

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

In the Matter of

JERSEY CITY MEDICAL CENTER,

Public Employer,

-and-

DOCKET NO. RO-79-121

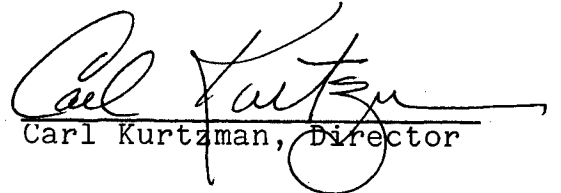
ASSOCIATION OF DEPARTMENT HEADS
AND SUPERVISORS OF JERSEY CITY
MEDICAL CENTER a/w DISTRICT
1199-J, NUHHCE, RWDSU, AFL-CIO,

Petitioner.

O R D E R

The Decision and Direction of Election ordered in the
above docketed matter, entitled In re Jersey City Medical Center,
D.R. No. 80-3 (July 29, 1979) is hereby rescinded.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: August 8, 1979
Trenton, New Jersey

ISSUED: August 13, 1979

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Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs the conduct of a secret ballot election among department heads, assistant department heads, and supervisors of the Jersey City Medical Center to determine whether such employees desire to be represented for the purpose of collective negotiations by the Association of Department Heads and Supervisors of Jersey City Medical Center a/w District 1199-J, NUHHCE, RWDSU, AFL-CIO. The Director finds that the Association, which is affiliated with an organization that represents professional personnel at the Center, is a separate entity which may represent the above employees. Further, the Director finds that the Center's claim that all the personnel in the proposed collective negotiations unit are either managerial executives or confidential employees is not supported by any evidentiary proffer which would establish such status. The parties had agreed to the composition of the collective negotiations unit if it was determined that the employees were not found to be managerial executives or confidential employees.

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MEDICAL CENTER a/w DISTRICT
1199-J, NUHHCE, RWDSU, AFL-CIO,

Petitioner.

Appearances:

For the Public Employer
John Doyle, Personnel Director

For the Petitioner
Al Evanoff, Secretary-Treasurer

DECISION AND DIRECTION OF ELECTION

On October 19, 1978, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was timely filed with the Public Employment Relations Commission (the "Commission"), and amended on January 23, 1979, by the Association of Department Heads and Supervisors of Jersey City Medical Center a/w District 1199-J, National Union of Hospital and Health Care Employees, RWDSU, AFL-CIO (the "Association"). The Association seeks to represent all full-time and regular part-time

department heads, assistant department heads, and supervisors employed by the Jersey City Medical Center (the "Center").

The undersigned has caused an administrative investigation to be conducted into the matters concerning the Petition in order to determine the facts. On the basis of the administrative investigation to date, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material disputed factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(c), 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 Jersey City Medical Center is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "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 Department Heads and Supervisors of Jersey City Medical Center a/w District 1199-J, National Union of Hospital and 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 consisting of all full-time and regular part-time department heads, assistant

department heads, supervisors (within the meaning of the Act) employed by the Center.

5. The Center argues that the proposed unit is inappropriate for the following reasons: (1) the employees in the titles sought to be represented are managerial employees within the meaning of the Act, and, therefore, inappropriate for any unit; ^{1/} and, (2) District 1199-J already represents a unit of professional nonsupervisory employees at the Center, and a conflict of interest would ensue if District 1199-J were permitted to represent the petitioned-for titles in a separate unit.

6. On November 20, 1978, a Commission staff member convened an informal conference among the parties. At the conference, the Center maintained its position as to the inappropriateness of the proposed unit. Nevertheless, the parties reviewed the employee list provided by the Center. The Association confirmed that the list contained the petitioned-for titles although the Association indicated that it was not seeking to represent doctors (M.D.'s or P.H.D.'s) in the proposed unit. Without waiving its position that the entirety of the proposed unit was inappropriate, the Center stated that if the unit sought by the Association were found appropriate then perhaps all doctors should be included as well.

At the conference the assigned staff agent informed the parties of the Commission's policy favoring the establishment of broad-based functional units, the statutory definition of a

^{1/} See N.J.S.A. 34:13A-3(f), which contains a definition of managerial executives. The Act excludes managerial executives from coverage thereunder.

managerial executive, and the manner in which the Commission has interpreted this definition.

On May 29, 1979, the Center submitted a revised employee list to the Commission. On June 8, 1979, another informal conference was conducted and the parties' positions were reviewed. The parties agreed to exclude certain personnel from the proposed unit on the grounds that they were either managerial executives or confidential employees. Additionally, the parties agreed upon a group of titles (which included M.D.'s and P.H.D.'s) which would constitute an appropriate unit for representation provided that these titles were not managerial executives or confidential.

