

D.R. NO. 2019-11

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

In the Matter of

VINELAND PUBLIC LIBRARY,

Public Employer,

-and-

Docket No. RO-2019-032

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 210,

Petitioner.

Appearances:

For the Respondent,  
Medio Law Firm, attorneys  
(Jeffrey Medio, of counsel)

For the Petitioner,  
O'Brien Belland and Bushinsky, LLC, attorneys  
(David F. Watkins, of counsel)

**DECISION**

On November 21, 2018, and December 3, 2018, International Brotherhood of Electrical Workers Local 210 (IBEW) filed a representation petition and amended petition, accompanied by an adequate showing of interest, seeking to represent a collective negotiations unit of all employees of Vineland Public Library (Library), other than the Library Director and employees excluded by law. The petitioned-for unit is currently unrepresented for purposes of collective negotiations. No other employee organization has intervened. N.J.A.C. 19:11-2.7.

On December 3, 2018, the Library Director provided a list of employees meeting the proposed unit description, confirming the adequacy of IBEW's showing of interest. N.J.A.C. 19:11-2.1. On December 4, 2018, we sent a letter to the Library, with a copy to IBEW, scheduling an telephone investigatory conference for December 12, 2018. On December 4, 2018, the Library Director filed the requisite Certification of Posting and verified that no other employee organizations have claimed representation of the employees in the prior year. N.J.A.C. 19:11-2.4. Later that day, the appearance of newly-appointed counsel for the Library was entered. Counsel advised that the Board of Trustees (Board) of the Library would need to meet before any decisions or agreements could be made by the Library, and that the next Board meeting would be the rescheduled November meeting, which would occur on December 13, 2018.

On December 7, 2018, we sent a letter to the parties with an attached draft Agreement for Consent Election. The letter requested, by December 14, 2018, information as to whether the Board voted to have the Library voluntarily recognize IBEW as the majority representative; whether the Board signed the Agreement for Consent Election; or whether the Board objected to the unit description proposed in the Agreement for Consent Election. The letter further advised that any objections would need to be accompanied by a written position, with factual assertions

supported by certification, and that the failure to do so could result in an adverse decision. The letter also advised that in the absence of objections, a decision directing the election may be issued.

On December 12, 2018, the scheduled telephone conference was conducted. The parties, while not raising objections, advised of some confusion whether the Library or the City of Vineland was the public employer of the petitioned-for unit. As a result, a new telephone conference was scheduled for December 20, 2018, to give the parties time to take a position on the issue. We advised by letter on December 12, 2018, that if the Library had any objections, it would need to file and serve its written position by December 26, 2018. The letter reiterated that a failure to provide a certification for factual assertions could result in an adverse decision. The letter also advised that, in the absence of objections, an election may be directed.

On December 20, 2018, the assigned staff agent conducted another telephone conference. The Library advised that, later in the day, its Board would convene its regularly scheduled monthly meeting. The staff agent asked the Library to provide information by December 21, 2018, as to whether the Library voluntarily recognized IBEW as the majority representative or whether it signed the Agreement for Consent Election. The letter advised that the timelines set forth in our December 12, 2018,



letter pertaining to raising objections and disputed issues still applied.

On December 21, 2018, the Library advised that the Library and the City of Vineland concurred that the Library is the public employer of the petitioned-for employees. Inasmuch as this understanding was not reached until after the Board meeting, neither voluntary recognition nor the signing of the Agreement for Consent Election occurred. The Library proposed that a special meeting of the Board be called for January 10, 2019, to discuss voluntary recognition of IBEW as the majority representative or to appoint labor counsel to negotiate a voluntary recognition agreement.

On December 27, 2018, the time for objections passed, with no objections by either party filed. On that day, IBEW consented to postpone the processing of this matter to allow for the Library's proposed special Board meeting to discuss voluntary recognition. I authorized this postponement. Agency staff sent a letter to the Library advising that we received the consent from IBEW to postpone processing of the petition until a special meeting of the Board on January 10, 2019. The letter further advised that if there were any issues with scheduling that meeting, the Library should notify us as soon as possible. The letter also notified the parties that since no objections had

been raised, a decision regarding an election would issue in the absence of voluntary recognition.

On January 9, 2019, the Library informed us that it had not received a response from IBEW regarding the Library's December 21, 2018, proposal for a special meeting, and that, accordingly, no special meeting was scheduled and the voluntary recognition issue would be discussed at the next regularly scheduled Board meeting on January 24, 2019. We explained to the Library that our December 27, 2019, letter advised the Library of IBEW's acceptance of the proposal for a January 10, 2019, special meeting, that the postponement was authorized for that purpose, and that scheduling issues were to be brought to our attention as soon as possible. We further explained that, absent further authorized postponement, since no objections were previously raised, a decision regarding the election would issue.

