

E.D. NO. 18

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN BOARD OF EDUCATION

Public Employer

and

COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO

Petitioner

and

Docket No. RO-13

CAMDEN MAINTENANCE EMPLOYEES ASSOCIATION

Intervenor

and

CAMDEN JANITORS ASSOCIATION

Intervenor

DECISION AND DIRECTION OF ELECTION

Pursuant to a Notice of Hearing, to resolve a question concerning the representation of certain employees of the Board of Education of the City of Camden, dated March 30, 1970, and a subsequent Order Rescheduling Hearing dated April 13, 1970, a hearing was held on May 7, 1970 before Hearing Officer Jeffrey B. Tener at which all parties were given an opportunity to examine and cross-examine witnesses, present evidence and to argue orally. Thereafter, on August 19, 1970, the Hearing Officer issued his Report and Recommendations. No exceptions have been filed to that report. The Executive Director has considered the record, the Hearing Officer's Report and Recommendations, and on the basis of the facts in this case finds:

1. The Camden Board of Education is a Public Employer within the meaning of the Act and is subject to the provisions of the Act.
2. The Communications Workers of America, AFL-CIO, the Camden Maintenance Employees Association, and the Camden Janitors Association are employee representatives within the meaning of the Act.
3. The Public Employer having refused to recognize Petitioner as the exclusive representative of certain employees, a question concerning the representation of public employees exists and the matter is appropriately before the Executive Director for determination.
4. In the absence of Exceptions to the Hearing Officer's Report and Recommendations, attached hereto, and made a part hereof, the Executive Director adopts the Hearing Officer's findings and recommendations except as modified herein.
5. The Executive Director finds that the Petitioner filed a timely petition under provisions of Section 19:11-15(d) of the Commission's Rules and Regulations.
6. The Executive Director directs that secret ballot elections shall be held within the following voting groups.

Group I - all craft employees of the Board of Education of the City of Camden including mechanics, mechanics helpers and laborers, but excluding all non-craft employees, managerial executives, professional employees, police and supervisors within the meaning of the Act.

Group II - all maintenance employees of the Board of Education of the City of Camden, excluding all craft employees, managerial executives, professional employees, police, and supervisors within the meaning of the Act.

Employees in Group I shall vote as to whether or not they wish to be represented by the Camden Maintenance Employees Association, the Communications Workers of America or neither. In the event that the employees cast a majority of valid ballots for the Camden Maintenance Employees Association, they will have indicated their desire to constitute a separate negotiating unit and an appropriate certification will issue. If they cast a majority of valid ballots for either the Communications Workers of America or neither, then their votes as to whether or not they wish to be included within the unit of non-craft employees of the City of Camden Board of Education (Voting Group II) shall be counted.

Employees in Voting Group II shall vote as to whether they wish to be represented by the Communications Workers of America, AFL-CIO, the Camden Janitors Association, or neither.

If the employees in Voting Group I choose to be included within the unit of non craft employees (Voting Group II) then their ballots shall be pooled with and counted with the ballots cast by employees in Voting Group II.

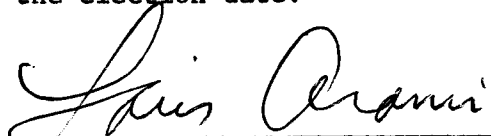
If the votes are pooled, the ballots cast for the Communications Workers of America and for neither, shall be counted at face value; ballots cast for the Camden Maintenance Employees Association shall be counted as valid votes cast, but neither for nor against the employee organizations seeking to represent the combined unit (Voting Groups I and II), and an appropriate certification shall issue.

If the employees in Voting Group I do not choose to be included with the non-craft employees, (Voting Group II) then the ballots of

each Voting Group shall be separately tallied and an appropriate certification shall be issued for each group.

7. The elections herein directed shall be conducted no later than thirty (30) days from the date set forth below, and shall comply with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

Eligible to vote are employees listed in the voting groups set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.



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Louis Aronin  
Executive Director

DATED:       September 17, 1970  
              Trenton, New Jersey

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Appearances:

For the Camden Board of Education

Metzler Associates

By Robert E. Murray, Esq.

For the Communications Workers of America, AFL-CIO

Edward Schultz

For the Camden Maintenance Employees Association

Thomas Trotter

For the Camden Janitors Association

Frederick Holman

REPORT AND RECOMMENDATIONS OF HEARING OFFICER

A petition for certification was filed with the Public Employment Relations Commission by the Communications Workers of America, AFL-CIO (CWA) on September 25, 1969. Pursuant to a Notice of Hearing dated March 30, 1970 and a subsequent Order Rescheduling Hearing dated April 13, 1970, a hearing was held before the undersigned Hearing Officer on May 7, 1970, in Camden, New Jersey at which all parties were given an opportunity to examine and cross-examine witnesses, to present evidence, and to argue orally. Briefs were submitted by the Public Employer and the Petitioner

May 29, 1970. Upon the entire record in this proceeding the Hearing Officer finds:

1. The Camden Board of Education is a Public Employer within the meaning of the Act and is subject to the provisions of the Act.
2. The Communications Workers of America, AFL-CIO, the Camden Maintenance Employees Association, and the Camden Janitors Association are employee representatives within the meaning of the Act.
3. The Public Employer having refused to recognize Petitioner as the exclusive representative of certain employees, a question concerning the representation of public employees exists and the matter is appropriately before the undersigned for Report and Recommendations.

