

D.R. NO. 92-10

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

In the Matter of

BLOOMFIELD BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-92-45

BLOOMFIELD EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation orders an election for a non-professional unit consisting of instructional aides to be added to an existing unit of teachers. The Board refused to consent to the election on the basis that the aides and the teachers do not share a community of interest and because the teachers are indirectly the immediate supervisors of the aides. However, the Director determined that the petitioned-for unit is appropriate and concluded that an election be conducted among the aides to determine their representational status. Also ordered is a professional option election to be conducted among the employees in the existing unit to determine whether they wish to be included in a unit with non-professional employees.

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Appearances:

For the Public Employer
Schwartz, Pisano, Simon & Edelstein, attorneys
(Nathanya G. Simon, of counsel)

For the Petitioner
New Jersey Education Association
(Michael Mulkeen, Field Rep.)

DECISION AND DIRECTION OF ELECTION

On September 16, 1991, the Bloomfield Education Association/NJEA ("Association") filed a timely petition for certification of public employee representative with the Public Employment Relations Commission ("Commission"). The petition was supported by an adequate showing of interest.

The Association seeks to add instructional aides employed by the Bloomfield Board of Education ("Board") to the existing unit of teachers it currently represents. The Board opposes the petition and requests that it be dismissed.

The Board claims that the instructional aides should not be

included in the teachers unit because of the long-standing negotiations history of the teachers unit. It further asserts that the aides do not share a community of interest with the teachers. Specifically, it claims that teachers are concerned about education and student related issues such as teaching assignments, parent-teacher conferences, preparation time, teacher-pupil contact time, attendance at professional meetings and workshops and tuition reimbursement, while aides will be concerned with items such as increased benefits, vacation time, overtime, and compensatory time. In addition, the Board asserts that since teachers are indirectly the immediate supervisors of the aides, the aides should not be in the same unit as the teachers. Finally, the Board believes that there is a far greater community of interest between the aides and the non-certificated personnel such as secretarial and clerical staff and suggests that the instructional aides consider incorporating themselves into the secretarial bargaining unit.

The Association, however, claims that a long line of Commission decisions support its position that the petitioned-for unit is appropriate. It asserts that there is a community of interest between teachers and aides, as both are concerned about issues such as increased benefits, overtime and compensation time. It further points out that the teachers unit, and not any other unit, demanded recognition and bargaining status for the instructional aides. Finally, it notes that teachers are not responsible for hiring, firing, disciplining or evaluating aides and

thus can appropriately be in a unit with them.

We have conducted an administrative investigation to determine the relevant facts. There are no substantial and material factual disputes which warrant convening an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. These facts appear.

The Board recognized the Association as the majority representative for a unit composed of 377 certificated professional personnel employed by the Board and has had an agreement with the Association since approximately 1968.

The Board also has collective bargaining agreements with four other units - an administrative unit composed of principals, assistant principals, and other administrative staff; a supervisory unit composed of building-based and district-wide supervisors; a secretarial unit composed of 37 building-based and central office secretaries; and a custodial unit composed of 54 custodial, maintenance and other operational workers.

The 94 aides employed by the Board are all unrepresented. Besides the 13 petitioned-for instructional aides, there are 16 school aides; 8 office aides; 56 lunch aides and 1 substitute service aide.

Instructional aides work under the direction of the teacher and the school building principal. The teacher outlines, instructs, directs and guides the aide. The duties of the aides usually relate to the curriculum and instruction of students but sometime include monitorial and clerical assignments.

Analysis

The Commission has long held that broad-based units of education employees -- both units of all school support staff employees and units combining support staff and professional staff -- are appropriate. West Milford Bd. of Ed., P.E.R.C. No. 56 (1971); Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984).