Considering our policy to engender voluntary resolution of disputes, we granted the first postponement to provide the parties a chance for voluntary recognition, thereby permitting them flexibility in unit arrangements.<sup>1/</sup>

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<sup>1/</sup> Although the Commission will not issue certifications of the mixed units identified in N.J.A.C. 34:13A-6(d) in the absence of the exceptions contained therein, parties may agree to such units through voluntary recognition, which may not be unilaterally changed. Wood-Ridge Boro., P.E.R.C. No. 88-68 n.2, 14 NJPER 130 (¶19051 1988). Such units are valid due to the special circumstances exception until a subsequent Commission clarification and the expiration of  
(continued...)



Another Commission policy is to expedite the processing of representation petitions so that employees' statutory rights to select a representative may be addressed promptly. Monmouth County Prosecutor's Office, D.R. No. 2010-13, 41 NJPER 117 (¶42 2010). Due to the additional delay and the uncertainty of when voluntary recognition would occur, if at all, I have determined that the mere possibility of voluntary recognition must now give way to the employees' rights to select their representative promptly, and that further postponement is unwarranted.

We have conducted an administrative investigation to determine the facts. N.J.A.C. 19:11-2.2. The disposition of the petition is properly based upon our administrative investigation. No substantial or disputed material facts require us to convene an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6.

#### ANALYSIS

We have frequently directed elections in the absence of signed Agreements for Consent Election where no objections or arguments have been raised as to why an election should not be conducted. Monroe Tp. Public Library, D.R. No. 82-30, 8 NJPER 65 (¶13026 1981) (directing election where employer advised that it had no objection but declined to execute an Agreement for Consent

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1/ (...continued)  
the contract in place when the unit dispute arose, or a subsequent Commission certification. See Clearview Reg. H.S. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977), Bergen Pines Hospital, D.R. No. 80-20, 6 NJPER 61 (¶11034 1980).

Election); Galloway Tp., D.R. No. 2019-7, \_ NJPER \_ (¶ 2018) (directing election in the absence of new objections or a material and substantial factual dispute); Stone Harbor Boro., D.R. No. 89-5, 14 NJPER 625 (¶19261 1988) (directing election where employer refused to sign agreement yet raised no objection); Paterson Bd. of Ed., D.R. No. 88-12, 13 NJPER 793 (¶18301 1987) (directing election where employer "neither agreed nor objected to the conduct of an election" and "set forth neither facts nor arguments" that the petitioned-for unit was inappropriate); Winslow Tp., D.R. No. 87-24, 13 NJPER 208 (¶18087 1987) (directing election where employer raised no substantial dispute and advised that its regular policy was not to enter into an Agreement for Consent Election but to adhere to Commission rulings); Union City Housing Authority, D.R. No. 85-17, 11 NJPER 163 (¶16071 1985) (directing election where employer refused to consent but did not proffer any reason for its position).

The parties were given until December 26, 2018, to raise any objection. No party has done so. No substantial and material factual dispute regarding the petitioned-for and prima facie appropriate unit warrants an evidentiary hearing. An election will be ordered to resolve the question concerning representation.

Accordingly, I issue the following:

ORDER

A secret mail ballot election is directed among the employees in the following unit:

**Included:** All regularly employed professional employees and non-professional employees employed by the Vineland Public Library.

**Excluded:** Managerial executives, confidential employees, and supervisors within the meaning of the Act; craft employees, police, casual employees; Library Director; and all other employees employed by the Vineland Public Library.

An opportunity will be provided for the parties to agree on dates and hours of the election proceedings and the designations on the ballot. Absent agreement, I shall determine such arrangements. N.J.A.C. 19:11-5.1.

Professional employees shall vote on whether they wish to be included in a unit with non-professional employees. N.J.S.A. 34:13A-6(d). Professional employees and non-professional employees shall vote on whether they wish to be represented for purposes of collective negotiations by IBEW Local 210. If professional employees vote to be included in a unit with non-professional employees, then the ballots of the two voting units will be counted together as to the choice of whether the employees wish to be represented by IBEW Local 210, and if a

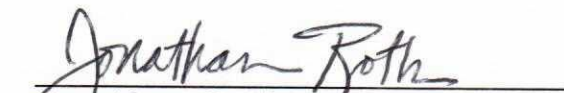


majority of the voting professional and non-professional employees vote to be represented for purposes of collective negotiations by IBEW Local 210, one certification will issue combining the professional and non-professional employees into a single negotiations unit.

If a majority of the professional employees do not vote for inclusion in a unit with non-professional employees, then the ballots of each voting unit will be counted separately as to their choice of employee representative, and a separate certification will issue for each voting unit in which a majority of the employees voted to be represented for purposes of collective negotiations by IBEW Local 210.

The election shall be conducted in accordance with the Commission's rules.

By Order of the  
Director of Representation

  
Jonathan Roth  
Director of Representation

DATED: January 14, 2019  
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.

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Any request for review is due by January 25, 2019.