

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

In the Matter of

SALEM COUNTY VOC-TECHNICAL SCHOOL
BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-81-205

SALEM COUNTY VOC-TECHNICAL SCHOOL
SUPPORTIVE STAFF ASSOCIATION (NJEA),

Petitioner.

SYNOPSIS

The Director of Representation directs a secret ballot election among non-certified supportive staff employees in the absence of substantial factual disputes. The sole dispute relates to the Board's claim that one employee is a supervisor and four employees are confidential. The Director finds that the dispute relates to a small number of employees and should therefore not delay an election. The five disputed employees may vote subject to challenge, and their status may be resolved subsequent to the election, if necessary.

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Appearances:

For the Public Employer
Cassetta, Brandon Associates
(Daniel J. Brandon, Consultant)

For the Petitioner
M. June Spargo, NJEA Representative

DECISION AND DIRECTION OF ELECTION

On April 13, 1981, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by the Salem County Voc-Technical Supportive Staff Association (NJEA) (the "Association"), seeking to represent a collective negotiations unit of all non-certified employees employed by the Salem County Voc-Technical School Board of Education (the "Board").

In accordance with N.J.A.C. 19:11-2.2(a), the undersigned has caused an investigation to be conducted into the

matters and allegations set forth in the Petition in order to determine the facts.

Based upon 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 Salem County Vocational-Technical 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 Salem County Vocational-Technical School Supportive Staff Association (NJEA) is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Association is seeking to represent a unit of all non-certified employees of the Board. These employees, who are clerks, secretaries, custodians and aides, are currently not represented for the purpose of collective negotiations. The Association is willing to consent to a secret ballot election to be conducted among the employees in the petitioned-for unit.

5. During the course of the informal conference conducted by the assigned staff member, the Board did not dispute

the appropriateness of the proposed unit; however, it refused to execute a consent agreement because the Association would not agree that the Supervisor of Buildings and Grounds was a supervisor within the meaning of the Act and that four of the clerical employees were confidential employees within the meaning of the Act, as the Board proposed. Absent that agreement, the Board refused to consent to a secret ballot election.

6. A Petition for Certification of Public Employee Representative having been filed and the parties not having agreed to a secret ballot election, a dispute exists and the matter is properly before the undersigned for determination.

The sole controversy in this matter is whether five employees meet the definitional standard of the above unit. There is no dispute concerning the appropriateness of the unit description. The appropriateness of the unit itself and the fact that a question concerning representation exists are not disputed by the parties.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned determines that a valid question concerning representation exists, that an election will reflect the free choice of employees in what is hereby determined to be an appropriate unit, and that the policies of the Act will be effectuated by the direction of an election. The undersigned has previously determined that disputes relating to a small number of employees -- in this matter five of twenty-seven employees -- do not raise substantial issues which should delay an election for the overwhelming majority of undisputed eligible employees. See In re Tp. of

No. Brunswick, D.R. No. 78-4, 3 NJPER 260 (1977). The disputed employees may be challenged at the election by the Board and their eligibility may be resolved subsequent to the election, if necessary. ^{1/} Accordingly, the undersigned finds that the appropriate unit for collective negotiations is: all supportive staff employees employed by the Salem County Vocational-Technical Board of Education including clerks, secretaries, custodians and aides, but excluding managerial executives, confidential and craft employees, professional employees, police and supervisors within the meaning of the Act.

Accordingly, the undersigned directs that an election be conducted among the employees described above, and further directs that the Supervisor of Buildings and Grounds and the four clerical employees may vote subject to challenge by the Board. 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 preceeding the date below, including employees who did not work during the period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated

^{1/} If challenged votes are determinative of the results of the election, a post-election challenge proceeding will be in order. If challenged votes are not determinative, and a certification of representative issues, a clarification of unit petition may subsequently be initiated by the employee representative or the Board.

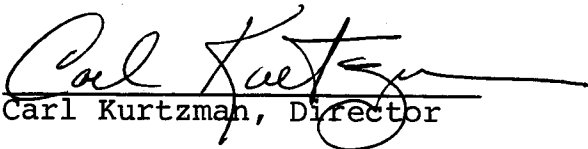
payroll period and who have not been rehired or reinstated prior to the date of the election.

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 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 Association with statements 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 wish to be represented for the purpose of collective negotiations by the Salem County Voc-Technical School Supportive Staff Association (NJEA).

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 shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: June 12, 1981
Trenton, New Jersey