

D.R. NO. 96-9

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

In the Matter of

CINNAMINSON TOWNSHIP BOARD
OF EDUCATION,

Public Employer,

-and-

Docket No. RO-96-42

CINNAMINSON SCHOOL ADMINISTRATORS
ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation orders an election, pursuant to a representation petition, to determine whether two unrepresented school administrators wish to be represented in the existing administrators unit. The Director rejected the Board's arguments that a clarification of unit petition was more appropriate and that the Administrators' Association had waived its right to file the petition.

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Appearances:

For the Public Employer,
Schwartz, Simon, Edelstein, Celso & Kessler, attorneys
(Nathanya G. Simon, of counsel)

For the Petitioner,
Lake & Schwartz, attorneys
(Robert M. Schwartz, of counsel)

DECISION AND DIRECTION OF ELECTION

On October 13, 1995, the Cinnaminson Association of School Administrators filed a Representation Petition with the Public Employment Relations Commission seeking to add the athletic director and administrative assistant employed by the Cinnaminson Board of Education to its existing unit of principals and vice principals. The Board opposes the petition and refuses to consent to a secret ballot election.

The Board and Association are parties to a series of collective negotiations agreements, the most recent of which is effective from July 1, 1994 to June 30, 1996. The recognition clause indicates that the Association represents the high school and middle school principals and vice principals, and elementary school principals employed by the Board. No other titles are included.

The Board asserts that the petition is inappropriate to accrete positions into the unit, that the correct petition is a clarification of unit petition; that the petition is untimely and that the Association has waived its right to add these positions to the unit.

A unit clarification petition cannot be used to enlarge the scope of a unit. The only correct petition for this purpose is a representation petition. Since the athletic director and administrative assistant were not historically part of the Association's unit, the representation petition is the correct petition to enlarge that unit to include them. See Clearview Reg. H.S. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977).

The parties' most recent collective negotiations agreement was effective on July 1, 1994 and expires on June 30, 1996. Under this agreement, the open period for filing timely representation petitions for school board employees was from September 1, 1995 to October 16, 1995, inclusive. The petition was filed within this open period, on October 13, 1995. The petition is timely filed.

Finally, the Board argues that the Association has waived its right to file this petition. The Board created the administrative assistant on July 1, 1993, and the athletic director on September 1, 1994. The Board argues that the Association should have acted to add these positions when they were created and cannot now seek to clarify them into the unit because it has waived its right. However, the petition is not a clarification petition and the Board's waiver argument does not apply to representation petitions.

The cases cited by the Board, Bergen Pines Hospital, D.R. No. 80-20, 6 NJPER 61 (¶11034 1980); Wayne Bd. of Ed., 6 NJPER 54 (¶11028 1980); City of South Amboy, D.R. No. 95-15, 21 NJPER 48 (¶26032 1994); and Lacey Tp. Bd. of Ed., D.R. No. 89-12, 15 NJPER 106 (¶20051 1989) are inapplicable since they all dealt with clarification of unit petitions. This matter is a representation petition.

Based on the above, I direct that a mail ballot election be conducted herein to determine whether or not the athletic director and administrative assistant wish to be represented in collective negotiations by the Cinnaminson School Administrators' Association in its existing unit of principals and vice principals. The athletic director and administrative assistant will vote on whether they wish to be represented for collective negotiations by the Cinnaminson School Administrators Association.

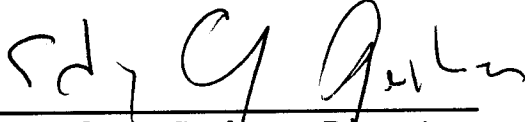
The election shall be conducted no later than thirty (30)

days from the date of this decision. Those eligible to vote must have been employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation or temporarily laid off, including those in the 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. 19:11-10.1, the public employer is directed to file with us an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the units, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously provided to the employee organization with a statement of service filed with us. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: February 22, 1996
Trenton, New Jersey