

D.R. NO. 79-24

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

In the Matter of

BOARD OF EDUCATION OF THE
TOWNSHIP OF CRANFORD,

Public Employer,

-and-

DOCKET NO. RO-79-102

CRANFORD EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation and in the absence of substantial and material disputed factual issues, directs an election among school psychologists to determine whether the psychologists wish to be represented by the Petitioner in a negotiations unit with other Board professional and nonprofessional employees. The Director finds that the existing negotiations unit including psychologists constitutes a prima facie appropriate collective negotiations unit.

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Appearances

For the Public Employer
Weinberg, Manoff & Dietz
(Irwin Weinberg, of Counsel)

For the Petitioner
Goldberg & Simon
(Gerald M. Goldberg, of Counsel)

DECISION AND DIRECTION OF ELECTION

On October 13, 1978, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was timely filed with the Public Employment Relations Commission (the "Commission") by the Cranford Education Association (the "Association") seeking to add school psychologists employed by the Board of Education of the Township of Cranford (the "Board") to the existing unit of professional and nonprofessional personnel represented by the Association. The undersigned has caused an

investigation to be conducted into the matters and allegations involved in the Petition in order to determine the facts. All parties have been advised of their obligations under N.J.A.C. 19:11-2.6(a) and have been afforded an opportunity thereunder to present documentary and other evidence as well as statements of position, relating to the Petition.

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 disputed factual issues exist which may more appropriately be resolved after 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 Board of Education of the Township of Cranford 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 Cranford Education Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Petitioner is seeking to add currently unrepresented professional employees employed by the Board, specifically

school psychologists into the existing unit of professional and nonprofessional employees. ^{1/}

5. The Petitioner agrees to a secret ballot election among the petitioned-for employees.

6. The Board does not consent to a secret ballot election contending that the inclusion of school psychologists in the existing unit of other professional and nonprofessional employees is inappropriate.

Accordingly, a Petition for Certification of Representative has been filed, a dispute exists and the matter is properly before the undersigned for determination.

7. On January 24, 1979, the undersigned notified the parties that on the basis of the investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that based upon previous Commission decisions ^{2/} a

^{1/} The Association presently represents employees in a unit consisting of teachers, librarians, learning disability teacher consultants, nurses, social workers, guidance counselors, department heads, secretaries, clerks, custodians and maintenance personnel.

^{2/} See In re Board of Education of the City of Camden, E.D. No. 76-32, wherein it was alleged that a conflict of interest existed between psychologists and other professionals in the school system based upon the duty of the psychologists to evaluate "problem" students and recommend remedial courses of action. It was asserted that this evaluation process could adversely reflect upon a teacher's performance thereby creating a potential conflict of interest. The Commission held that this type of "conflict" is not sufficient to obviate the community of interest between teachers and school psychologists. In addition, it was found that school psychologists share with other school employees a common employer, fringe benefits, and general goals. Furthermore, in In re Newark Teachers Union, Local 481, AFT, AFL-CIO, P.E.R.C. No. 20 (1969), the Commission adopted the Hearing Officer's conclusion that school psychologists may

valid question concerning representation existed in a prima facie appropriate unit. The undersigned provided an additional opportunity to all parties to present 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 statement has been provided by the parties.

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 for collective negotiations is all teachers, librarians, learning disability teacher consultants, nurses, social workers, guidance counselors, department heads, school psychologists, secretaries, clerks, custodians and maintenance personnel, but excluding the superintendent of schools, assistant superintendents of schools,

2/ (Cont'd)

appropriately be included in a teachers unit since their duties are "a necessary adjunct to the proper fulfillment of the teaching responsibility which, in contemporary conditions does not end with the classroom proper."

The Board has failed to cite any specific aspect of the school psychologists' duties which would negate a community of interest with other employees in the existing unit. When making unit determinations the Commission has sought to avoid fragmentation of negotiations units and has favored the determination of units along broad-based functional lines rather than by title or by distinct occupational groupings. See In re State of New Jersey Department of Education, 64 N.J. 231 (1974).

the director of learning, principals, assistant principals, directors, the secretary of the board, the school business administrator, the office manager, doctors, dentists, school plant engineer, substitutes, and home and supplementary instructors ^{3/} and all 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 an election be conducted among the school psychologists to ascertain whether or not they wish to be represented by the Cranford Education Association. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are school psychologists 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.

Pursuant to N.J.A.C. 19:11-9.6, the Board is directed to file with the undersigned and with the Association an election eligibility list, consisting of an alphabetical listing of the names and addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with the

^{3/} The specific classifications listed in these inclusions and exclusions reflect the current unit structure, with the exception of the psychologists.

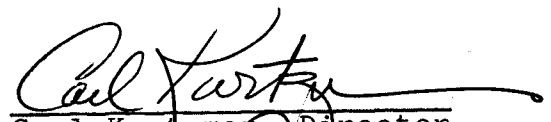
Association with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote whether or not they desire to be represented for the purpose of collective negotiations by the Cranford Education Association.

The exclusive representative shall be determined by a majority of the valid ballots cast. If a majority of school psychologists voting in the election vote for representation by the Cranford Education Association, they shall have thereby indicated their desire to be included in the existing unit represented by the Cranford Education Association.

The election directed herein shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: March 6, 1979
Trenton, New Jersey