

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE ADMINISTRATOR OF REPRESENTATION PROCEEDINGS

In the Matter of

HUDSON COUNTY BOARD OF CHOSEN  
FREEHOLDERS,

Public Employer,

-and-

Docket No. RO-84-65

ASSOCIATION OF HUDSON COUNTY  
NURSING SUPERVISORS, a/w  
DISTRICT 1199J, NUHHCE, RWDSU/AFL-CIO,

Petitioner.

SYNOPSIS

The Administrator of Representation Proceedings directs an election among all nursing supervisors at Meadowview and Pollock Hospitals to ascertain whether they wish to be represented by the Association which is an affiliate of District 1199J, NUHHCE, RWDSU/AFL-CIO. Although an organization affiliated with District 1199J represents nonsupervisory nurses, the petitioning Association in this matter has provided a certification that it will maintain a separate structure, that its membership will consist solely of supervisors and that nonsupervisory employees will not have a role in contract negotiations or administration. The Administrator finds that the Petitioner's certification meets the requirements of In re City of Camden, P.E.R.C. No. 82-89, 8 NJPER 226 (¶ 13094 1982). The Administrator finds that the County's objections, which are based on the claim that the parent union's agents will control the activities of the Petitioner, are not supported by evidence raising substantial and material factual issues in dispute, and do not repudiate the normal presumption, when the requirements of Camden are present, that an election should proceed.

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Petitioner.

Appearances:

For the Public Employer  
Murray & Granello, attorneys  
(Robert T. Clarke of counsel)

For the Petitioner  
Rothard, Harris & Oxfeld, attorneys  
(Nancy Iris Oxfeld of counsel)

DECISION AND DIRECTION OF ELECTION

On January 10, 1984, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission ("Commission") by the Association of Hudson County Nursing Supervisors ("Association"), affiliated with District 1199J ("District 1199J"), National Union of Hospital and Health Care Employees ("NUHHCE"), RWDSU/AFL-CIO seeking to represent a negotiations unit of all full-time and regular part-time nursing supervisors

employed by the Hudson County Board of Chosen Freeholders ("County") at Meadowview Hospital and Pollock Hospital. There is no dispute as to the appropriateness of the unit; however, the County questions the propriety of permitting an organization affiliated with District 1199J to represent the supervisors in question and therefore it does not agree to an election.

In accordance with N.J.A.C. 19:11-2.6, the undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in this Petition.

Based upon the administrative investigation to date, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based on the administrative investigation herein, it appearing that no substantial material factual issues exist which may more appropriately be resolved after an evidentiary hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing, where as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The Hudson County Board of Chosen Freeholders is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

3. The Association of Hudson County Nursing Supervisors, affiliated with District 1199J, National Union of Hospital Health

Care Employees, RWDSU/AFL-CIO, is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Association seeks to represent a unit of all full-time and regular part-time nursing supervisors employed by the Hudson County Board of Chosen Freeholders at Meadowview Hospital and Pollack Hospital. <sup>1/</sup> The County declines to consent to a secret ballot election and challenges the right of the Association, as an affiliate of District 1199J, to represent nursing supervisors. Both the Association and the United Nurses Organization, which currently represents nonsupervisory nursing personnel at Meadowview and Pollack Hospitals, are affiliated with District 1199J. The County avers that in the event the Association is elected as the exclusive majority representative of the affected employees herein, both the Association and the United Nurses Organization will be controlled by District 1199J.

5. At an informal conference, convened among the parties on February 8, 1984, the Association was advised of its responsibility to constitute itself as a separate entity for the representation supervisory employees in the unit. N.J.S.A. 34:13A-5.3. In re City of Camden, D.R. No. 82-25, 8 NJPER 11 (¶ 13005 1981), aff'd P.E.R.C. No. 82-89, 8 NJPER 226 (¶ 13094 1982). On March 26, 1984, the Association, by way of a notarized affidavit (attached hereto), formally acknowledged its responsibility,

<sup>1/</sup> Currently, the unit might be represented by an organization known as the Hudson County Supervisors Association. A representative of the organization has been advised of the instant proceeding; however, a request for intervention has not been filed. Consequently, the Petitioner and the County are the only parties to this proceeding.

stated that it will limit organizational membership to supervisors, and further pledged that if certified by the Commission it will maintain a separate structure from the United Nurses Organization.

The issue placed before the undersigned is whether an election, under the standards developed in Camden, should be directed.

N.J.S.A. 34:13A-5.3 provides that unless exceptional circumstances are present, no supervisor may be represented by an employee organization that admits nonsupervisory personnel to membership. The County argues that in light of the statutory requirement, a formal hearing is necessary at this time to examine the structure of the Association and to assure that the statutory prohibition will not be violated. The County concludes, based upon its review of the NUHHCE house organ 1199 News, that the parent organization will act to restrict the independence of the local, and that there are material factual disputed issues at present involving the parent organization's control over its locals. In furtherance of its position, the County cites several examples of what it perceives to be improper control.

Ostensibly, the material submitted to the Commission by the County is designed to counter the presumption normally afforded under Camden:

The Director should require the Committee to certify that as it exists now, it has no members who are non-supervisory Camden police officers. This certification creates a presumption that the Committee is qualified to represent the unit

of superior officers. In the absence of information negating the accuracy of this certification or otherwise evidencing a present illegal organization structure, the petitioner will be qualified to participate in a Commission election. (footnote omitted)

However, the County's submission does not present "information negating the accuracy of [the] certification or otherwise evidencing a present illegal organizational structure."