Accordingly, the parties have agreed upon the list of titles to be included in the unit ^{2/} if the personnel included

2/ The parties have agreed to the following unit: Including: Credit & Collection Mgr.; Dir. of Radiology; Chief Physical Therapist; Supervising Paramedic; Coordinator of Paramedics; Chief Stationary Eng.; Chief EEG Tech.; Dir. Diagnostic Clinic; Dir. of Admitting; Linen Distribution Supervisor; Coordinator Partial Hospital; Supervising Telephone Operator; Building Service Supervisor; Chief X-Ray Tech.; Supervisor of Central Supply; Mgr. of Radiology; Chief EKG Tech.; Business Office Mgr.; Chief Urology; Supervisor of Housekeeping; Dir. of Emergency Room; Asst. Dir. Hospital Security; Principal Clinical Psychologist; Dir. of Nuclear Medicine; Distribution Mgr.; Admitting Supervisor; Asst. Dir. of Nursing; Dir. of Nursing; Dr. of Medicine; Div. Dir. Adult Partial Hosp.; Chief Hepatic Medicine; Dir. of Hospital Security; Chief Accountant, Coordinator of Volunteers; Chief Pharmacist; Chief of Gastrology; Dir. of Medical Records; Chief Div. of Infection Control; Dir. of Pediatrics; Dir. of Dentistry; Dir. of Ambulatory Care; Dir. of Obstetrics and Gynecology; Asst. Dir. of Surgery; Dir. of Social Service; Dir. of Surgery; Dir. of Purchasing; Maintenance Superintendent; Supervisor, Utilization; Supervisor of Pathology; Executive Housekeeper; Dir. of Pathology; Chief of Hematology; Dir. of Child Psychology; Dir. of Anesthesiology; Dir. of OPD Emerg. Services; Chief Respiratory Therapist; Dir. of Data Processing. Excluding: Executive Director; Asst. Executive Director; Chief of Personnel and Labor Relations; Dir. of Finance; Asst. Executive Director of Nursing for Patient Services; Dir. of Psychiatry; and all other titles at the Center.

therein are deemed public employees within the meaning of the Act.

7. On June 28, 1979, the undersigned advised the parties of the results of the investigation and evaluated the positions of the parties. The undersigned stated an intent to direct the conduct of an election based upon the following conclusions: The unit proposed by the Association is a prima facie appropriate collective negotiations unit. Although the Center claims that the entire complement of employees in the petitioned-for unit is either managerial or confidential, it has not advanced any evidentiary proffer demonstrating that these individuals exercise functions which would fall within the statutory definitions of either managerial executive or confidential employee. Regarding the Center's second argument, District 1199-J has complied with Commission policy by forming a separate chapter for the representation of supervisory personnel. ^{3/}

The parties were provided an additional opportunity to present evidence as well as statements of position relating to the instant Petition, and were advised that in the absence of the presentation of evidence raising substantial and material disputed factual issues concerning this matter which would warrant the convening of an evidentiary hearing, the undersigned would direct an election.

No further evidentiary proffer or statement has been provided to the undersigned. Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative

3/ See In re City of Newark, P.E.R.C. No. 42 (1970)

investigation herein. Therefore, the undersigned finds that the appropriate unit for collective negotiations is: all full-time and regular part-time department heads, assistant department heads, and supervisors employed by the Jersey City Medical Center including, but not limited to credit and collection manager, director of radiology, chief physical therapist, supervising paramedic, coordinator of paramedics, chief stationary engineer, chief EEG technician, director diagnostic clinic, director of admitting, linen distribution supervisor, coordinator partial hospital, supervising telephone operator, building service supervisor, chief X-ray technician, supervisor of central supply, manager of radiology, chief EKG technician, business office manager, chief urology, supervisor of housekeeping, director of emergency room, assistant director hospital security, principal clinical psychologist, director of nuclear medicine, distribution manager, admitting supervisor, assistant director of nursing, director of nursing, director of medicine, division director adult partial hospital, chief hepatic medicine, director of hospital security, chief accountant, coordinator of volunteers, chief pharmacist, chief of gastrology, director of medical records, chief division of infection control, director of pediatrics, director of dentistry, director of ambulatory care, director of obsterics and gynecology, assistant director of surgery, director of social service, director of surgery, director of purchasing, maintenance superintendent, supervisor-utilization, supervisor of pathology, executive housekeeper, director of pathology, chief of hematology, director of child psychology, director of anesthesiology, director of OPD emergency services,

chief respiratory therapist, director of data processing, but excluding managerial executives, confidential employees, craft employees, police, executive director, assistant executive director, chief of personnel and labor relations, director of finance, assistant executive director of nursing for patient services, director of psychiatry, and all other titles at the Center.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted 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. Employees must appear in person at the polls in order to be eligible to vote. 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.

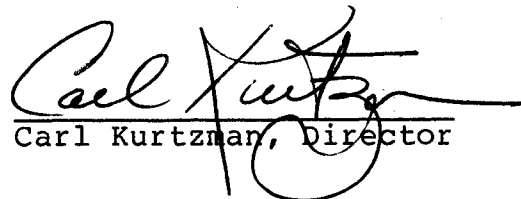
Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with the Association an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of

the eligibility list shall be simultaneously filed with the Association with statement 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 or not they desire to be represented for the purpose of collective negotiations by the Association of Department Heads and Supervisors of Jersey City Medical Center a/w District 1199-J, 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 directed herein shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: July 20, 1979
Trenton, New Jersey