to have its name entered on a ballot against the Petitioner if that were the Commission's decision.

The Intervenor's written statement referred to at the hearing is considered as part of the instant record and states in pertinent part:

"(A) If P.E.R.C. should rule that a representation election is in order, Teamsters Local #286 will not enter into that representation election with another Teamster Local and further we request that any notification of our status be withdrawn.

"(B) If P.E.R.C. rules that in fact Teamsters Local #286 is the bargaining Agent by way of accretion as per our labor agreement now in effect with Hudson County then we will abide by that ruling and shall proceed and continue to represent these Youth House employees."

The Hearing Officer recognizes that a degree of uncertainty exists as to whether Teamsters Local 286 considers itself an intervenor in this proceeding. However, because of the existence and admission into evidence of a current contract between the County and Local 286 purportedly covering the employees involved in this Petition, and pursuant to N.J.A.C. 19:11-2.7, the undersigned believes that Local 286 is an appropriate and necessary intervenor in this matter.

in question or the Superintendent or Assistant Superintendent of the House and Shelter that the instant employees were included under the Intervenor's collective agreement. ^{8/}

Mrs. Florence McEntyre, Assistant Superintendent for the House and Shelter and an employee of 12 years, confirmed that although she knew that there was a union throughout the county, she "was not aware at any time that there was a union at the youth house." ^{9/} Finally, two employees of the House and Shelter testified that they were never apprised by any union or by their employer that they were covered by any collective agreement. ^{10/}

Although the County argues that the instant employees were and are represented by the Intervenor, the record does not substantiate that position. The Intervenor never established that it had either petitioned for, or officially requested recognition for, the employees at the House and Shelter, and neither the County nor the Intervenor established that the employees had ever designated Local 286 through some form of card check or voting procedure to be their bargaining representative. Moreover, Mr. Kierce's testimony does not show that an official request for recognition was made to the County or that the County Freeholders or other County ~~personnel~~ officially approved any request. Although the County and Intervenor may have agreed to extend certain benefits to the instant employees, that alone does not establish that the House and Shelter employees were part of the county-wide unit.

^{8/} T. 2 pps. 45 and 46.

^{9/} T. 1 p. 37.

^{10/} T. 2 p. 70 and 93.

tiating unit did the Intervenor's alleged failure to represent the instant employees justify the creation of a separate bargaining unit?

3. If it were found that the instant employees were not part of the Intervenor's unit, is a separate unit of House and Shelter employees an appropriate unit for representation?

The First Issue

It is the County's basic position that the instant employees have been and still are represented by the Intervenor. In that regard, Mr. Raymond Kierce, County Personnel Director, testified that shortly after the Youth House became a County operation in May 1976, he had a conversation with the President of the Intervenor who claimed that Local 286 now had jurisdiction over the Youth House employees. ^{5/} As set forth in its brief submitted after hearing, the County thereafter agreed with the Intervenor to have the Youth House employees covered by the existing county-wide contract. ^{6/} Subsequently, the County and the Intervenor apparently negotiated a salary adjustment and benefits for the Youth House employees. ^{7/}

To rebut the County's position the Petitioner demonstrated through either direct or cross-examination of various witnesses, that although the County and Intervenor may have believed that the House and Shelter employees were in the county-wide unit, that neither the employees in question, nor their immediate superiors at the House and Shelter, believed that House and Shelter employees were part of the county-wide unit. In that regard, Mr. Kierce testified on cross-examination that he never apprised the employees

^{5/} T. 2 pps. 19 and 20.

^{6/} County's Brief, p. 2.

^{7/} T. 2 pps. 20 and 21.

The Act provides that public employees shall have the right "to form, join and assist any employee organization or to refrain from such activity" N.J.S.A. 34:13A-5.3. The evidence herein does not establish that the instant employees exercised those rights in favor of Local 286 subsequent to the Youth House merger into the County's jurisdiction.

Therefore, the undersigned concludes and recommends that the Director of Representation find that based upon the above discussion and the totality of the evidence, the employees of the Youth House and Shelter are not presently members of the county-wide negotiating unit represented by the Intervenor.

Second Issue

Having determined that the instant employees are not part of the county-wide unit represented by the Intervenor, it is unnecessary for the undersigned to consider whether the Intervenor's alleged failure to represent the instant employees required the creation of a separate negotiations unit. 11/

Third Issue

The heart of the instant matter is whether the petitioned-for unit is appropriate. The County maintains that only the broad based county-wide unit is appropriate and any creation of a separate unit for the House and Shelter employees would unduly fragment negotiations and

11/ The undersigned wishes to stress that even if the instant employees were part of the Intervenor's unit, the instant matter is only a representation issue and not an unfair practice issue and it would therefore be inappropriate to consider any unfair labor practice aspects of the Intervenor's alleged failure to represent.

and representation for County employees. The Petitioner argues that most of the House and Shelter employees are attendants, and that that particular position has no community of interest with other County employees represented by the Intervenor.

A review of those titles represented by the Intervenor in the county-wide unit reveals that the unit consists of a wide range of titles coming from various departments and divisions throughout the County. ^{12/} In order to determine whether a unit of House and Shelter employees is appropriate it is necessary to compare Youth House titles with those represented by the Intervenor.

In a lengthy examination Mr. Kierce testified about the similarity of duties and benefits between Youth House titles and those titles presently in the county-wide unit. Mr. Kierce testified that House and Shelter employees received approximately the same number of sick and vacation leave days as employees in the county-wide unit; that House and Shelter employees receive generally the same drug prescription plan, blue cross — blue shield coverage and longevity pay as other county-wide employees; and, that at least 26 Youth House employees were covered by the County pension program. ^{13/} Moreover, Mr. Kierce testified that although employees of the House and Shelter had varying working hours, many of the titles included in the county-wide unit had varying hours. ^{14/} Finally, Mr. Kierce admitted that although House and Shelter employees were not classified by Civil Service, that the County, nevertheless, used certain Civil Service forms in dealing with House and Shelter employees. ^{15/}

^{12/} T. 2 p. 22.

