

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

In the Matter of

BERGEN COMMUNITY COLLEGE,

Public Employer,

-and-

DOCKET NO. RO-79-145

FEDERATION OF SPECIAL POLICE  
AND LAW ENFORCEMENT OFFICERS,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a Petition for Certification of Public Employee Representative filed by the Petitioner inasmuch as the security officers sought to be represented by the Petitioner are currently represented by another employee organization and an existing written agreement governs their terms and conditions of employment. The Director determines that the Petition was not filed during the period in which such filings are permitted under the Commission's "contract bar" rule. The Director rejects the Petitioner's claim that the contract bar rule would not apply to the circumstances presented because the security officers are police employees and are statutorily prohibited from inclusion in negotiations units with non-police employees. Without commenting on whether, in fact, the security officers are police employees, the Director observes that, even if such were the case, the contract should not be disturbed since a statutory exception under the Act permits mixed units of police and nonpolice employees where there are special circumstances. The Director cites In re Clearview Regional High School Board of Education, D.R. No. 78-2, 3 NJPER 248 (1977), which provides that existing agreements including both police and nonpolice employees present a special circumstance which would permit the existing unit structure to be continued during the term of the Agreement.

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Appearances:

For the Public Employer  
Lewis F. H. Smith, Executive Assistant

For the Petitioner  
Robert Jay Dinerstein & Associates, P. C.  
(Lloyd Somer, of Counsel)

DECISION

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") on December 5, 1978 by the Federation of Special Police and Law Enforcement Officers (the "Federation") with respect to a proposed collective negotiations unit comprised of all uniformed security officers employed by the Bergen Community College (the "College"). The undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition in order to determine the facts.

On December 13, 1978, the College advised the Commission that the above described employees were included in a collective negotiations unit comprised of the College's supportive staff and were represented by the Bergen Community College Supportive Staff Association (the "Association").

On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The Bergen Community College 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 involved herein, and is subject to the provisions of the Act.

2. The Federation of Special Police and Law Enforcement Officers and the Bergen Community College Supportive Staff Association are public employee representatives within the meaning of the Act and are subject to its provisions.

3. The Federation has filed a Petition for Certification of Public Employee Representative seeking to represent a unit comprised of all uniformed security officers employed by the College.

4. The College and the Association are parties to a collective negotiations agreement effective July 1, 1978 through June 30, 1981, which agreement was entered into on June 14, 1978. The College asserts that the Petition herein is not timely filed pursuant to the Commission's contract bar rule, N.J.A.C. 19:11-

2.8(c)(2). <sup>1/</sup>

5. On January 18, 1979, the Federation was advised of the contract bar claim asserted by the College and the possible dismissal of the Petition. The Federation was requested to review its Petition in light of the claim. On February 1, 1979, the Federation provided the undersigned with a statement disputing the applicability of the Commission's contract bar rules to the matter herein. The Federation conceded that the security officers had been included in the supportive staff unit.

6. The Federation's position, which was more specifically detailed in a statement received March 19, 1979, asserts that the security officers are police employees within the meaning of the Act and that inasmuch as N.J.S.A. 34:13A-5.3 provides, inter alia, that "no policeman shall have the right to join an employee organization that admits employees other than policemen to membership," the contract between the College and the Association should not bar the instant Petition.

1/ N.J.A.C. 19:11-2.8 provides:

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term or three years or less, a petition for certification of public employee representative or a petition for decertification of public employee representative normally will not be considered timely filed unless:

\* \* \*

2. In a case involving employees of a county or a 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.

\* \* \*

7. The portion of N.J.S.A. 34:13A-5.3, cited by the Federation, is preceded by statutory language providing for exceptions to the normal statutory proscription which precludes the inclusion of police and nonpolice employees in the same negotiations unit. N.J.S.A. 34:13A-5.3 provides, in relevant part,

... and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. (emphasis supplied)

The undersigned has determined that the inclusion of police employees in units with nonpolice employees presents a "special circumstance" which should not be disturbed during the period of an existing agreement. See, In re Clearview Regional High School Board of Education, D.R. No. 78-2, 3 NJPER 248 (1978). Thus, even assuming the factual accuracy of the Federation's claim that security officers are police employees within the meaning of the Act, <sup>2/</sup> the contract bar rule, the implementation of which provides stability to the collective negotiations relationship during the period of an existing written agreement, governs.

<sup>2/</sup> The undersigned does not herein determine whether, in fact, security officers are police employees as claimed by the Federation.

Accordingly, the undersigned determines that the instant Petition has not been timely filed pursuant to N.J.A.C. 19:11-2.8 (c)(2) and the Petition is hereby dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: April 26, 1979  
Trenton, New Jersey