

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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In the Matter of	:	
	:	
MAPLEWOOD MEMORIAL LIBRARY,	:	
	:	
Public Employer.	:	
-and-	:	
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO,	:	Docket No. RO-76-28
	:	
Petitioner,	:	
-and-	:	
MAPLEWOOD LIBRARY STAFF ASSOCIATION,	:	
	:	
Intervenor.	:	

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SYNOPSIS

The Executive Director determines that challenges to six ballots should be upheld in the absence of substantial and material factual disputes regarding these ballots. The six employees were all part-time hourly or temporary employees and the Agreement for Consent Election specifically excludes temporary hourly employees from the voting unit. The six challenged ballots having been declared void, the professional employees having voted to be included in the unit with non-professional employees, and the Petitioner having received a majority of valid ballots, the Petitioner is certified as the majority representative of the professional and non-professional full and part-time permanent employees of the Public Employer.

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DECISION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to an Agreement for Consent Election, approved by the undersigned on November 20, 1975, a representation election was held December 5, 1975 under the supervision of Election Officer Susan L. Wood among employees of the Maplewood Memorial Library in the following voting units as set forth in the Agreement for Consent Election:

"VOTING UNIT 1: All certified Librarians employed by the Board of Library Trustees, Township of Maplewood; Excluded: All non-certified and clerical employees, non-professional employees, managerial executives, and supervisors within the meaning of the Act, Assistant Director, Assistant to the Director, temporary hourly employees.

"VOTING UNIT 2: All non-professional, full-time permanent employees, and part-time permanent employees employed by the Board of Library Trustees; Excluded: Professionals, Assistant Director, Assistant to the Director, managerial executives, temporary hourly employees, confidential employees, and supervisors within the meaning of the Act."

Employees in Voting Unit 1 cast ballots on whether or not they desired to be included in a negotiating unit with non-professional employees (the so-called "professional option") and on a choice of employee representative from among the Communications Workers of America, AFL-CIO, the Maplewood Library Staff Association or Neither.

Employees in Voting Unit 2 cast ballots solely for a choice of employee representative.

The tally of ballots for the "professional option" reveals 6 votes cast for inclusion in a unit with non-professionals, 1 vote against inclusion, and no challenged or void ballots.

The tally of ballots for choices of employee representative reveals that out of approximately 21 eligible voters, 13 votes were cast for the Communications Workers of America, AFL-CIO, 8 votes were cast for the Maplewood Library Staff Association, no votes were cast against participating employee representatives, there were no void ballots and there were 6 challenged ballots. A majority of the valid votes counted plus challenged ballots was not cast for any of the choices on the ballot.

As the challenges were sufficient in number to affect the outcome of the election, the undersigned, pursuant to the Agreement for Consent Election and Section 19:11-2.4(h) of the Commission's Rules, commenced an administrative investigation of the challenges.

By letter dated January 21, 1976, the parties were advised of the foregoing facts as well as the following factual findings of the administrative investigation through January 21, 1976:

"1. The names of the six employees who cast challenged ballots did not appear on the election eligibility list and were thus challenged by the Commission's agent in accordance with the Commission's established election procedures.

"2. The six employees who cast challenged ballots all appear to be employed as temporary or part-time hourly workers according to the stubs on the challenged ballot envelopes.

"3. Temporary hourly employees are explicitly excluded from both voting units set forth in the Agreement for Consent Election as approved by the undersigned."<sup>1/</sup>

<sup>1/</sup> While employees who are clearly or expressly not included within the appropriate unit (as agreed upon by the parties and/or as determined by the Commission) do not ordinarily cast ballots in the election, election agents of the Commission do provide an opportunity for such individuals to vote a challenged ballot. This procedure, inter alia, minimizes confusion at the polling place.

In addition, the January 21, 1976, letter solicited documentary and other evidence, including statements of position, raising substantial and material factual issues relating to the disposition of the challenged ballots, and indicated that in the absence of such evidence the undersigned was inclined to void the challenged ballots.

The Intervenor responded as follows:

"Kindly be advised that the Staff Association of the Maplewood Memorial Library does not plan to challenge further the decision of the Public Employment Relations Commission regarding the Consent Election covered by Docket No. RO-76-28."

The Public Employer's representative wrote:

"At the time I signed the agreement for the consent election, Mr. Bernard Manney of your staff explained that the part-time workers excluded from the consent agreement could come and cast challenge ballots, if they wished to do so. I think it is significant that six of eight of them chose to do so.