^{13/} T. 2 p. 21, 39-40.

^{14/} T. 2 p. 21.

^{15/} T. 2 p. 22, 33.

Regarding the first six titles in question, Mr. Kierce testified that the duties of a Building Maintenance Worker of the House and Shelter is substantially similar to the duties of a Maintenance Repairman which is included in the county-wide unit; that a Clerk-Bookkeeper is similar to an Account Clerk; that a Clerk-Typist at the House is similar to a Clerk-Typist as included in the county-wide unit; that a Cook is similar to a Head Cook or Senior Cook; that Youth House Kitchen Aids are similar to Assistant Cook and sometimes a Senior Food Service Worker; and, that a Switchboard Operator-Clerk performs substantially the same duties as a Telephone Operator which is included in the Intervenor's unit. ^{16/}

In considering the placement of the above mentioned titles, the undersigned believes that consistent with the Commission's policy in favoring the broad based unit, the six titles already discussed most appropriately belong in the existing county-wide unit. The evidence clearly demonstrated that there was a community of interest between these six titles and their related titles presently included in the Intervenor's unit. Moreover, the Petitioner did not sufficiently establish that there were special circumstances that would require that these six titles be separated from the county-wide unit.

Consequently, the undersigned recommends that if these six titles eventually choose to be represented in a bargaining unit, that the most appropriate unit for representation is the Intervenor's unit.

The main thrust of the Petitioner's argument for a separate negotiating unit concerned the title of attendant. The testimony at the hearing revealed that an attendant is chiefly responsible for the juveniles

^{16/} T. 2 p. 49-60.

present in the House or Shelter. In general, the attendants supervise the juveniles assigned to the House or Shelter and perform related duties such as transporting juveniles to and from Court and various detention facilities. ^{17/} The attendants do not carry weapons, wear uniforms, and are not required to make written reports on a regular basis. ^{18/} However, the evidence did indicate that attendants may be subject to physical injury during the performance of their duties. ^{19/}

Although the Petitioner argued that the attendant title is unlike any other title represented in the county-wide unit, Mr. Kierce testified that there are some similarities between Youth House attendants and certain "hospital attendants" employed at the County's Meadowview Hospital and included in the county-wide unit. ^{20/} Apparently, hospital attendants occasionally perform supervisory type functions over patients in psychiatric wards. Mr. Kierce testified that some psychiatric wards are considered hazardous. ^{21/}

The undersigned has considered the parties positions regarding the attendants and concludes that the evidence does not establish that a separate unit of House and Shelter attendants is appropriate. The testimony at the hearing established that, as previously discussed herein, all House and Shelter employees received approximately the same benefits, leave, and health coverage as employees in the county-wide unit. Moreover, the

^{17/} T. 1 p. 82-87.

^{18/} T. 1 p. 88, T. 2 pps. 3-4.

^{19/} T. 1 pps. 87-88, T. 2 pps. 7-8.

^{20/} T. 2 pps. 60-61, 64.

^{21/} T. 2 pps. 60-61, 64.

evidence did not establish that by including attendants in the county-wide unit that any injustice would occur to them, or that any conflict would arise amongst the other titles in the unit. Although not every element of appropriateness or community of interest can be found between attendants and the titles in the unit, the evidence as a whole does establish that a community of interest does exist between attendants and titles in the existing unit.

In that regard, it is necessary to emphasize that the Commission has consistently favored the inclusion of titles in broad based units along functional lines rather than by separate occupational units, and the State Supreme Court has approved this concept. ^{22/} Moreover, the Commission has specifically applied this broad based unit concept in unit determinations concerning County employees. ^{23/}

In all, the undersigned recommends that if the Youth House attendants eventually choose to be represented in a bargaining unit, that the most appropriate unit for representation is the existing county-wide unit.

Since the undersigned has previously concluded and recommended to the Director that the House and Shelter employees are presently unrepresented, and since the Intervenor has voiced an interest in the instant employees, then the undersigned also recommends that an election be conducted amongst the employees in question to determine whether they wish to be represented by the Intervenor in the existing county-wide unit, or whether they wish no representation.

^{22/} State of New Jersey v. Professional Association of New Jersey Department of Education, 64 N.J. 231 (1974).

^{23/} See In re Board of Chose Freeholders of the County of Burlington, P.E.R.C. No. 49 (1971), In re Bergen County Board of Chosen Freeholders, P.E.R.C. No. 69 (1972).

RECOMMENDATION

Based upon the entire record the undersigned Hearing Officer recommends the following:

1. That the Director of Representation find that the Youth House and Shelter titles in question have not been and are not now represented by the Intervenor, Teamsters Union Local 286.


2. That the most appropriate unit for representation of the titles included herein is the existing county-wide unit presently represented by Teamsters Union Local 286.

3. That an election be directed amongst the following titles employed by the County at the Youth House and Shelter including: cook, kitchen aids, switchboard operator-clerk, clerk-typist, clerk-bookkeeper, building maintenance worker, and attendants. Excluding: supervisors, confidentials and managerial executives employed at the Youth House and Shelter.

That those employees eligible to vote shall vote as to whether they desire to be represented for the purposes of collective negotiations in the broad based county-wide unit represented by Teamsters Union Local 286, or whether they wish no representation.

4. That the Employer, the County of Hudson, be required to post the appropriate notices concerning the directed election in the proper public places.

Respectfully Submitted,


Arnold H. Zudick
Hearing Officer

DATED: December 15, 1977
Trenton, New Jersey