

D.R. NO. 2020-11

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

In the Matter of

DOVER BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-2020-013

DOVER EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation issues a Certification of Representative on the basis of a card check to the petitioner, Dover Education Association (DEA), adding security guards to its existing unit of certificated personnel, teacher aides, and instructional assistants employed by the Dover Board of Education (Board). Although the parties did not stipulate to the appropriate unit, the Board did not raise any legal objections and the Director found that DEA complied with the necessary requirements for a card check certification in the petitioned-for and prima facie appropriate unit.

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Appearances:

For the Public Employer,
Adams Gutierrez and Lattiboudere, LLC, attorneys
(John E. Croot, Jr., of counsel)

For the Petitioner,
Selikoff and Cohen, attorneys
(Steven R. Cohen, of counsel)

DECISION

On October 9, 2019, the Dover Education Association (DEA) filed a representation petition seeking a certification of representative by card check to add security guards employed by the Dover Board of Education (Board) to its existing collective negotiations unit of certificated personnel, teacher aides, and instructional assistants.^{1/}

^{1/} Nonprofessionals were added by certification of representative (Dkt. No. RO-2019-6) on October 5, 2018, after DEA sufficiently certified that professionals voted to be included in a mixed unit in accordance with N.J.S.A. 34:13A-6(d). See Paterson Charter Sch. for Science & Tech., P.E.R.C. No. 2016-4, 42 NJPER 99 (¶27 2015).

On October 21, 2019, I sent a letter to the Board requesting, among other things, a list of the petitioned-for employees and a certification that the accompanying Notice to Employees was posted where notices are normally posted for the involved employees. This letter also scheduled a telephone conference with the parties and the assigned Commission staff agent for October 31, 2019.

During the scheduled telephone conference, the Board suggested that the security guards could be placed in the negotiations unit represented by the Dover Supportive Staff Association (DSSA). Both DEA and DSSA are affiliated with the New Jersey Education Association (NJEA). DEA and the Board agreed to another telephone conference on November 7, 2019, to allow the parties to assess the Board's suggestion and to provide additional time for the previously requested documentation.

On November 1, 2019, DEA advised that the security guards preferred to be accreted to DEA's unit rather than DSSA's unit. During the telephone conference on November 7, 2019, the Board requested additional time to provide the requested documentation and to decide whether it would voluntarily recognize DEA as the majority representative of the security guards, stipulate to the appropriate unit, advise that it was not making a formal legal objection, or make a formal legal objection. The parties agreed to follow up with the staff agent on November 21, 2019.

On November 21, 2019, the Board provided a certification that the Notice to Employees was posted on November 11, 2019. The Board also provided a list of the employees in the petitioned-for unit and advised that they were not currently in a negotiations unit and that no other organization besides DEA had claimed an interest in representing them. The Board advised that it was still reviewing its options with respect to the petition. The staff agent requested the Board's position by December 9, 2019, which was extended to December 10, 2019, at the request of the Board.

On December 10, 2019, counsel for the Board confirmed by telephone that, although the Board would not stipulate to a unit description, it was not raising any legal objections to the appropriateness of the petition or the petitioned-for unit. The staff agent then sent an email to the parties confirming the parties' positions and advising that a decision would issue.

I have conducted an administrative investigation to determine the facts. N.J.A.C. 19:11-2.2. The disposition of the petition is properly based upon our administrative investigation. No substantial or disputed material facts require us to convene an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6.

ANALYSIS

In comparing the Board-provided list of employees to the number of valid authorization cards filed by DEA, I have

determined that a majority of employees in the petitioned-for titles have designated DEA as their representative for purposes of collective negotiations. N.J.A.C. 19:11-2.6(b). In the absence of any objections from the Board, I determine that the DEA is entitled to certification for the petitioned-for and prima facie appropriate unit regardless of the absence of a Stipulation of Appropriate Unit signed by both parties. Lakewood Tp. Bd. of Ed., D.R. No. 2019-4, 45 NJPER 96 (¶25 2018), City of Perth Amboy, D.R. No. 2010-2, 35 NJPER 243 (¶87 2009).

Accordingly, I find that the following unit is appropriate for collective negotiations:

Included: All regularly employed security guards are added to the existing unit of certificated employees, teacher (classroom) aides, and instructional assistants employed by the Dover Board of Education.

Excluded: Managerial executives, confidential employees, and supervisors within the meaning of the Act; craft employees, police, casual employees; and all other employees of the Dover Board of Education.

ORDER

The DEA has met the requirements of the Act, and it is entitled to certification based upon the authorization cards from a majority of the employees in the petitioned-for titles.

I certify Dover Education Association as the exclusive representative of the unit described above based upon its authorization cards.^{2/}

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

/s/ Jonathan Roth
Jonathan Roth
Director of Representation

DATED: December 12, 2019
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by December 23, 2019.

^{2/} A Certification of Representative is attached.