The parties stipulated that the occupants of certain job titles - namely mechanics, mechanics helpers, and laborers - are craft employees. They further stipulated that the titles of foreman, stock foreman, supervisor of the maintenance force, supervisor of the custodial force, and supervisory clerk in the supply department are supervisory titles within the meaning of the Act.

Additionally, there is agreement that the two contracts between the Board of Education and the Maintenance Employees Association and between the Board of Education and the Janitors Association do act as a bar to any elections during their terms. Both of these contracts were entered into January 22, 1969 and covered the period between July 1, 1969 and June 30, 1970.

The only issue in dispute is whether or not subsequent agreements between the Board and the two above-named associations, which were negotiated in accordance with identical provisions regarding negotiations of successor agreements, act as bars to any elections during their terms which run from July 1, 1970 to June 30, 1971.

The Public Employer contends that the contracts covering the period between July 1, 1970 and June 30, 1971 act as bars to any elections during their terms. This position is based upon two things. First, the Public Employer did nothing more than honor his contractual and statutory obligations by conducting negotiations and reaching agreements on successor contracts with the two associations as provided in the articles of the two contracts entitled "Negotiations Procedure". The Public Employer denies that the filing of a petition by CWA relieved him of his contractual commitment to negotiate a successor agreement. Secondly, the position of the Public Employer is based on Section 19:11-15(c) of the Rules and Regulations of the Commission. This section provides that:

No election shall be conducted within 12 months after the effective date of an agreement provided such agreement is for a period of 12 months or more.

Thus, the Public Employer argues that he did nothing more than honor his contractual obligation in negotiating a successor agreement and that, having done so, that successor agreement became a bar to the holding of an election during its term.

The position of Petitioner, on the other hand, is that he filed a timely petition with reference to Section 19:11-15(d) of the Commission's Rules and Regulations. He is, therefore, entitled to an election at the expiration of the contract with reference to which his petition was timely assuming, as here, that the unit or units are appropriate.

The undersigned agrees with the position of Petitioner. To find otherwise would deny Petitioner an election not only during the term of the 1969-1970 agreement - all parties and the undersigned agree that no election could have been conducted during this period - but

during the term of a successor agreement as well. In fact, this situation could extend ad infinitum. The 1970-1971 contracts between the Board and the two associations contain provisions calling for negotiations of successor agreements. All that would be necessary to deny Petitioner an election any year would be for the Public Employer and the Intervenors in this case to conclude new agreements each year.

Section 19:11-15 of the Rules on Timeliness of Petitions is designed to provide a degree of stability to the parties and to permit the parties a reasonable opportunity to negotiate. However, paragraph (d) of that Section makes clear that the intent of the Commission is not to perpetuate a negotiating relationship indefinitely. That paragraph clearly sets forth conditions for the timely filing of petitions during the terms of existing contracts. These conditions were satisfied in this case. To deny an election on the basis of paragraph (c) with reference to a successor agreement would strip paragraph (d) of all meaning and effect.

#### RECOMMENDATIONS

It is recommended that elections be directed among the craft (mechanics, mechanics helpers, and laborers) and noncraft employees of the Public Employer. Supervisory employees in the following titles would be ineligible: foreman, stock foreman, supervisor of the maintenance force, supervisor of the custodial force, and supervisory clerk in the supply department. The craft employees, in accordance with statutory provisions, must be accorded an opportunity to have separate representation if they desire. This can be accomplished by permitting craft employees to vote on the following question: Do you wish to be represented for purposes of collective



negotiations by:

COMMUNICATIONS WORKERS  
OF AMERICA, AFL-CIO

NEITHER

CAMDEN MAINTENANCE  
EMPLOYEES ASSOCIATION

A vote for CWA would be interpreted to indicate a desire for inclusion with noncraft employees. If a majority of those voting vote for CWA, the ballots would be combined with those of noncraft employees. A vote for the Maintenance Employees Association would be interpreted to indicate a desire to remain in a separate craft unit. Noncraft employees would vote on the following question: Do you wish to be represented for purposes of collective negotiations by:


COMMUNICATIONS WORKERS  
OF AMERICA, AFL-CIO

NEITHER

CAMDEN JANITORS  
ASSOCIATION

Appropriate certification or certifications would issue.

The elections should be in accordance with the Rules and Regulations of the Public Employment Relations Commission.

  
Jeffrey B. Tener  
Hearing Officer

DATED: August 19, 1970  
Trenton, New Jersey