

D.R. NO. 96-4

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

In the Matter of

GLEN RIDGE BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. CU-95-15

GLEN RIDGE EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation orders the After School Child Care Program Aide employed by the Glen Ridge Board of Education clarified into the broad-based negotiations unit represented by the Glen Ridge Education Association, NJEA. The Aide was created within the contract term following the Board's voluntary recognition of all instructional aides. The Director declines to clarify the After School Child Care Program Coordinator into the Association's unit. The Director finds that this position had existed for several years and, therefore, a unit clarification petition is inappropriate.

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Appearances:

For the Public Employer
Sills, Cummis, Zuckerman, Radin, Tischman, Epstein & Gross,
attorneys
(Mark J. Blunda, of counsel)

For the Petitioner
Balk, Oxfeld, Mandell & Cohen, attorneys
(Sanford R. Oxfeld, of counsel)

DECISION

On September 23, 1994, the Glen Ridge Education Association, NJEA, filed a Clarification of Unit Petition seeking to have the After School Child Care Program Coordinator and After School Child Care Program Aide clarified into its broad-based unit of employees employed by the Glen Ridge Board of Education. The Board refuses to consent to the placement of these positions in the Association unit; it alleges the petition is inappropriate and that the Association waived its right to have these positions included via a clarification petition when it failed to raise this issue before signing the most recent agreement. The Board also asserts that the after school program positions do not share a community of

interest with other negotiations unit positions because the after school program's funding source, hours and duties are different from those of the employees presently in the unit.

We have conducted an administrative investigation into this matter. N.J.A.C. 19:11-2.6.^{1/} The following facts appear.

The Glen Ridge Board of Education is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and is the employer of the employees in the disputed positions.

The Glen Ridge Education Association is the majority representative of a unit comprised of instructional and clerical aides, professional staff, secretarial staff and the audio-visual technician employed by the Board.

The Board and Association have negotiated a series of agreements, the most recent of which covers the period from July 1, 1994 to June 30, 1996; that agreement was executed on December 5, 1994. The Board voluntarily recognized the Association, mid-contract, as the statutory majority representative of the instructional and clerical aides on September 14, 1993. Through that recognition, the instructional and clerical aides were added to the existing professional/support staff unit.

^{1/} On August 1, 1995, we informed the parties of our tentative findings. The Association requested an extension of time until September 1, 1995, to respond. The Association responded on September 12, 1995.

The After School Child Care Program Coordinator, Eileen Deithorn-Kahl, was hired on February 13, 1989 and the After School Child Care Program Aide, Margaret Caprigliano, was hired on February 5, 1990.

The After School Child Care Program at Glen Ridge is a community sponsored program; funding levels are dependent upon tuition payments, paid by the recipients of the services. The employees hired to work for the program are not subject to State-mandated evaluations; they work different hours than unit employees and perform different duties.

* * * * *

A clarification petition may be used to add newly created titles to negotiations units or make changes in a unit structure when circumstances surrounding existing titles change. Clarification of unit petitions are inappropriate where the titles at issue existed prior to the signing of a successor collective negotiations agreement and where there are no changes in the titles due to a reorganization or the addition of new duties. Clearview Reg. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977).

The position of After School Child Care Program Coordinator existed long before the signing (in December 1994) of a successor agreement to the one which expired on June 30, 1994. No facts were elicited which indicate changed circumstances or a reorganization.

Accordingly, I decline to add the After School Child Care Program Coordinator to the existing unit.^{2/}

The After School Child Care Program Aide position was created and filled in September 1990. The instructional and clerical aides were added to the existing broad-based unit in September 1993, in the middle of a contract covering the period from July 1, 1992 to June 30, 1994. A successor contract covering this unit was not signed until December 1994. The instant clarification of unit petition was filed in September 1994.

Accordingly, the petition is timely as to the After School Child Care Program Aide since the July 1994 - June 1996 contract (executed in December 1994) is the first one which covers a unit in which this position could arguably be included; therefore, the 1994-96 contract is not a successor contract as to this employee.

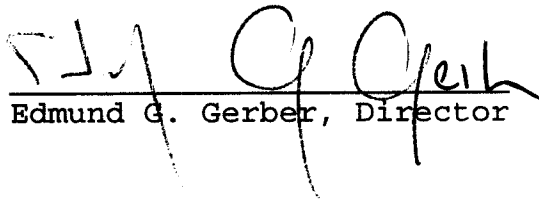
The Board's argument that these positions do not share the requisite community of interest with the rest of the unit is not persuasive. Both the After School Child Care Program Aide and the employees presently in the broad-based unit are public employees within the meaning of the Act. The Board has control of their hiring, firing and terms and conditions of employment, despite the existence of funding sources, hours of work and working conditions which differ from those of the other unit employees. The long-standing policy articulated in our cases and approved by this

^{2/} We would process a timely representation petition concerning this position.

Commission and the Courts favors negotiations units that are structurally broad-based and employer-wide in scope and disfavors narrow, program-specific units. Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984).

Accordingly, the mixed, professional/support staff unit represented by the Glen Ridge Education Association is clarified to include the After School Child Care Program Aide. The petition is dismissed as to the After School Child Care Program Coordinator.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: September 27, 1995
Trenton, New Jersey