

D.R. No. 79-15

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

In the Matter of

DELAWARE VALLEY REGIONAL HIGH SCHOOL
DISTRICT BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-78-206

DELAWARE VALLEY ADMINISTRATION
ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation on the basis of an administrative investigation determines that a negotiations unit consisting of two board of education administrators is a prima facie appropriate collective negotiations unit and directs that an election be conducted among the administrators within thirty (30) days. The Board did not present any evidentiary proffer or statement of position in support of its contentions that the employees were managerial executives, and that a unit consisting of two individuals is an inappropriate unit.

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DECISION AND DIRECTION OF ELECTION

On June 26, 1978, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by the Delaware Valley Administration Association (the "Association") with respect to a proposed unit of administrators employed by the Delaware Valley Regional High School District Board of Education (the "Board"). ^{1/} The undersigned has caused an administrative investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts.

1/ Two individuals are claimed to constitute this proposed unit: the High School Principal, and the Administrative Assistant.

All parties have been advised of their obligations under N.J.A.C. 19:11-2.6 and have been afforded an opportunity thereunder to present documentary and other evidence as well as statements of position, relating to the Petition. The Board has certified that the Commission's standard Notice to Employees has been posted.

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. 19:11-2.6(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 Delaware Valley Regional High School District 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., as amended (the "Act"), and is subject to the provisions of the Act.

3. The Delaware Valley Administration Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Association has filed a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, seeking to represent all administrators

employed by the Board. A dispute exists, and the matter is properly before the undersigned for determination.

5. The Board does not consent to the conduct of a secret ballot election in the petitioned-for unit, questioning the appropriateness of a two-person unit, and asserting that the individuals constituting the proposed unit are managerial executives.

6. The Board has not supported its positions by either factual evidentiary proffers or by a formal brief or statement of position analyzing the legal basis for its claim of inappropriateness.

With regard to the Board's claim that a negotiations unit consisting of two individuals is inappropriate, the undersigned determines that the assertion of negotiations rights by two individuals constitutes collective activity and, therefore, the petitioned-for unit is prima facie appropriate. As noted above, the Board has not advanced legal argument to support its position that a two-person unit is not appropriate.

Regarding the claimed managerial executive status of the individuals constituting the proposed negotiations unit, it is unclear to the undersigned as to whether the Board continues to assert this position. The undersigned notes, as indicated above, that the Board has not submitted an evidentiary proffer which raises substantial and material factual issues relative to the claimed managerial executive status of the individuals.

N.J.S.A. 34:13A-3(f) provides a statutory definition for managerial

executives and states in relevant part: " ... except in any school district, this term shall include only the superintendent or other chief administrator, and the assistant superintendent of the district."

On November 20, 1978, the undersigned notified the parties that, based on the investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation existed in an 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. No further evidentiary proffer or statements have been submitted by the parties.

Therefore, for the above reasons, the undersigned determines that the unit petitioned-for, comprised of all administrators employed by the Board is a prima facie appropriate collective negotiations unit and that a secret ballot election should be conducted to ascertain whether the individuals who comprise this proposed unit desire or do not desire to be represented by the Association.

There existing 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. The undersigned finds that the appropriate unit for collective negotiations is all

administrators employed by the Delaware Valley Regional High School District Board of Education, but excluding managerial executives, confidential employees, craft employees and police employees within the meaning of the Act.

The undersigned directs, pursuant to N.J.A.C. 19:11-2.6 (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 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 employee organization 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. 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 Delaware Valley Administration 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 on whether or not they desire to be represented for the purposes of collective negotiations by the Delaware Valley Administration Association.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: December 13, 1978
Trenton, New Jersey