

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of

PERTH AMBOY BOARD OF EDUCATION

-and-

PERTH AMBOY TEACHERS ASSOCIATION

-and-

PERTH AMBOY FEDERATION OF TEACHERS

DECISION AND DIRECTION OF ELECTION

On the basis of a request by the Perth Amboy Teachers Association on matters relating to claims of representation of certain employees of the Perth Amboy Board of Education, a hearing was held on February 14, 1969 before ad hoc Hearing Officer A. August Lanna II, at which all parties were given an opportunity to be heard and to present their positions as to the issues involved. On February 28, 1969 the ad hoc Hearing Officer issued his findings and recommendations. Thereafter, Exceptions were filed by the parties to the proceeding.

The Commission has considered the record, the Hearing Officer's findings and recommendations, and the exceptions, and finds:

1. The Perth Amboy Board of Education is a public employer within the meaning of Section 3 (c) of the Act and is subject to the provisions of the Act.
2. The Perth Amboy Teachers Association and the Perth Amboy Federation of Teachers are employee organizations within the meaning of Section 3 (e) of the Act.
3. The employee representative organizations claim to be the majority representative of employees involved in this proceeding.

Accordingly, a question concerning the representation of public employees exists and the matter is appropriately before the Commission for determination.

4. The Hearing Officer's findings and recommendations (a copy of which is attached and made a part hereof) is affirmed except as modified herein.
5. The Commission does not agree with the Hearing Officer's application of Section 10 of Chapter 303 to the facts presented herein.

Section 10 of Chapter 303 provides in pertinent part:

"Nothing in this Act shall be construed to annul or modify or to preclude the renewal or continuation of any agreement heretofore entered into between any public employer and any employee organization...." (emphasis supplied)

It appears from the record that a formal written contract covering the terms and conditions of employment was entered into between the public employer and the Perth Amboy Federation of Teachers as the representative of classroom teachers for the period September, 1968 to June, 1969 subsequent to the July 1, 1968 effective date of the New Jersey Employer-Employee Relations Act. The Commission finds that the "gentlemen's agreement" to create a separate negotiating unit consisting of all classroom teachers which pre-dated the effective date of the Act is not within the purview of the phrase "agreement heretofore entered into between any public employer and any employee organization" as set forth in Section 10 of the Act. Accordingly, the Commission will now, pursuant to the authority vested by Section 8 (d)

of the Act, decide the appropriate unit for purposes of collective negotiations.

6. Section 7 of the Act provides that the Commission may not intervene in matters of recognition and unit definition except in the event of a dispute. A dispute does exist in the instant case concerning the representation of public employees under the Act. The Commission, therefore, shall decide the unit of employees appropriate for purposes of collective negotiations.
7. Both employee organizations have expressed a desire to represent classroom teachers, as well as other certified personnel. The public employer also agrees that the unit should include "all classroom teachers within the usual meaning thereof". The wishes of the parties in a representation dispute are entitled to weight in the determination of an appropriate unit for purposes of collective negotiations. Accordingly, the Commission has considered the desires of the parties as to the appropriate unit.

Based upon all of the evidence, the Commission finds the appropriate unit to be:

"All professional personnel including classroom teachers but excluding custodians, ^{1/} secretaries, ^{2/} and employees in an administrative or supervisory ^{3/} capacity".

8. In accordance with the Commission's finding set forth above, the Commission directs that a secret-ballot election shall be conducted among the employees in the unit found appropriate.

^{1/} Custodians have an agreement with the employer.

^{2/} The employer is willing to deal with secretaries in a separate unit.

^{3/} The employer has negotiated with its supervisory personnel.

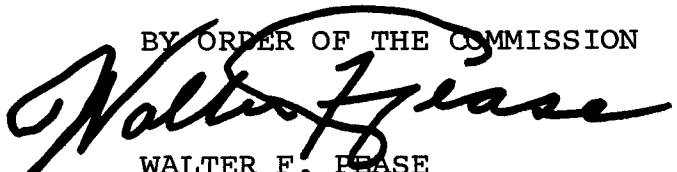
The election shall be conducted as soon as possible but no later than thirty (30) days from the date set forth below.

Eligible to vote are all employees listed in Section 7 who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were 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 whether they desire to be represented for the purposes of collective negotiations by Perth Amboy Teachers Association; or by Perth Amboy Federation of Teachers; or by neither of the participating employee organizations.

The majority representative, if any, shall be determined by a majority of the valid ballots cast. If none of the choices in the election receives a majority of the valid ballots cast, there shall be one run-off election between the two choices receiving the largest and second largest number of votes.

BY ORDER OF THE COMMISSION



WALTER F. PEASE
CHAIRMAN

DATED: May 14, 1969
Trenton, New Jersey

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

PERTH AMBOY, NEW JERSEY

In the Matter of Representation)
And Related Matters Concerning)
Claims of Representation Made At)
Public Schools In Perth Amboy,) February 14, 1969
New Jersey With Regard To All Other)
Personnel Except Classroom Teachers)
and Custodians By Employee Organizations.)
.....)

