

D.R. NO. 86-21

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

In the Matter of

WATCHUNG HILLS REGIONAL  
BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. RO-86-90

WATCHUNG HILLS REGIONAL  
EDUCATION ASSOCIATION,

Employee Organization.

Synopsis

The Director of Representation dismisses objections to an election because the Watchung Hills Regional Education Association failed to document allegations that the Board had interfered with the election by either offering to mail ballots for eligible voters or by inappropriately meeting with said voters.

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Appearances:

For the Public Employer  
Buttermore, Mullen and Jeremiah, Esqs.  
(William S. Jeremiah, of counsel)

For the Employee Organization  
New Jersey Education Association  
(John A. Thornton, Jr., UniServ Rep.)

DECISION

On January 29, 1986, the Watchung Hills Regional Education Association ("Association") and the Watchung Hills Regional Board of Education ("Board") signed an agreement consenting to a mail ballot election to determine whether a unit of custodial and maintenance employees desired the Association as its collective negotiations representation. On February 3, 1986, I approved the consent agreement. Ballots were to be mailed on February 12, 1986 and returned no later than 9 a.m., February 21, 1986. There were eleven eligible voters.

Six ballots were returned to the Commission by February 21, 1986. Consistent with the consent agreement they were tallied at 10 a.m.. Four votes were cast for the Association, two against. A Tally of Ballots was served on the parties.

On February 25, 1986, the Board filed exceptions contending that sufficient time was not provided for the return of the ballots. The Board submitted affidavits from four unit members indicating that their ballots had been mailed a reasonable time before the tally date (two of the ballots were postmarked February 18, 1986, one February 15, 1986 and one February 14, 1986). These four ballots were not received by February 21, 1986 and were not included in the tally.

On February 28, 1986, the Commission received a letter from the Association indicating that it agreed that the four ballots should be counted in the election. In its letter the Association also indicated that there were "inconsistencies in the process" and requested that it be permitted to file exceptions beyond the date that the ballots were retallied.

On February 28, 1986, Commission Administrator Charles Tadduni made a conference call to representatives of the parties and counted the ballots received after the first tally date. One vote was cast for the Association and three against. The revised tally was five votes for the Association and five against. On March 3, 1986, a revised Tally of Ballots was served on the parties, indicating that the Association did not receive a majority of the

valid ballots cast. The Association filed objections on March 7, 1986.

In its exceptions the Association alleges that "ballots were tainted because of interference by the [Board] in the process." The Association asserts that prior to the date for submission of the ballots the Board held a meeting with eligible voters and made inappropriate statements, "the most important of which was an invitation to leave ballots at the central office by the Superintendent which would be forwarded...to PERC." The Association also alleges that the Board made a number of inappropriate contacts with unit members during the election period.

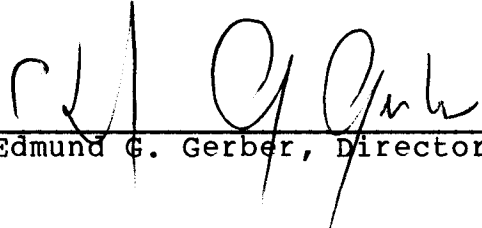
On March 11, 1986, I wrote a letter to the Association acknowledging receipt of its exceptions. I advised the Association of its obligation to submit sufficient evidence showing that conduct has occurred which would warrant setting aside the election as a matter of law. I also advised the Association that it bore the burden of proving the claimed irregularity of the election process.

On March 21, 1986, after receiving an extension, the Association filed two affidavits from unit members. The affiants state that: (1) They attended a meeting on February 12, 1986 that had been scheduled by the Board to discuss the election; (2) The Board's attorney taped the meeting and was the Board's spokesperson; (3) The Board's attorney advised unit members that their ballots had to be received by the Commission prior to the scheduled tally in

order to be counted; (4) One of the unit members asked why the deadline (to mail in ballots) was so short in light of the holidays; (5) Another custodian suggested that all ballots be mailed to PERC in one envelope; (6) The Board's attorney said that the Board would be happy to mail the ballots if the custodians wished to drop them off at the Board office (there is no evidence that any custodians did this); (7) The Board obtained affidavits from the four unit members who mailed the ballots that were not received by the Commission prior to the first tally.

I conclude that the Association has failed to show that the Board has interfered with a free and fair election. The Association did not document its allegation that the Board made inappropriate contact with eligible voters or that it interfered with the mailing of ballots. The Board's invitation to send the ballots to the Commission was not accepted by any unit members, and the Association has failed to show that by extending the invitation, the Board somehow interfered with the election process. Accordingly, I dismiss the Association's objections.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: April 30, 1986  
Trenton, New Jersey