"These people have worked for the library for a number of years and have a great commitment to it. They are members of the Maplewood Library Staff Association, and their wages were negotiated by the Staff Association in 1974 and were under negotiation in 1975 when the C.W.A. challenge put a stop to negotiations. They are vital to the smooth operation of the Library, and I predict that splitting the hourly workers off from their co-workers will be harmful to the morale of the whole staff.

"For these reasons, I refused to agree to disqualifying the challenge ballots at the end of the election on December 5th. I believe it is the responsibility of P.E.R.C. to make the decision, one way or the other, not mine."

No response was received from the Petitioner.

The undersigned is of the opinion that the above responses do not raise substantial and material factual issues regarding the disposition of the challenged ballots.

Accordingly, the undersigned finds:

- (1) The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after a hearing. Pursuant to N.J.A.C. 19:11-2.4(i), the issuance of a notice of hearing would not be appropriate where, as here, no substantial and material factual issues have been placed in dispute by the parties.
- (2) The names of the six employees who cast challenged ballots did not appear on the election eligibility list and were thus challenged by the Commission's agent in accordance with the Commission's established election procedures.

- (3) The six employees who cast challenged ballots all appear to be employed as temporary or part-time hourly workers according to the stubs on the challenged ballot envelopes.
- (4) Temporary hourly employees are explicitly excluded from both voting units set forth in the Agreement for Consent Election as approved by the undersigned.

Based upon the foregoing, the undersigned declares the six (6) challenged ballots cast by the temporary hourly workers to be void. Accordingly, an Amended Tally of Ballots is attached hereto.

The professional employees having voted for inclusion in the negotiating unit with non-professional employees and a majority of professional and non-professional employees having voted to be represented by the Petitioner, the Petitioner will be certified in the overall appropriate unit described below.


#### CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the undersigned, in accordance with the New Jersey Employer-Employee Relations Act, as amended, and Chapter 11 of the Commission's Rules and Regulations; and it appearing from the Amended Tally of Ballots that an exclusive representative for collective negotiation has been selected:

Pursuant to the Authority vested in the undersigned, IT IS HEREBY CERTIFIED that Communications Workers of America, AFL-CIO has been designated and selected by a majority of the employees of the Maplewood Memorial Library in the unit of all professional and non-professional full and part-time permanent employees employed by the Board of Library Trustees, Township of Maplewood and excluding Assistant Director, Assistant to the Director, temporary hourly employees, managerial executives, police, confidential employees, craft employees and supervisors within the meaning of the Act, as their representative for the purposes of collective negotiations, and that pursuant to

the New Jersey Employer-Employee Relations Act, as amended, the said representative is the exclusive representative of all the employees in such unit for the purposes of collective negotiations with respect to terms and conditions of employment. Pursuant to the Act, the said representative shall be responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership; the said representative and the above-named Public Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment; when an agreement is reached it shall be embodied in writing and signed by the parties; and written policies setting forth grievance procedures shall be negotiated and shall be included in any agreement.

BY ORDER OF THE EXECUTIVE DIRECTOR

  
\_\_\_\_\_  
Jeffrey B. Tener  
Executive Director

Attachment

DATED: Trenton, New Jersey  
February 24, 1976

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of  
Maplewood Memorial Library,  
Public Employer,  
-and-  
Communications Workers of America,  
Petitioner,  
-and-  
Maplewood Library Staff Association,  
Intervenor.

Docket No. RO-76-28

Date Issued \_\_\_\_\_

Type of Election: (Check one)

Consent Agreement

Commission Direction

ED Direction

Amended TALLY OF BALLOTS

The undersigned agent of the Executive Director certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

- |  |           |
|--|-----------|
| 1. Approximate number of eligible voters.....  | <u>21</u> |
| 2. Void ballots.....   | <u>6</u>  |
| 3. Votes cast for <u>Communications Workers of America</u>   | <u>13</u> |
| 4. Votes cast for <u>Maplewood Library Staff Association</u>   | <u>8</u>  |
| 5. Votes cast for _____  | _____     |
| 6. Votes cast against participating employee representative(s) ..  | <u>0</u>  |
| 7. Valid votes counted (sum of 3, 4, 5, and 6).....  | <u>21</u> |
| 8. Challenged ballots.....   | <u>0</u>  |
| 9. Valid votes counted plus challenged ballots (sum of 7 and 8).   | <u>21</u> |
| 10. Challenges are ( <u>not</u> ) sufficient in number to affect the results of the election.                |           |
| 11. A majority of the valid votes counted plus challenged ballots (Item 9) has ( <u>not</u> ) been cast for: |           |

Communications Workers of America

For the Executive Director

Jeffrey B. Tener  
Jeffrey B. Tener, Executive Director