

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

In the Matter of

EVESHAM TOWNSHIP BOARD OF EDUCATION,

public Employer,

-and-

DOCKET NO. RO-80-148

EVESHAM TOWNSHIP SUPPORTIVE STAFF
ASSOCIATION, NJEA,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs that a secret ballot election be conducted among all cafeteria employees, custodial and maintenance employees and classroom aide personnel employed by the Board of Education to ascertain whether the employees desire to be represented by the Supportive Staff Association. The Director finds that the employees have a community of interest and the proposed unit is prima facie appropriate.

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Appearances:

For the Public Employer
Moss, Powell & Powell attorneys
(Edgar E. Moss, II of counsel)

For the Petitioner
James R. George, UniServ Representative

DECISION AND DIRECTION OF ELECTION

On March 3, 1980, 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") by the Evesham Township Supportive Staff Association, NJEA (the "Association") with respect to a proposed unit comprised of all cafeteria employees, custodial employees, maintenance employees, classroom aide personnel and bus drivers employed by the Evesham Township Board of Education (the "Board"). By letter dated March 21, 1980, the Association

amended its Petition to delete bus drivers from the Petition. 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 herein, 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 factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), 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 Evesham Township 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. (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 Evesham Township Supportive Staff Association, NJEA, is an employee representative within the meaning of the Act and is subject to its provisions.

4. No other employee organization has sought to intervene in this matter.

5. The Association seeks to represent a unit comprised of all cafeteria employees, custodial and maintenance employees

and classroom aide personnel, but excluding managerial executives, confidential employees, professional and craft employees, police and fire employees and supervisors within the meaning of the Act. The Association agrees to a secret ballot election in the petitioned-for unit and contends that the petitioned-for unit is prima-facie appropriate. The Association further contends that the petitioned-for unit is a broad-based unit of nonprofessional personnel and notes that the employees in the unit share a common employer, work in the same buildings and have similar goals and purposes -- the education and betterment of students. Finally, the Association notes that in prior decisions, the Commission has found that school employees generally share a community of interest.

6. The Board has declined to enter into an Agreement for Consent Election. The Board, in a written statement of position and in its oral presentation during an investigatory conference, contends that the employees in the petitioned-for unit lack a community of interest and notes that the employees in the positions sought to be included in the petitioned-for unit perform widely varying types of work. Further, the Board contends that the maintenance and custodial employees should not be included in the same unit with cafeteria and classroom aide personnel because of their responsibility for the physical plant of the school buildings both during the regular school year and at times when school is not in

session. Further, the Board asserts that the maintenance and custodial employees would be needed to operate the schools during an "involuntary shut down" and, therefore, should not be in a collective negotiations unit with other Board employees.

7. A Petition for Certification of Public Employee Representative having been filed, and the parties not having agreed to a secret ballot election, a dispute exists, and the matter is properly before the undersigned for determination.

It appears to the undersigned that the unit sought by the Petition is prima facie appropriate in light of existing Commission policy concerning unit definition for employees of a school district. Prior Commission decisions have held that a community of interest exists among school employees. ^{1/} In the context of school district employment, the Commission has found appropriate units comprised of some or all of the following employment categories: teachers aides, classroom aides, secretarial employees, clerical employees, custodial and maintenance employees, cafeteria employees and professional employees. ^{2/} Generally, employees in a school district have a common employer, work in the same buildings, and have similar goals and purposes. When

1/ In re Wildwood Bd. of Ed., D.R. No. 79-20, 6 NJPER 98 (¶ 10054 1979); In re Haddonfield Bd. of Ed., D.R. No. 80-22, 6 NJPER 80 (¶ 11040 1980).

2/ In re Garfield Bd. of Ed., P.E.R.C.No. 16 (1969), In re Montgomery Tp. Bd. of Ed., P.E.R.C. No. 27 (1969); In re South Plainfield Bd. of Ed., P.E.R.C. No. 46 (1970); In re Bd. of Ed. of West Milford Tp., P.E.R.C. No. 56 (1971); In re Asbury Park Bd. of Ed., E.D. No. 76-41, 2 NJPER 170 (1976); In re Wildwood, supra, n. 1; In re Haddonfield, supra, n. 1.

making unit determinations, the Commission has sought to avoid fragmentation of negotiations units, and has favored the formation of units along broad-based, functional lines, rather than by title or by distinct occupational groupings.^{3/} Finally, the petitioned-for unit consists of white collar and blue collar employees. This unit structure, comprised of employees who share a community of interest notwithstanding certain differences in working conditions,^{4/} is generally deemed an appropriate unit.

The undersigned cannot accept the Board's contention that the custodial and maintenance employees should not be included in a unit with the cafeteria and classroom aide employees because the custodial and maintenance employees, during an "involuntary shut down" of the schools, are necessary employees for the operation of the schools. To give force to this argument requires an assumption by the undersigned that the employees in the proposed unit will engage in illegal conduct. The undersigned does not believe that such an assumption is warranted.

3/ In In re State of New Jersey v. Professional Assn. of New Jersey Dept. of Education, 64 N.J. 231 (1974), the Supreme Court endorsed the Commission's adoption of the concept of broad-based, functional negotiations units.

4/ See Vocational Bd. of Ed. of the Cty. of Atlantic, D.R. No. 80-31, 6 NJPER 175 (¶ 11084 1980), where the undersigned directed an election notwithstanding the Board's contention concerning the existence of divergent terms and conditions of employment among certain classifications of employees. No evidence had been proffered to support a claim that inconsistent interests existed among the proposed unit employees which could not be accommodated in the proposed collective negotiations unit structure.

On March 9, 1980, the undersigned notified the parties that on the basis of the administrative investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation exists in a prima facie appropriate unit. The undersigned provided an additional opportunity to the parties to present evidence as well as statements of position relating to the instant Petition. The undersigned stated that in the absence of any substantial and material factual disputed issues, he would thereafter issue a decision and direction of election. No further evidentiary proffer or statement has been submitted 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 investigation herein. Therefore, the undersigned finds that the appropriate unit is: all cafeteria employees, custodial and maintenance employees and classroom aide personnel, but excluding managerial executives, confidential employees, professional and craft employees, police and fire employees and supervisors within the meaning of the Act.

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.

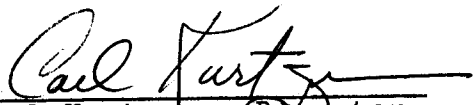
Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with the Association an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be 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 Evesham Township Supportive Staff Association, NJEA.

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: May 28, 1980
Trenton, New Jersey