FOR THE BOARD OF EDUCATION:

Alfred D. Autonio
Benjamin Goldman
Anthony V. Ceres
Anne Dillman

FOR THE PERTH AMBOY TEACHERS ASSOCIATION:

Hayden L. Messner, Jr.
Sonya Zuzov
Veronica Smith

FOR THE PERTH AMBOY FEDERATION OF TEACHERS

James E. Mundy
Robert P. Bates
John P. Vallan
Herbert Burke

On February 14, 1969, a hearing was held in Perth Amboy before Hearing Officer, A. August Lanna II, with all the powers conferred upon the Commission by Chapter 303, New Jersey Public Laws of 1968, in connection with the discharge of the duties delegated to him in this matter.

Board of Education
Perth Amboy Teachers Association
Perth Amboy Federation of Teachers

LEGEND:

In a letter dated February 3, 1969, the Perth Amboy Teachers Association appealed to PERC on matters relating to

LEGEND: (continued)

representation. They pointed out that early in 1968, the Perth Amboy Federation of Teachers had requested an election to determine the sole bargaining agent for classroom teachers only. The Association considered the election technically illegal, as they did represent non-certified as well as certified personnel. In light of their thinking, a letter was submitted to the Board of Education advising that such Board recognize the Union as the exclusive representative of classroom teachers for a period of one school year (1968-1969). The Association did, however, reserve the right to negotiate for all other personnel not included in the Union's voting unit. At the same time, the Association did state that they would not oppose an election provided that the Perth Amboy Teachers Association would not appear on the ballot.

The Union conducted such an election in June of 1968, and as a result, the Board of Education did recognize the Perth Amboy Federation of Teachers as the sole bargaining agent for classroom teachers.

The Association, at that time, was under the impression that a "gentlemen's agreement" did exist between the Board and the Association, in which the Union would represent all classroom teachers and the Association would continue to negotiate for all members not included in the aforementioned unit.

During the latter part of the year, some difficulties appeared to have been manifested and because of such difficulties, the matter before this Hearing Officer was germinated.

The Board of Education stated that they had no preference between the Association or the Union. However, they pointed out that such an election, as was held, could not be considered as illegal, as all parties did agree to such election. The limiting of the election to the classroom teachers was imposed upon the Board. They had been trying to have both groups

LEGEND: (continued)

conduct an election so as to avoid a double negotiation. The position of the Board is intolerable, for in fact, two groups of people were negotiating for the same people. Once a natural unit is defined, they said, there would be no further difficulty. It is impossible for the Board to reach an agreement with a federation that does not cover the greater bulk of people who are now excluded from the unit as unilaterally set by them. The unit, as now defined, is unilateral, illogical, unwieldy and cannot work on a practical basis. The Board called upon the Commission to resolve this problem so as to provide for a more realistic grouping so that all might properly be represented and under the proper contracts.

The Perth Amboy Federation of Teachers contended that a bargaining unit should be established for the non-certified, certified, non-administrative, and non-supervisory personnel employed by the Perth Amboy Board of Education. Such a unit does not currently exist. Such a grouping is a natural grouping and, therefore, an election, they said, should be held in light of the fact that they have submitted a petition signed by 197 certified, non-administrative and non-supervisory employees of the Perth Amboy Board of Education.

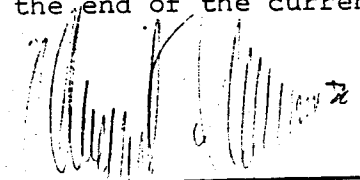
After hearing the presentations of all parties, the Hearing Officer was able to arrive at a firm and positive conclusion in this matter. Section 10, of Chapter 303, New Jersey Public Laws of 1968, does provide that nothing in the act shall be construed to annul or modify, or to preclude the renewal or continuation of any agreement heretofore entered into between any public employer and any employee organization, nor shall any provision hereof annul or modify any statute or statutes of this State.

LEGEND: (continued)

It is quite apparent that the present conditions do make for extreme difficulty of relations for the Board, for it is apparent that in their negotiations with the Federation that they have included considerations for wage increases and other benefits for the personnel who are not represented by such Federation. The claim by the Federation that this limited area of representation was foisted on them by pressures by the Association cannot be considered as a valid argument on their part. The fact does remain, no matter how inconvenient the circumstances, that they did seek to represent the classroom teachers only through an election, which they won.

The Association did agree that an election should be held for other than classroom teachers but that such election could not take place until the end of the school year when the current contract with the teachers would run out. The Hearing Officer must state that it would, perhaps, be better to clear the air and have an immediate election, for if the Association's position is sound, then an election would favor their position. On the other hand, if the Federation is correct, in that a majority of those not covered wish to be covered by them, then a delay in an election would not serve a real purpose. However, convenience cannot determine the ultimate findings. For at the moment, there appears to be a bar provided for by Section 10 of Chapter 303, New Jersey Public Laws of 1968. Therefore, the Hearing Officer finds:

That the parties shall conduct an election and that such election will concern the matter of representation for all personnel excluding classroom teachers, custodians and secretaries, and that such election be held at the end of the current school year.



A. August Lanna 11
Hearing Officer

DATED: FEBRUARY 28, 1969