

D.R. No. 2007-3

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

In the Matter of

MOUNT EPHRAIM BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-2006-088

MOUNT EPHRAIM PARAPROFESSIONALS ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation certifies the Mount Ephraim Paraprofessionals Association as the exclusive representative of aides employed by the Mount Ephraim Board of Education, based upon a card check. The Board had opposed the certification claiming an election is preferable and that the Board had a good faith belief that employees in the proposed unit were not fully or clearly advised that signing an authorization card could result in certification without an election. The Director found an election was unnecessary and contrary to law since the Association met all the requirements of the Act.

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Appearances:

For the Respondent,
Capehart Scatchard, attorneys
(Michael Heston, of counsel)

For the Petitioner,
Selikoff & Cohen, attorneys
(Steven R. Cohen, of counsel)

DECISION

On June 5, 2006, the Mount Ephraim Paraprofessionals Association (Association) filed a timely and sufficiently supported Petition for Card Check Certification seeking to represent a unit of "assistants" employed by the Mount Ephraim Board of Education (Board).

The Board objects to the grant of the card check certification to the Association. It states "an election is preferable in order that a majority of employees be allowed to decide on the issue of representation by casting ballots," and that the Board "has a good faith belief that employees in the

proposed unit were not fully or clearly advised that signing an authorization card could result in a unit being certified without an election."

We have conducted an administrative investigation into this matter to determine the facts. The disposition of the petition is properly based upon our administrative investigation. There are no substantial material facts in dispute which would require convening an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. Based upon the administrative investigation into the facts surrounding this matter, I find the following:

The petitioned-for employees are currently unrepresented. On June 19, 2006 the Board advised that the "assistants" are actually titled "aides" and include media aides, classroom aides, and one-on-one aides. At the Commission's request, the Board submitted a list of the 20 employees in the proposed unit. We have checked the Association's authorization cards against the employer's list and determined that a majority of unit aides have signed authorization cards for the Association.

The Board certified that it posted for ten days Notices to Public Employees, supplied by the Commission. The Notices advise employees that the Association is requesting certification by card check. In addition, because the school year ended June 16, the Commission also mailed a copy of the same Notices to each aide's home address. No other labor organization claimed an interest in representing these employees. Further, no employee has contacted us objecting to certification.

The Commission's assigned staff agent scheduled an investigatory telephone conference for June 29, 2006, to determine whether the parties could agree on an appropriate descriptions of the collective negotiations unit. On July 11, 2006 a Stipulation of Appropriate unit was forwarded to the parties for signature.^{1/} By letter dated July 13, 2006, the Board advised us that it opposed the card check procedure. By letter of August 1, 2006, the Board was requested to provide any and all documentation to support its position by August 9, 2006. No documentation was submitted by the Board.

ANALYSIS

On July 19, 2005, the Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, to authorize the Commission to certify a majority representative where (a) a majority of employees in an appropriate unit who have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. N.J.A.C. 19:11-2.6(b).

In refusing to sign a stipulation noting the appropriate unit, the Board argues that an election is preferable and that employees may not have fully understood that the signing of authorization cards could result in the Association's certification without an election. The Board suggests that a

^{1/} Due to flooding in Trenton on June 28, 29 and 30, the shut-down of State offices during the first week in July, the stipulation was not mailed out until July 11, 2006.

secret ballot election be conducted to determine employee choice. But an election is unnecessary in this case, and in fact, contrary to law.

N.J.A.C. 19:10-1.1 defines "showing of interest" in pertinent part providing:

. . . such designations shall consist of written authorization cards or petitions, signed and dated by employees normally within six months prior to the filing of the petition, authorizing an employee organization to represent such employees for the purpose of collective negotiations . . .

The Association's cards comply with the above rule; the language shows that the card signers authorized the Association to act as their collective bargaining agreement for terms and conditions of employment. The language on the card is not ambiguous. I can only conclude that based upon the card language and the employee signatures, that the employees were demonstrating their desire to be represented by the Association.

The Legislature has determined that a card check certification system is an appropriate method to determine a majority representative without an election, and the employee signatures on the cards submitted meets the intent of the statute and the rules. The Board's request for an election is, therefore, denied.

The Commission determines in each instance, the appropriate collective negotiations unit. N.J.S.A. 34:13A-6. State of New Jersey, 64 N.J. at 240. Here, the proposed negotiations unit of all aides is prima facie appropriate. The Board has not posed

any objection to the scope of the proposed unit. Accordingly, I find the following unit appropriate for collective negotiations:

Included: All regularly employed aides, including media, classroom and one-on-one aides, employed by the Mt. Ephraim Board of Education.

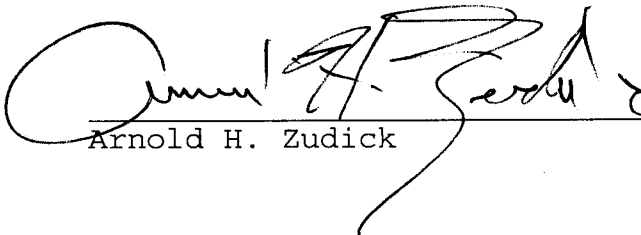
Excluded: Managerial executives, confidential employees, supervisors within the meaning of the Act; professional employees, craft employees, police, casual employees and all other employees employed by the Mt. Ephraim Board of Education.

The Association has met the requirements of the Act and is entitled to certification based upon its authorization cards from a majority of the unit employees. N.J.S.A. 34:13A-5.3.

ORDER

I certify the Mount Ephraim Paraprofessionals Association as the exclusive representative of the unit described above, based upon its authorization cards.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Arnold H. Zudick

Dated: August 18, 2006
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by August 28, 2006.