

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX

Public Employer

and

OVERBROOK EMPLOYEES ASSOCIATION

Petitioner

Docket No. R-62

and

NEW JERSEY CIVIL SERVICE ASSOCIATION, INC.
ESSEX COUNCIL NO. 1

Intervenor

and

ESSEX COUNTY EMPLOYEES ASSOCIATION

Intervenor

DECISION AND DIRECTION OF ELECTION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of Essex County Overbrook Hospital, a hearing was held on August 7, August 11, and September 23, 1969 before ad hoc Hearing Officer Robert Silagi at which all parties were given an opportunity to examine and cross-examine witnesses, present evidence and to argue orally. Thereafter, on December 2, 1969, the ad hoc Hearing Officer issued a Report and Recommendation. Exceptions have not been filed to the Hearing Officer's Report and Recommendation. The Commission has considered the record and the Hearing Officer's Report and Recommendation

and on the basis of the facts in this case finds:

1. The County of Essex is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. Overbrook Employees Association, New Jersey Civil Service Association, Inc., Essex Council No. 1 and Essex County Employees Association are employee representatives within the meaning of the Act.
3. The public employer having refused to recognize any of the employee representatives as the exclusive representative of certain employees, a question concerning the representation of public employees exists and the matter is appropriately before the Commission for determination.
4. In the absence of Exceptions to the Hearing Officer's Report and Recommendation, attached hereto and made a part hereof, the Commission adopts the Hearing Officer's findings and recommendation pro forma.
5. Accordingly, the Commission finds the appropriate collective negotiating unit is: "All non-professional employees employed by the County of Essex at Overbrook Hospital at Cedar Grove, Essex County Hospital at Belleville and the Sanitorium at Verona, but excluding managerial executives, craft employees, operating engineers, carpenters, painters, electricians, plumbers, bricklayers, tinsmiths, roofers, building laborers and truck drivers, professional employees, registered nurses, policemen and supervisors within the meaning of the Act.
6. The Commission directs that a secret-ballot election shall be conducted among the employees in the unit found appropriate. The election shall be conducted as soon as possible but no later than thirty (30) days from the date set forth below.^{1/}

^{1/} The unit found appropriate is larger than that sought by the petitioner. By letter to the Executive Director dated February 2, 1970, it requests
(Continued)

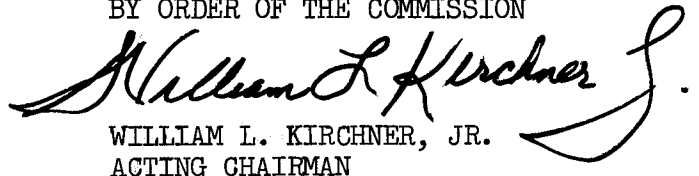
Those eligible to vote are employees set forth in Section 5 who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Overbrook Employees Association; New Jersey Civil Service Association, Inc., Essex Council No. 1; Essex County Employees Association; or none.

The majority representative shall be determined by a majority of the valid ballots cast.

The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

BY ORDER OF THE COMMISSION


WILLIAM L. KIRCHNER, JR.
ACTING CHAIRMAN

DATED: March 13, 1970
Trenton, New Jersey

1/ (Continued) permission to withdraw its Petition with leave to participate in the election, if one is so conducted. The exact interest of either Intervenor in the enlarged unit is not clear from the record before us. Accordingly, we instruct the Executive Director not to proceed with the election herein directed until he shall have first determined whether either Intervenor has made an adequate petitioner's showing of interest among the employees eligible to vote in the unit herein found appropriate. If an adequate showing of interest in the broader unit is not made to the Executive Director within five days from the date of issuance of this Decision, petitioner's request to withdraw its petition is approved with prejudice and the Direction of Election is vacated.

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of :
OVERBROOK HOSPITAL, :
Public Employer, :
and : Docket No. R-62
OVERBROOK EMPLOYEES ASSOCIATION, :
Petitioner. :

REPORT AND RECOMMENDATIONS
OF HEARING OFFICER

APPEARANCES:

Essex County Board of Chosen Freeholders,
Irwin I. Kimmelman, County Counsel,
by Emanuel S. Lowinger, Esq.,
Assistant County Counsel.
Overbrook Employees Association,
by John C. Love, Esq.
New Jersey Civil Service Association, Inc.,
Essex Council No. 1,
by Jacob Fox, Esq.
Essex County Employees Association,
by Thomas Durkin, Esq.,
Earl Aronson, Esq., counsel.

