

P.D.D. No. 2007-1

STATE OF NEW JERSEY
BEFORE A DESIGNEE OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERLIN TOWNSHIP SCHOOL DISTRICT,

Public Employer,

-and-

Docket No. PD-2006-007

BERLIN TOWNSHIP EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

Berlin Township Education Association filed a petition for payroll deduction determination pursuant to N.J.S.A. 34:13A-5.5 and N.J.A.C. 19:19-2.2 requesting that the Commission order the Berlin Township School District to deduct a representation fee in lieu of dues from the salaries of employees who are not voluntary dues paying members of the majority representative. The Commission Designee found that the Association's petition met all of the requirements under the statute and rules and that the Association was entitled to a Commission order directing the District to institute the deduction of the representation fee.

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Appearances:

For the Public Employer,
Capehart & Scatchard, attorneys
(Joseph Betley, of counsel)

For the Petitioner,
Selikoff & Cohen, attorneys
(Carol H. Alling, of counsel)

DECISION

On June 26, 2006, the Berlin Township Education Association (Association) filed a Petition for Payroll Deduction Determination with the Public Employment Relations Commission (Commission) seeking an order directing the Berlin Township School District (Respondent) to deduct representation fees in lieu of dues from the salaries of non-member employees in a negotiations unit consisting of all certified, non-supervisory employees including classroom teachers, nurses, speech language specialists, guidance counselors and child study team members employed by the Respondent; but excluding managerial executives,

confidential employees, supervisory employees within the meaning of the PERC law; craft employees, non-professional employees, police employees, casual employees, support staff employees and all other employees such as substitute staff, including teachers, summer personnel. The petition was filed pursuant to N.J.S.A. 34:13A-5.5 and N.J.A.C. 19:19-2.2. Proper service was effected upon the Respondent. The law authorizes the Commission to conduct an investigation and to order a payroll deduction of representation fees in lieu of dues if a majority of employees in the negotiations unit are voluntary dues paying members of the majority representative and the majority representative maintains a demand and return system as required by N.J.S.A. 34:13A-5.6. The Association has filed documents in support of its claim that a majority of employees in the unit are voluntary dues paying members of the union and that it maintains the required demand and return system.

The Respondent had the opportunity to respond to the petition pursuant to N.J.A.C. 19:19-3.2(a), but did not file a written response. The Respondent did not dispute that the Association proposed instituting the collection of representation fees in lieu of dues for non-member unit employees but that no agreement had been reached at the time the instant petition had been filed.

The investigation has revealed the following:

1. The Respondent and the Association have negotiated concerning the subject of representation fees in lieu of dues, but no agreement has been reached regarding such payments.

2. The Association is the majority representative of a collective negotiations unit consisting of all certified, non-supervisory employees including classroom teachers, nurses, speech language specialists, guidance counselors and child study team members employed by the Respondent; but excluding managerial executives, confidential employees, supervisory employees within the meaning of the PERC law; craft employees, non-professional employees, police employees, casual employees, support staff employees and all other employees such as substitute staff, including teachers, summer personnel.

3. There is no material dispute regarding the list of dues paying members attached to the Association's petition.

4. There is no material dispute that the negotiations unit consists of 70 employees, of which 63 (90%) are currently voluntary dues paying members of the Association.

5. The Association maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6.

Consequently, having found that the Association has satisfied the conditions mandated in N.J.S.A. 34:13A-5.5 and N.J.A.C. 19:19-2.2, I find that it is entitled to the receipt of a representation fee in lieu of dues from unit employees who are not dues paying members of the Association, subject to compliance

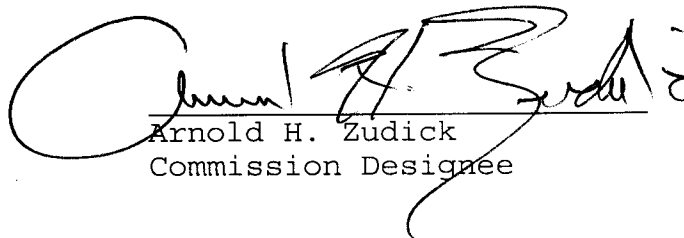
with the Public Employment Relations Commission Appeal Board rules, N.J.A.C. 19:17-1.1 to -4.5.

ORDER

Respondent is ORDERED to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the negotiations unit employees who are not members of the Association after being notified by the Association that it has complied with the requirements of N.J.A.C. 19:17-3.3 and -4.1.

The Respondent must post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice shall, after being signed by the Respondent's authorized representative, be posted immediately and maintained by it for at least sixty (60) consecutive days. Reasonable steps shall be taken to ensure that such notices are not altered, defaced, or covered by other materials.

Within twenty (20) days of receipt of this decision, notify the Commission Chairman of the steps the Respondent has taken to comply with this order.


Arnold H. Zudick
Commission Designee

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. 19:19-4.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:19-4.3.

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



NOTICE TO EMPLOYEES



PURSUANT TO AN ORDER OF THE PUBLIC EMPLOYMENT RELATIONS COMMISSION AND IN ORDER TO EFFECTUATE THE POLICIES OF THE NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT, AS AMENDED,

We hereby notify our employees that:

Pursuant to N.J.S.A. 34:13A-5.5, the Public Employment Relations Commission must order a public employer to institute a payroll deduction of a representation fee in lieu of dues from the wages or salaries of employees in a negotiations unit who are not members of the majority representative if a majority representative petitions the Commission to conduct an investigation and the investigation shows that a majority of negotiations unit employees are voluntary dues paying members of the majority representative and that the majority representative maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6.

On June 26, 2006, Berlin Township Education Association filed a Petition for Payroll Deduction Determination-Representation Fees. The Commission conducted an investigation and determined that a majority of employees in the unit consisting of all certified, non-supervisory employees including classroom teachers, nurses, speech language specialists, guidance counselors and child study team members are voluntary dues paying members of the Association and that the Association maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6. Accordingly, the Commission has ordered the public employer to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the negotiations unit employees who are not members of the Association after being notified by the Association that it has complied with the requirements of N.J.A.C. 19:17-3.3 and -4.1.

Docket No. PD-2006-007

Berlin Township School District
(Public Employer)

Date: _____

By: _____

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with the Public Employment Relations Commission, 495 West State Street, PO Box 429, Trenton, NJ 08625-0429 (609) 984-7372