In Piscataway, the Commission found:

When a dispute concerning the propriety of including one or more groups of supportive staff with teachers and professional school district employees has arisen, the Commission since 1969 has consistently found, ...that teachers and supportive staff have a community of interest stemming from such factors as their shared goals, the central authority controlling their working conditions, and their common working facilities and environment and that this community of interest generally warrants giving teachers and supportive staff the opportunity to choose a unified representative in a single unit if they so desire. See West Milford Bd. of Ed., P.E.R.C. No. 56 (1971). In the Commission's judgment, affording teachers and supportive staff such an opportunity promotes labor stability since unified employee representation may permit negotiations with an already centralized and unified employer to proceed more smoothly. State of New Jersey and Professional Assn of N.J. Dept. of Ed., 64 N.J. 231 (1974). (Emphasis in original.) Piscataway, at p. 274.

Based on the foregoing, I find the instructional aides share a community of interest with the teachers in the existing unit. The teachers and aides work together in the classroom and share the common goal of advancing students' education. Piscataway.

The Board has not presented evidence showing teachers are the statutory supervisors of the aides, that is, that they have the power to hire, discharge, or discipline or effectively recommend the same. See N.J.S.A. 34:13A-5.3. I find that the petitioned-for unit is appropriate.

Accordingly, I direct that an election be conducted among the employees in the petitioned-for unit and that a professional option be conducted among employees in the existing professional unit, as follows:

Included: All instructional aides to be added to the existing unit of certificated professional employees employed by the Bloomfield Board of Education.

Excluded: Superintendent, Assistant Superintendent, Directors, School Business Administrators, Administrative Assistants in the Central Office, Principals, Assistant and Vice Principals, all supervisory employees within the meaning of the Act, managerial executives, confidential employees, craft employees, police employees and all other employees employed by the Bloomfield Board of Education.

The election shall be conducted in accordance with the Commission's rules, as follows:

Two voting groups are established for purposes of this election:

Voting Unit 1 - Included: All instructional aides employed by the Bloomfield Board of Education.

Excluded: Professional employees, managerial executives, craft employees, confidential employees, police employees, supervisory employees within the meaning of the Act and

all other employees employed by the Bloomfield Board of Education.

Voting Unit 2 - Included: All certificated professional employees employed by the Bloomfield Board of Education.

Excluded: Superintendent, Assistant Superintendent, Directors, School Business Administrators, Administrative Assistants in the Central Office, Principals, Assistant and Vice Principals, all managerial executives, craft employees, confidential employees, non-professional employees, police employees, supervisory employees within the meaning of the Act and all other employees employed by the Bloomfield Board of Education.

Professional employees (Voting Unit 2 -- all certificated professional employees) shall vote on whether they wish to be included in a unit with non-professional employees.

Nonprofessional employees (Voting Unit 1 -- all instructional aides) shall vote on whether they wish to be represented in collective negotiations by Bloomfield Education Association.

If a majority of voting professional employees votes for inclusion in a unit with non-professional employees and a majority of the voting non-professional employees votes for representation by Bloomfield Education Association, then Bloomfield Education Association will represent both groups in one unit.

If a majority of voting professional employees (Voting Unit 2) does not vote for inclusion in a unit with non-professional employees but a majority of voting non-professional employees

(Voting Unit 1) vote for representation by Bloomfield Education Association, then Bloomfield Education Association will represent the non-professional employees in a separate unit.

If a majority of voting non-professional employees (Voting Unit 1) does not vote in favor of representation by Bloomfield Education Association, then Voting Unit 1 will not be represented by any organization for purposes of collective negotiations and a certification of results shall issue.

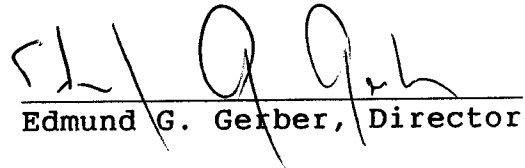
The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote must have been employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation or temporarily laid off, including those in the military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned 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 us an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the units, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously

provided to the employee organization with a statement of service filed with us. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

The exclusive representative, if any, shall be determined by a majority of the valid votes cast in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: January 6, 1992
Trenton, New Jersey