Pursuant to a notice of hearing issued by
the Public Employment Relations Commission, hereinafter
the Commission, a hearing was held before the undersigned
ad hoc Hearing Officer on August 7, 11, and September 23,
1969. At the request of the petitioner the parties were

given until October 14, 1969, to file briefs; however, neither it, nor any other party, availed itself of that opportunity. In response to the Hearing Officer's request addressed to all parties, only Essex County Board of Chosen Freeholders, hereinafter the Freeholders, submitted a written statement of position on the unit question. On October 24, 1969, the final exhibit, one containing a list of all Essex County employees by department and title was received. Thereafter, on November 14, 1969, petitioner indicated its attitude with regard to participation in an election in a unit other than the one for which it had petitioned.

At the hearing, the New Jersey State Nurses Association appeared on behalf of the registered nurses. Certain craft unions also appeared, namely the operating engineers, carpenters, painters, electricians, plumbers, bricklayers, tinsmiths, roofers, building laborers, and truck drivers (maintenance). The parties stipulated that registered nurses be excluded from the unit as professional employees. The craft employees enumerated above are on the payroll of the Public Works Department. The parties stipulated that said craft employees be excluded from any unit found to be appropriate for collective negotiation.

THE QUESTION CONCERNING REPRESENTATION

On March 25, 1969, the petitioner made a demand

upon the Freeholders to recognize it as the bargaining agent for all non-professional employees employed at Overbrook Hospital (Pet. Ex. No. 21A). By letter dated April 15, 1969 (Pet. Ex. No. 21B), the Freeholders declined such recognition. Thereafter, on May 1, 1969, petitioner filed the instant petition.

At the hearing, petitioner asserted that the Freeholders had recognized the petitioner as the bargaining agent for the employees at Overbrook Hospital. In support of this contention, as well as in support of its position on the appropriate unit, petitioner relied upon numerous letters, memoranda and reports (Pet. Ex. Nos. 2-10, 12-18). These documents merely show that the Freeholders dealt with petitioner on an ad hoc basis, but never granted "Recognition" as it is defined in the Commission's Rules and Regulations, 19:10-8. Contrary to petitioner's allegations, neither the Bray-Kosko Report (Pet. Ex. No. 2) nor any activities by the Overbrook Hospital Ad Hoc Labor Relations Committee, constitute the written acceptance by a public employer of an employee organization as the majority representative of employees in an appropriate unit. Petitioner finally stipulated that it had never been "recognized" within the meaning of the statute. Accordingly, it is found that a question concerning the representation of public employees exists and that the

petition is properly before the Commission for resolution.

THE APPROPRIATE UNIT

Petitioner requests a unit which would include "all employees at the Essex County Overbrook Hospital". The Freeholders maintain a position of neutrality and will abide by whatever unit the Commission finds to be appropriate. New Jersey Civil Service Association, Inc., Essex Council No. 1, hereafter Council No. 1, intervened in this proceeding. The Commission determined, administratively, that it had an appropriate interest in this matter. Council No. 1 proposes that all a single unit be established for all nonprofessional employees of the County of Essex. The Essex County Employees Association, hereafter the Association, also intervened in this proceeding. The Commission administratively determined that it, too, had an appropriate interest in this matter. The Association urges that the unit include all employees of the county and of 12 autonomous agencies as well. In the event such a unit is not found to be appropriate, then the Association agrees with the Council No. 1 in the establishment of a county-wide unit. As a third alternative, the Association seeks a unit consisting of all employees at the three hospitals owned and operated by the Freeholders.

