

P.E.R.C. NO. 84-126

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BORDENTOWN REGIONAL  
BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-82-142

BORDENTOWN REGIONAL  
EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission, applying the guidelines of In re Piscataway Bd. of Ed., P.E.R.C. No. 84-\_\_\_\_, 10 NJPER \_\_\_\_ (¶ \_\_\_\_ 1984), also decided today, holds that nonsupervisory secretaries, clerks, and aides of the Bordentown Regional Board of Education should be given the opportunity to vote on whether they wish the representation of the Bordentown Regional Education Association in the same unit as all nonsupervisory certified teachers and other professional employees of the Board. The Commission further holds that these professional employees, pursuant to N.J.S.A. 34:13A-6, should be given the option of being or not being in the same unit as the nonprofessional supportive staff.

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Appearances:

For the Public Employer, James F. Black,  
Superintendent of Schools

For the Petitioner, Klausner & Hunter, Esqs.  
(Stephen B. Hunter, of Counsel)

DECISION AND ORDER

On February 18, 1982, the Bordentown Regional Education Association ("Association") filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission. The Association seeks to represent nonsupervisory teachers and other professional employees, secretaries, clerks, and aides whom the Bordentown Regional Board of Education ("Board") employs in a single unit. The Association at present represents the teachers and other professional employees in one unit and the supportive staff employees in another unit.

The parties have submitted stipulations (copy attached), waived a hearing, and agreed to submit the matter directly to the Commission. N.J.A.C. 19:11-6.7. Both parties have submitted briefs and reply briefs.<sup>1/</sup>

<sup>1/</sup> In the event the Commission finds the petitioned-for unit appropriate, the parties have agreed that a hearing should be held on an alleged conflict of interest between teachers and teachers aides.

This petition presents a unique situation. Pursuant to N.J.S.A. 18A:13-43 et seq., the Bordentown Regional High School District expanded, effective July 1, 1982, to an all purpose, K-12 regional school district. Simultaneously, the previously existing Bordentown Township Board of Education and the Bordentown City Board of Education were dissolved. As a result of this expansion and these dissolutions, the employee complement of the regional district has substantially increased as follows:

	<u>Before</u> <u>July 1, 1982</u>	<u>After</u> <u>July 1, 1982</u>
Professional Employees	55	140
Secretaries and Aides	11	40
Custodians	9	21.5
Cafeteria Employees	8	21
Bus Drivers	16	16

The composition and membership of the Bordentown Regional Board of Education and the Board's superintendent, however, have remained the same.

The Association, an NJEA affiliate, has represented (since 1974) the District's teachers and other professional employees. The Association has also represented (since 1974) the District's secretaries, clerks, and aides in a separate unit. In addition, the Bordentown Teachers Association, an NJEA affiliate, represented (from 1975-July 1, 1982) the teachers, specialists, and nurse employed by Bordentown City<sup>2/</sup> while the Bordentown Education Association, an NJEA affiliate, represented (from 1979-July 1, 1982) the teachers, secretaries, clerks, and aides employed by Bordentown Township in a single unit.

<sup>2/</sup> None of the City's non-professional supportive staff employees were represented prior to the dissolution of the City's Board.

The Association now seeks to represent all nonsupervisory teachers, other professional employees, secretaries, clerks, and aides employed by the recently expanded Board in a single unit. The Board opposes the petitioned-for unit based on an alleged lack of community of interest among the employees in question and a pre-merger and pre-dissolution history of negotiations in separate units.

We believe that the employees in question in this case should be given the opportunity to choose unified representation in a single unit if they so desire. In a companion case decided today, In re Piscataway Twp. Bd. of Ed., P.E.R.C. No. 84-\_\_\_, 10 NJPER \_\_\_ (¶ \_\_\_ 1984), we extensively reviewed the history, precedents, and policies concerning unit structures in New Jersey school districts (Slip opinion at pp. 5-10); we incorporate that discussion here. When a dispute concerning the propriety of including one or more groups of supportive staff with teachers and other professional school district employees has arisen, the Commission since 1969 has consistently found that teachers and supportive staff have a community of interest stemming from such factors as their shared goals, the central authority controlling their working conditions, and their common working facilities and environment; and that this community of interest generally warrants giving teachers and supportive staff the opportunity to choose a unified representative in a single unit if they so desire. See, e.g., In re West Milford Bd. of Ed., P.E.R.C. No. 56 (1971);

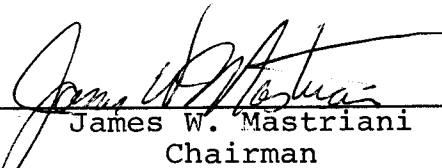
In re Montgomery Twp. Bd. of Ed., P.E.R.C. No. 27 (1969). We have also recognized, however, that affording employees such an opportunity is not an automatically applicable approach and will not be used when especially compelling circumstances justifying the continuation of separate units are present. In re Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12229 1981). The question in the instant case is whether the facts here fit within the narrow contours of Englewood and compel dismissal of the petition, thus negating altogether the factor of employee choice for or against unified representation. The answer is no. Unlike Englewood, the majority representative of the supportive staff unit does not vigorously oppose the proposed unit; indeed, the Association is already the majority representative of the supportive staff unit. Further, the existing units are not the subjects of longstanding certifications. Moreover, the pre-merger and pre-dissolution negotiations history is of little weight given the different unit structures (including one combined unit) among the three employers before July 1, 1982; the statutory merger of the three employers and, in effect, creation of a new employer; and the dramatic increase in the regional district's employee complement following July 1, 1982. Given these differences, we believe that the factors (including past negotiations history) relevant to determining appropriate unit structure are sufficiently in balance to permit the desires of the employees for or against unification to control. Accordingly, the supportive staff in question here should be given the opportunity to vote on whether

they wish the Association's representation in the proposed unit. Further, the professional employees, pursuant to N.J.S.A. 34:13A-6, should be given the option of being or not being in the same unit as the supportive staff.

