

D.R. NO. 89-2

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

In the Matter of

CHATHAMS DISTRICT BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-88-97

ASSOCIATION OF CHATHAMS EDUCATIONAL SUPPORT,

Petitioner.

SYNOPSIS

The Director of Representation voids the ballots of five voters in an election among support staff who will be employed by the newly regionalized Chathams District Board of Education. He finds that the five voters did not meet the parties' agreed-upon eligibility criteria in that they had not been hired by the new regional Board.

Finding that seven remaining challenges do not potentially affect the outcome of the election, the Director certifies the results of the election.

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Appearances:

For the Public Employer
Vogel, Chait, Schwartz & Collins, Esqs.
(Laura Lande, of counsel)

For the Petitioner
Bucceri & Pincus, Esqs.
(Sheldon H. Pincus, of counsel)

DECISION

On May 31, 1988, a secret ballot election was conducted by the Public Employment Relations Commission ("Commission") among all support staff who will be employed by the Chathams District Board of Education ("Board"). Challenges asserted to the eligibility of certain voters are sufficient in number to affect the results of the election.

Pursuant to N.J.A.C. 19:11-9.1(k), we investigated the challenges. By letter dated June 2, 1988, all parties were invited to submit statements of position, together with documentary and

other evidence, relating to the challenged ballots. The Board filed a statement of position, with documentation, on June 13, 1988.

By letter dated June 28, we reviewed the facts concerning the challenges and indicated our intention to sustain the challenges with regard to five voters. The parties were afforded an additional opportunity to submit evidence supporting their respective positions concerning the challenges. No additional submissions were received and accordingly, we find the following:

In November, 1987, the Association filed a Petition seeking to represent all supportive staff who will be employed by the newly created Chathams District Board of Education. The new school district is a regionalization of two separate school districts, the Chatham Borough district and the Chatham Township district, and became operational in July 1988. Employees of the former Borough or Township school districts who were hired did not commence employment with the new Board until July 1, 1988.

On April 4, 1988, the parties signed a Consent Election Agreement which provided for an election among support staff employed by the Board as of July 1, 1988. The parties also executed a side-bar agreement providing that the list of eligible voters would include all individuals who have been offered employment in the new district, and reserving to either party the right to challenge individuals who had not yet accepted such an offer.

The Tally of Ballots of the Election shows that of 57 total votes cast in the election, 19 voted in favor of representation by

the Association and 26 voted against such representation. There were 12 challenged votes cast. Among the 12 challenged ballots, the investigation shows that the following five voters are not eligible to vote under the parties' agreed-upon criteria:

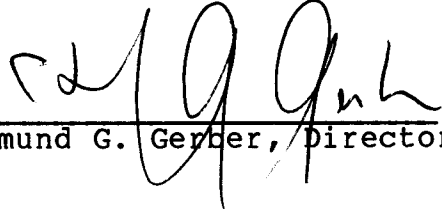
Gail Keegan was offered a secretarial position by the new district Board. She rejected that offer and will not be employed by the district for the coming school year. Therefore, Keegan is not eligible to vote. Walter Saunders, Joe Anton, John Risoli, and Michael Albertis were employed by the Township district as temporary custodians to fill vacant positions in the Township district for the remainder of the 1987-88 school year. Their employment contracts with the Township district show that they were employed for periods ranging from one to three months, all terminating on June 30, 1988. None of these custodians have been offered employment in the new district and therefore, are not eligible to vote in this election.

The five voters do not meet the voter eligibility criteria as set forth in the parties' Consent Agreement. Accordingly, their ballots are void.

There were 19 votes cast in favor of representation by ACES; 26 votes were against such representation. As the remaining seven challenged votes could not affect the outcome of the election,

it is unnecessary to determine their eligibility.^{1/} A majority of the eligible voters have not selected the Association of Chathams Educational Support as their exclusive representative. Pursuant to N.J.A.C. 19:11-9.1(k) and 9.2(1), a Certification of Results of the election is attached.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: July 12, 1988
Trenton, New Jersey

^{1/} Even assuming all seven of the remaining challenged votes were valid and were cast in favor of representation by the Association, the Association would not have received a majority of the valid votes cast. See N.J.A.C. 19:11-9.5; Evesham Tp. Bd. of Ed., D.R. No. 79-36, 5 NJPER 254 (¶10145 1979)