The parties stipulated to exclude certain named professional employees. Petitioner, however, refused to stipulate as to the professional status of job titles such

as Medical Social Worker, Occupational Therapist, Psychiatric Social Worker, etc. Petitioner seeks to have the professional employees vote in separate elections to determine whether a majority wish to be included in the same unit as nonprofessionals. Aside from the difficulty in identifying those individuals who are professional employees, there is nothing in the record to show that petitioner made any attempt to organize the professionals or even admits them into membership. Certainly petitioner failed to comply with the Commission's Rules and Regulations, 19:11-2 (i) which requires that a petition for certification be supported by "not less than thirty (30%) of the employees alleged to be appropriate". All of the testimony and evidence related to nonprofessional employees. It can be safely inferred that the evidence of representation submitted by petitioner covers only nonprofessionals. The proposed Rules and Regulations were not formally adopted until August 29, 1969, after the petition was filed. But no effort was made to comply with 19:11-2 (i) subsequent to August 29, 1969, so far as professionals are concerned. For these reasons it is recommended that all professional employees, including but not limited to those job titles stipulated by the parties to be professionals, be excluded from the voting unit.

The crucial issue is whether the appropriate unit should be limited to nonprofessional employees of Overbrook Hospital or should it be broader in scope. The evidence shows the following facts:

There are about 50 departments or divisions which fall directly under the jurisdiction of the Freeholders. The State of New Jersey and the Freeholders jointly control or pay the employees of about six other agencies. In addition, there are about a dozen autonomous agencies or commissions which direct their own activities, dispense their own funds and function without any supervision by the Freeholders. These autonomous agencies do, however, submit budget requests to the Freeholders who approve them and appropriate the money. The autonomous agencies hire and discharge their own employees, determine wage rates and other personnel policies. There are approximately 4,200 employees under the direct supervision of the Freeholders and about 2,000 in the autonomous agencies.

All county employees, as distinguished from employees of autonomous agencies or agencies which are jointly controlled or financed by the Freeholders and the State of New Jersey, work under uniform rules and conditions of work. For example, all are paid in the same manner, all enjoy the same holidays, vacations, sick

leave, personal leave, hospitalization, insurance and retirement benefits. Hours of work vary from department to department. There is a Personnel Department which handles labor relations on a county-wide basis. Wage rates are uniform throughout the county for the same job titles. The departments and their job locations are spread all over the county.

By and large the conditions of work and wage rates for employees of the autonomous agencies are substantially the same as for the employees of the County of Essex.

Among the 50 departments or divisions administered by the Freeholders are three hospitals: Overbrook Hospital at Cedar Grove, Essex County Hospital at Belleville and the Sanitorium at Verona. Overbrook is a hospital for the mentally ill; Belleville ministers to medically indigent and geriatric patients; the Sanitorium cares for tubercular patients. Overbrook and the Sanitorium are located on the same tract of land. The Caldwell Penitentiary, a county department, adjoins this property. Belleville is located about four miles from the other hospitals.

Overbrook has about 1400 employees on its payroll. Belleville employs about 340 workers and the Sanitorium about 300 persons. The wage schedules for the

same job classifications are identical at all three institutions. Employees are recruited centrally by the Personnel Department of Essex County but unskilled workers may be hired directly at each institution. There are more than 200 job titles or classifications at the three hospitals. Almost all job titles are found at each of the hospitals. The largest single group of employees works under the title of "Hospital Attendant". Food service employees and supporting blue collar and clerical personnel are found at all institutions.

Much of the testimony was devoted to a description of the duties and characteristics of the Hospital Attendants at Overbrook Hospital. Attendants are unskilled employees who are hired on a non-competitive basis. The qualifications for attendants at Overbrook are the same as the qualifications for the attendants at the other two hospitals. Two or three years ago an orientation course was established in the handling and treatment of mental patients at Overbrook. This course consists of 150 hours of instruction and is given by the administrative officials to the nursing department employees. Registered Nurses and Licensed Practical Nurses may attend; attendants must attend. Upon successful completion of the course the attendants are called "Hospital Psychiatric Technician" and receive a bonus of

\$200.00 per year. Significantly, even after completion of the course of instruction the attendants are still classified as unskilled. There is no essential difference in the function of the attendants at Overbrook and at the other institutions.

All three hospitals employ laundry service workers, food service workers, building maintenance workers, clericals and medical technicians. Most have little, if any, direct contact with patients and require no special training to work at any particular hospital. All are interchangeable among the three hospitals. Transfers are handled on an individual basis, being subject to the personal desires of the employees and approval of both the transferring and receiving agencies. There are comparatively few transfers.