ORDER

The case is remanded to the Administrator of Representation for further proceedings consistent with this opinion.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Butch and Graves voted in favor of this decision. Commissioners Suskin and Wenzler voted against the decision. Commissioners Hipp and Newbaker abstained.

DATED: Trenton, New Jersey  
April 18, 1984  
ISSUED: April 19, 1984

STIPULATIONS OF FACT

In the Matter of  
BORDENTOWN REGIONAL BOARD  
OF EDUCATION

- and -

BORDENTOWN REGIONAL EDUCATION  
ASSOCIATION, NJEA

Docket No. RO-82-142

The parties in the above entitled matter stipulate:

1. That the Bordentown Regional Board of Education (the "Board") is a public employer within the meaning of the New Jersey Employer-Employee Relations Act (the "Act"), and effective July 1, 1982, is the employer of all professional and non-professional employees regarding this Petition.

2. That the previously existing limited purpose (9-12) Bordentown Regional High School District has been expanded pursuant to N.J.S.A. 18A:13-43 et seq. to an all purpose (K-12) regional school district effective July 1, 1982. The previously existing Bordentown Township Board of Education and the Bordentown City Board of Education were dissolved as a result of the above expansion effective July 1, 1982.

3. That the Bordentown Regional Education Association (the "Association") is a majority representative within the meaning of the Act and as of July 1, 1982, is the majority representative of all non-supervisory professional employees and all secretaries and aides, excepting playground aides, employed by the Board.

4. (a) Annexed hereto and made a part hereof are copies of all available collective negotiations agreements covering the titles in question as they had existed prior to July 1, 1982, i.e., annexed are copies of all available collective negotiations agreements regarding teachers, secretarial and clerical employees and aides which have been negotiated to date with the Bordentown Regional High School Board of Education and the now dissolved boards of education, the Bordentown Township Board of Education and the Bordentown City Board of Education.

(b) Also annexed hereto and made a part hereof are copies of all available collective negotiations agreements covering all other non-professional employees employed by the Board, i.e., annexed are copies of all available collective negotiations agreements regarding cafeteria personnel, custodial and maintenance personnel, and transportation services personnel which have been negotiated to date with the Bordentown Regional High School Board of Education.

There were no separate supportive staff collective negotiations agreements negotiated in the Bordentown Township School District prior to its dissolution. There were never any collective negotiations covering any of the supportive staff of the Bordentown City School District prior to its dissolution.

5. That subsequent to the above mentioned expansion the composition and membership of the present Board has remained the same as the previous Board, and the Superintendent has remained the same.



6. That the employee complement due to the expansion of the District has increased as follows:

	<u>Before</u> <u>July 1, 1982</u>	<u>After</u> <u>July 1, 1982</u>
Professional Employees	55	140
Secretaries and Aides	11	40
Custodians	9	21.5
Cafeteria Employees	8	21
Bus Drivers	16	16

7. As early as 1973-74 in the Regional District, there were negotiations with each non-professional group separately: secretaries, custodians, cafeteria, transportation. All members of each group were included. Each group's negotiated agreement was ratified separately; but after the process was completed, the agreements were compiled in a single document for ease of administration. The groups were all affiliated with the N.J.E.A.

8. (a) Enclosed are the job descriptions for the two groups of aides which are subsumed within the negotiations unit petitioned for by the Bordentown Regional Education Association. There are also four cafeteria/playground aides who work approximately two hours a day monitoring students in the cafeteria and on the playground.

(b) Unit aides and classroom aides have the following responsibilities:

- (1) typing and clerical duties as assigned;
- (2) guidance of instructional activities under direct supervision of the teacher;
- (3) monitoring of students including lunchtime as assigned;

- (4) aid in preparing classroom activities;
- (5) aid the students by participating in tutorial program;
- (6) other duties as assigned.

(c) Within the district's four school buildings, secretaries work primarily in offices and aides work primarily in classroom and aides' workrooms (room containing typewriters and other necessary office equipment). Three secretaries work in the central administration office building.

Aides are supervised by teachers and Principals. Secretaries are supervised by the individual administrators to whom they are assigned, e.g., a Principal, Director, Assistant Superintendent, etc.

Aides work directly with teachers. Secretaries work for administrators, but the secretaries in the school buildings have contact with the teachers daily.

1982-83 hours:	Teachers	-	7.0 hours a day
	Secretaries	-	7.5 hours a day
	Aides	-	6.5 hours a day

9. The Board waives any argument with respect to the timeliness of this Petition.

10. The parties agree that there have been no allegations that the Association has failed to fairly represent any of the petitioned for employees, and further agree that the bargaining relationships which were in existence prior to July 1, 1982, worked within their particular district.

11. The parties agree to waive a hearing in this matter and a hearing officer's report and recommendations and agree to submit this matter directly to the Director of Representation based upon the pleadings, the stipulated facts and submissions, and briefs.

12. The parties agree to the joint submission of briefs herein which shall be due no later than three weeks after the above stipulations are received by the Public Employment Relations Commission. Provisions may be made for the submission of reply briefs, consistent with the Commission's rules.