

D.R. NO. 86-4

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

In the Matter of  
COUNTY OF MORRIS,

Public Employer,

-and-

MORRIS COUNTY YOUTH CENTER  
ASSOCIATION,

DOCKET NO. RO-86-5

Petitioner,

-and-

MORRIS COUNCIL NO. 6, NEW JERSEY  
CIVIL SERVICE ASSOCIATION,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a Petition for Certification of Public Employee Representative filed by the Morris County Youth Center Association, which seeks to represent certain employees employed by the County of Morris, working at the Morris County Youth Center. The Director finds that the Petition filed in this matter is untimely.

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Appearances:

For the Public Employer  
Edward Horan, Director of Labor Relations

For the Petitioner  
Richard DeAngelis, President

For the Intervenor  
Morris & Hantman, Esqs.  
(Allen Hantman of counsel)

DECISION

A Petition for Certification of Public Employee  
Representative was filed with the Public Employment Relations

Commission ("Commission") by the Morris County Youth Center Association ("Petitioner") on July 11, 1985, seeking to represent certain employees employed by the County of Morris ("County"). The Petition, supported by an adequate showing of interest, seeks a separate collective negotiations unit consisting of all full and part-time, provisional and permanent employees employed at the Morris County Youth Center <sup>1/</sup> excluding the Director, Assistant Superintendent, and Secretary.

The petitioned-for employees are currently represented by Morris Council No. 6, New Jersey Civil Service Association ("Council No. 6"), and are included in a county-wide collective negotiations unit of nonsupervisory employees. On July 29, 1985, Council No. 6 applied for intervenor status in this matter pursuant to N.J.A.C. 19:11-2.7, on the basis of the collective negotiations agreement with the County which expires on December 31, 1986. The application by Council No. 6 for intervenor status is hereby granted.

I have authorized an administrative investigation into the matters and allegations involved in the Petition in order to determine the facts. See, N.J.A.C. 19:11-2.2 and N.J.A.C.

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<sup>1/</sup> The Petition lists the following titles as included in the proposed unit: Senior Counselor, Counselor, Senior Children's Supervisor, Children's Supervisor, Institutional Trade Instructor, Teacher, Educational Counselor, Social Worker, Senior Cook and Cook.

19:11-2.6. On the basis of the administrative investigation, I find and determine the following:

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

2. The County of Morris 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 employees who are the subject of the Petition.

3. The Morris County Youth Center Association and Morris Council No. 6, New Jersey Civil Service Association, are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Petitioner filed the instant Petition on July 11, 1985.

5. The petitioned-for employees are included in a county-wide collective negotiations unit represented by Council No. 6. Presently, a collective negotiations agreement covering the petitioned-for employees is in effect between the County of Morris and Council No. 6. Said agreement runs from January 1, 1984 through December 31, 1986.

6. The Petitioner contends that the petitioned-for unit is appropriate because the employees working at the Morris County

Youth Center lack a community of interest with other employees included in the county-wide unit. The Petitioner argues that employees at the County Youth Center are unique when compared to the other employees included in the county-wide unit in that the Youth Center is a custodial/correctional facility.

7. In a letter dated July 29, 1985 (and during the informal conference conducted by a Commission Staff Agent), Council No. 6 stated that it will not consent to a secret ballot election in this matter. Further, Council No. 6 asserted that the instant Petition should be dismissed because a contract bar existed at the time of the filing of the Petition and the existing county-wide unit is the most appropriate unit for collective negotiations.

8. The County has filed no written statement of position in this matter and indicated during the informal conference that it would maintain a position of neutrality with respect to the Petition.

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N.J.A.C. 19:11-2.8(c) provides, in relevant part:

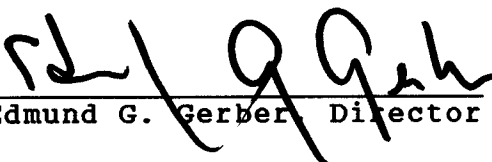
During the period of an existing written agreement containing substantive terms and conditions of employment having a term of three years or less, a petition for certification of public employee representative normally will not be considered timely filed unless: ... (2) in a case involving employees of a county or municipality, any agency thereof, or any county or municipal authority, commission or board, the petition is filed not less than 90 days and not more than 120 days before the expiration or renewal date of such agreement....

Thus, section 2.8 bars the filing of a certification petition during the period of an existing collective negotiations agreement, unless the petition is filed during the designated "open window" period. It is incumbent upon the petitioner to ascertain the precise dates of the open period for filing representation petitions in accordance with N.J.A.C. 19:11-2.8(c).

In the instant matter, the Petition was not timely filed. The written agreement covering employees working at the Youth Center covers the period of January 1, 1984 through December 31, 1986. The instant petition was filed on July 11, 1985. It is evident that under the terms of the agreement between the County and Council No. 6, a Petition for Certification of Public Employee Representative would not be timely filed until some time during the second half of 1986. See, In re City of Newark, D.R. No. 85-12, 11 NJPER 41 (¶16022 1984); In re City of Atlantic City, D.R. No. 82-19, 7 NJPER 642 (¶12289 1981).

On the basis of the foregoing facts and applicable case law, I hereby determine that the Petition in this matter is not timely filed pursuant to N.J.A.C. 19:11-2.8. Accordingly, the Petition in this matter is hereby dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: September 5, 1985  
Trenton, New Jersey