Since Overbrook Hospital is the largest of the three it renders certain specialized services for the other hospitals. For example, the laboratory at Overbrook does blood tests, urine analyses and tissue biopsies for the Sanitorium. The laboratory at Overbrook also does blood testing, for the County Penitentiary. The pharmacy at Overbrook fills prescriptions for the Sanitorium. The dental and physical therapy facilities at Overbrook are also used by the penitentiary. A storehouse at Overbrook supplies food to various insti-

tutions throughout the county. Employees of the county who receive injuries which result in workmen's compensation cases receive physical therapy and x-rays at Overbrook.

On an administrative level there is but one hospital committee of the Freeholders. The superintendents of all three hospitals meet with the Freeholders to decide policy. Aside from the fact that each hospital services a different type of patient all are run in identical fashion.

The statute, C.34:13A-5.3, states, in pertinent part, that "The negotiating unit shall be defined with due regard for the community of interest among the employees concerned..." The record establishes that all employees employed by the County of Essex share a substantial community of interest. The provisions of the law are uniformly applicable to all regarding wage schedules, time and leave rules, fringe benefits, pensions, etc. Despite these vital matters of employee concern, wherein the benefits are county-wide, there are substantial differences among the various categories of employees. There are basic distinguishing features in the aspirations, interests and needs of employees working in different job titles. Thus building maintenance employees may be most interested in overtime, uniform

allowances and shift differentials whereas technical employees are concerned about educational advancement, tuition refunds, time off to attend professional conferences, etc. Given the hundreds of job titles which run the gamut of blue collar, technical and professional employees, it is virtually impossible to reconcile their conflicting interests within a single general unit.

The first position advocated by the Association is clearly untenable. It seeks to combine within a single unit all employees of the County of Essex and of the autonomous agencies. Although the statute which deals with representation, C.34:13A-5.3, does not bar the establishment of a single negotiating unit which is comprised of the employees of two or more public employers, C.34:13A-5.6, dealing with impasses, makes it clear that the legislature contemplated that there be negotiations between a single public employer and the exclusive representative of the public employees. The request to establish a single unit combining the employees of Essex County and the autonomous agencies is therefore rejected.

The position of Council No. 1 to establish a county-wide unit of all employees of Essex County suffers from the defect that it lumps together hundreds of diverse job titles regardless of their basic differences.

For the reasons cited above, this request is rejected.

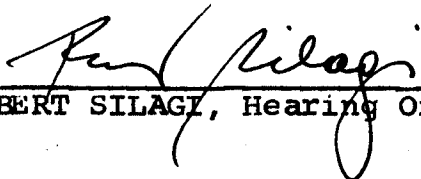
A unit limited to nonprofessional employees at Overbrook Hospital, as proposed by the petitioner, puts a premium on uniqueness when, in fact, none exists. The similarities among the employees at the three hospitals make a unit confined to Overbrook alone too restrictive. Just as the county-wide unit is too broad, a unit for Overbrook alone is too narrow.

The third alternative proposed by the Association, namely a unit comprised of nonprofessional employees at all three hospitals meets the statutory test of community of interest of all employees who work in the county hospitals. Yet it does not dilute that interest by combining the hospital employees with employees of departments with whom they clearly have no common interests. It is clear that the employees of the three hospitals have a sufficient community of interest which sets them apart from the other county employees. A unit restricted to Overbrook would produce a fragmented grouping that finds no justification within well established principles of industrial relations. Petitioner insists that the unit coincide with its own organizational limits. Even though petitioner, as a social organization, may have good reasons to restrict its activities to the employees of Overbrook, such a limited scope cannot justify

a single institution unit particularly where there are intervenors who organize public employees on a much broader basis.

RECOMMENDATIONS

For the reasons stated above, it is recommended that a negotiating unit be established which includes all nonprofessional employees of Overbrook Hospital at Cedar Grove, Essex County Hospital at Belleville and the Sanitorium at Verona, but excluding all professional employees, policemen, supervisors having the power to hire, discharge, discipline, or to effectively recommend the same, registered nurses and craft employees (operating engineers, carpenters, painters, electricians, plumbers, bricklayers, tinsmiths, roofers, building laborers and truck drivers).



ROBERT SILAGI, Hearing Officer

DATED: December 2, 1969.