

D.R. NO. 89-35

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

In the Matter of

SALEM COUNTY VOC-TECH  
BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-94

SALEM COUNTY VOC-TECH  
SUPPORT STAFF ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a petition for a unit of teachers' aides. The Director finds that certification of such a unit could lead to excessive fragmentation, but declines to find which unit is the most appropriate for the aides.

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

In the Matter of

SALEM COUNTY VOC-TECH  
BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-94

SALEM COUNTY VOC-TECH  
SUPPORT STAFF ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer  
Cassetta, Taylor & Whalen, Consultants  
(Gary M. Whalen, Consultant)

For the Petitioner  
Gene Battersby, NJEA Consultant

DECISION

On February 9, 1989, the Salem County Vocational Technical Support Staff Association ("Association") filed a Petition for Certification of Public Employee Representative (Docket No. RO-89-94), supported by an adequate showing of interest, with the Public Employment Relations Commission ("Commission"). The Association seeks to represent a unit composed of teacher's aides ("aides")<sup>1/</sup> employed by the Salem County Vocational Technical Schools Board of Education ("Board"). The Board does not consent to

---

<sup>1/</sup> The petition referred to the employees as "teacher's aides, a.k.a. support service persons."

a secret ballot election because it contends that a unit consisting solely of aides is inappropriate. It argues that the appropriate unit would include all non-certificated board employees.

On March 13, 1989, a Commission staff agent conducted an informal investigatory conference pursuant to N.J.A.C. 19:11-2.2 and 2.6 in order to determine the relevant facts. It appears that there are no substantial and material factual issues in dispute which may more appropriately be resolved through the conduct of a formal hearing. N.J.A.C. 19:11-2.6(b). Accordingly, the disposition of the petition is properly based on our administrative investigation. The following facts appear.

The Board employs administrators, supervisors, certificated support employees, classroom teachers, custodians, clericals and several types of aides. The classroom teachers are the only group that is currently represented in a collective negotiations unit. In 1981, an organization affiliated with the NJEA and having a name identical to the petitioner's name<sup>2/</sup> filed a Petition for Certification of Public Employee Representative seeking to represent all non-certificated Board employees (Docket No. R0-81-205). Neither party disputed the appropriateness of the proposed unit, but the Board challenged the eligibility of several employees and refused to consent to an election. Because the unit's scope was not in dispute, the Director of Representation stated that "...an

---

<sup>2/</sup> The Association argues that this earlier organization was a different entity than itself.

election will reflect the free choice of employees in what is hereby determined to be an appropriate unit." Salem Cty. Vo. Tech. School Bd. of Ed., D.R. No. 81-46, 7 NJPER 365, at 366 (¶12164 1981).<sup>3/</sup>

The Board contends that the broad-based unit of all non-certificated employees that was agreed to in 1981, is the most appropriate unit. It will not consent to an election for a unit of teachers' aides and proposes that the most appropriate unit should include clericals, custodians and aides. The unit proposed by the Board would be composed of approximately 16 clerical employees, 8 custodians and 27 aides. It cites the community of interest of the three employee groups, the common authority of the Board and Superintendent over them, and the potential unit proliferation that could result from certification of an aides' unit.

The Association contends that only 7 of the 20 employees whose votes were counted in the 1981 election for the broad-based support unit were aides and a majority of those aides were cafeteria aides. In the 1981 election, the employees eligible to vote were 8 clerical employees, 5 custodians and 7 aides. It states that the opening of the Salem Regional Day School resulted in the creation of classroom aide positions that did not exist in 1981. The list

---

<sup>3/</sup> The Director ordered an election and reserved decision on whether the disputed employees were eligible to vote in the election; the challenged employees were permitted to vote challenged ballots. The majority of valid ballots were cast against representation by the employee organization. Subsequent to the election, the parties agreed to void the five challenged ballots and a Certification of Results was issued on 10/6/81.

provided by the Board at the conference shows there are 27 aides now employed by the district. The Association contends that the increased employment of aides from 7 in 1981 to 27 in 1989 constitutes a substantial change in circumstances which renders the petitioned-for unit appropriate. It points to the sufficient showing of interest submitted with its petition as evidence of the aides' desire for representation and states that the aides have none of the benefits that are currently enjoyed by other non-certificated employees. The Association contends that denial of the petitioned-for unit would consign the aides to the status quo and deny them the bargaining rights provided by the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). The Association also contends that the aides have a greater community of interest with the existing unit of classroom teachers than they have with other support staff employees.

The New Jersey Supreme Court has affirmed the Commission's holding that broad-based, employer-wide units are appropriate for employee representation. Such units streamline negotiations by reducing the potential for such problems as "competing demands, whipsawing and continuous negotiations..." that result from bargaining with numerous small units. In re State of N.J. and Prof. Assn. of N.J. Bd. of Ed., 64 N.J. 231 (1974), aff'g P.E.R.C. No. 68, at 10. The Commission has held that broad-based units of school employees -- both units of all school support staff employees and units combining support staff and professional staff -- are

appropriate. Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984). In contrast to the many types of broad-based units found appropriate by the Commission, the unit proposed by the Association consists of a single class of employees.<sup>4/</sup>

The aides have never been represented. In 1981, the Association petitioned to represent a unit of all non-certificated employees. That broad-based unit of support staff employees was determined to be "...an appropriate unit..." by the Director of Representation. Salem Cty. Vo. Tech. School Bd. of Ed., D.R. No. 81-46, 7 NJPER 365 (¶12164 1981). Holding that the proposed unit of aides is appropriate would not only contradict the parties' 1981 agreement and the Director's determination, but it would encourage proliferation of small bargaining units. Only the district's teachers are organized. The Board could be faced with certification of additional single units of clerical, custodial and three types of supervisory employees. So many potential units in a three-school district would be excessive fragmentation. State of New Jersey.

The previous agreement of the parties, the Commission's preference for broad-based units and the proliferation that could

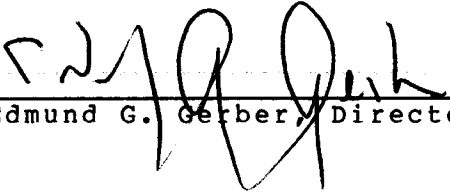
---

<sup>4/</sup> In certain circumstances, the Commission has found that a long established, stable history of negotiations in separate units favors preservation of single units over consolidated units. Englewood Bd. of Ed., P.E.R.C. No. 85-25, 7 NJPER 516 (¶12229 1981). The Commission has held that Englewood is not applicable where the petitioned-for employees are unrepresented and have no prior representation history. Piscataway, supra, 10 NJPER at 273, n. 5.

result from the certification of an aides unit in this education setting make the petitioned-for unit inappropriate.<sup>5/</sup>

Accordingly, the Petition for Certification of Public Employee Representative filed by the Association is dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: May 26, 1989  
Trenton, New Jersey

---

<sup>5/</sup> We do not determine here which unit is most appropriate, nor with which unit the aides have a greater community of interest.