Moreover, contrary to the County's assertion, the materials submitted do not support the statement that "The same 1199 officers and agents traditionally negotiate and administrate contracts for separate entities of supervisory and nonsupervisory personnel." <sup>2/</sup>

In Camden, supra, the Commission held:

If the Committee is able to comply with the above requirements, then an election would appear to be in order. We do not believe that speculation about how a validly organized entity might actually conduct itself if elected should delay representation proceedings. In the event that speculation of possible improper domination during contract negotiations and administration by non-supervisors becomes fact, then a satisfactory and sufficient remedy is at hand. The City may file an unfair practice charge. It may then test the legality of a representative's actual conduct. See, In re Town of Kearny, supra.

The petitioner herein has acknowledged its responsibility to create a separate organizational entity for the representation of nursing supervisors with the attendant safeguards. Accordingly,

<sup>2/</sup> Assuming for present purposes that such is the case in some of the bargaining relationships described by the 1199 News, the County has not submitted materials to show that the activities of the 1199 representatives were found illegal under the particular jurisdictions involved.

the County's objection are premature for consideration herein.

Therefore, the undersigned finds that the appropriate unit for collective negotiations is: all full-time and regular part-time nursing supervisors employed by the County of Hudson at Meadowview Hospital and Pollock Hospital, excluding guards, managerial employees, confidential employees, craft employees, police within the meaning of the Act, and all other employees.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that the election shall be conducted by mail ballot. The election shall be commenced no later than thirty (30) days from the date set forth below.

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

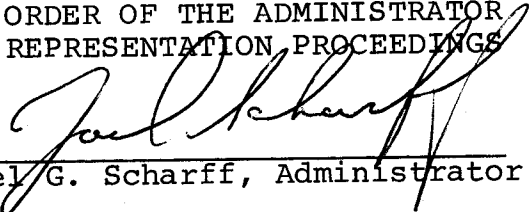
Pursuant to N.J.A.C., 19:11-9.6, the County is directed to file with the undersigned and with the Association of Hudson County Nursing Supervisors, affiliated with District 1199J, an eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten

(10) days prior to the date established for ballot issuance. A copy of the eligibility list shall be simultaneously filed with the Association with statements of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether they wish to be represented for the purposes of collective negotiations by the Association of Hudson County Nursing Supervisors, affiliated with District 1199J, NUHHCE, RWDSU/AFL-CIO.

The exclusive representative, if any shall be determined by the majority of valid ballots cast by the employees voting in the election. The election shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE ADMINISTRATOR  
OF REPRESENTATION PROCEEDINGS

  
Joel G. Scharff, Administrator

DATED: May 2, 1984  
Trenton, New Jersey



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ATTORNEYS FOR PETITIONER

BEFORE THE PUBLIC EMPLOYMENT  
RELATIONS COMMISSION

Docket Nos. R0-84-35 &  
R0-84-65

HUDSON COUNTY BOARD OF  
FREEHOLDERS

and-

HUDSON COUNTY NURSING SUPERVISORS  
ASSOCIATION,  
a/w DISTRICT 1199J, NUHHC,  
RWDSU/AFL-CIO

AFFIDAVIT

Al Evanoff, of full age being dully sworn upon his oath  
hereby says:

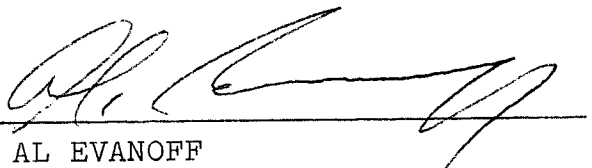
1. I am the Secretary-Treasurer of District 1199J of  
the National Union of Hospital and Health Care Employees, a  
division of RWDSU/AFL-CIO.
2. In that capacity I have been involved in organizing  
the Hudson County Nursing Supervisors Association, an organiza-  
tion seeking to represent all full-time and regular part-time  
nursing supervisors employed at Meadowview Hospital and Pollack  
Hospitals. District 1199J also represents non-supervisory  
nurses.
3. I am well aware of the restrictions placed upon an  
orgaization which seeks to represent both supervisory and  
non-supervisory employees of a public employer and District  
1199J fully intends to comply with all those requirements. The

Hudson County Nursing Supervisors Association will not admit non-supervisory employees to membership. There will be no non-supervisory members of the Hudson County Nursing Supervisors Association.

4. In addition, if the Hudson County Nursing Supervisors Association is elected to represent the nursing supervisors, the Nursing Supervisors Association will control the negotiations and administration of contracts concerning the employees it represents. Non-supervisory employees of Meadowview and Pollack Hospitals will have no role whatsoever in either negotiations or administration of contracts for the Hudson County Nursing Supervisors Association.

5. I would like to add that we strongly resent the implication that 1199 should be presumed to act illegally. After all, if one reads the Newark Star Ledger, one could also presume that no one in Hudson County in an administrative position would ever act consistently with the law. We bring the same resentment to the County's predetermination that 1199 must be presumed to act illegally as we are sure county officials would bring to any resentment that they should be presumed to always act illegally.

**ARLENE M. THOMAS**  
**NOTARY PUBLIC OF NEW JERSEY**  
**My Commission Expires Nov. 7, 1987**

  
AL EVANOFF

Sworn and subscribed to  
before me this 26 day of ~~Nov~~ Dec 1984.

