

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BLOOMFIELD BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-92-45

BLOOMFIELD EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies a request for review, filed by the Bloomfield Board of Education, of a decision of the Director of Representation. The Director found a unit of the Board's instructional aides and teachers appropriate and directed that an election be conducted to determine whether instructional aides wish to be represented by the Bloomfield Education Association and whether the professional employees wish to be included in a unit with non-professional employees. The Commission finds no compelling reasons for granting review.

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Appearances:

For the Public Employer, Schwartz, Pisano, Simon & Edelstein, attorneys (Nathanya G. Simon, of counsel)

For the Petitioner, Michael Mulkeen, NJEA Field Representative

DECISION AND ORDER

On January 22, 1992, the Bloomfield Board of Education requested review of D.R. No. 92-10, 18 NJPER ____ (¶____ 1992). In that decision, the Director of Representation found that a unit of the Board's instructional aides and teachers is appropriate. He directed that an election be conducted to determine whether the instructional aides wish to be represented by the Bloomfield Education Association and whether the professional employees wish to be included in a unit with non-professional employees.

The Board also sought a stay of the election which was held on February 5, 1992. The aides voted to be represented by the Association and the professional employees voted to be included in a unit with non-professional employees.

The Board argues that the Director did not properly address the community of interest issue. It claims that for aides and teachers, the character of the work performed and the nature of the work obligation differ drastically. It also claims that the obligations and duties of teachers to direct and supervise the aides' performance, correct that performance when necessary, and report to the Board inadequate performance, present the potential for a conflict of interest.

N.J.A.C. 19:11-8.2 states the grounds for granting a request for review.

(a) The Commission will grant a request for review only where compelling reasons exist therefor. Accordingly, a request for review may be granted only upon one or more of the following grounds:

1. That a substantial question of law is raised concerning the interpretation or administration of the act or these rules;
2. That the Director of Representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;
3. That the conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or
4. That there are compelling reasons for reconsideration of an important commission rule or policy.

None of those reasons exist here.

The Director noted that broad-based units of education employees, including mixed units of professional and support staff,

are appropriate. See, e.g., West Milford Tp. Bd. of Ed., P.E.R.C. No. 56, NJPER Supp. 218 (¶56 1971); Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984). He also found that the Board had not presented evidence showing that teachers are the statutory supervisors of aides. See N.J.S.A. 34:13A-5.3. Proof of that claim would require that aides and teachers be in different units. The Board's reliance on Wilton v. West Orange Bd. of Ed., 57 N.J. 404 (1971), is misplaced. That case involved a supervisory conflict not present here. Moreover, the Board has not shown that even if teachers do not supervise aides, there is a conflict of interest sufficient to preclude their being in the same unit with aides.

The Board's reliance on Mercer Cty. Welfare Bd., H.O. 83-5, 8 NJPER 596 (¶13279 1982), is also misplaced. In that recommended decision, a Hearing Officer found that training technicians were not statutory supervisors, but nevertheless concluded that their inclusion in a unit with trainees would create a conflict of interest. On review, the Director of Representation adopted the Hearing Officer's recommendation that training technicians not be clarified into a non-supervisory, non-professional unit, but did so on different grounds. He found that, due to their exclusive training functions and separate lines of supervision, the technicians did not share a community of interest with other unit employees. D.R. No. 83-28, 9 NJPER 298 (¶14138 1983). The Director specifically did not reach the conflict of interest issue. Id. at 300 n.4. The Chairman denied a request for review of the Director's

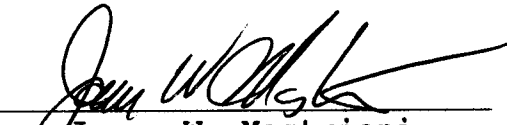
decision and noted that the Director had not reached the conflict of interest issue. P.E.R.C. No. 84-56, 9 NJPER 707 (¶14308 1983). He also noted that since the hearing, a more substantial period of time had elapsed which might have provided a more detailed record of the actual job duties of the training technicians in relation to other unit employees. He denied review without prejudice to the union's right to file a new unit clarification petition based on an updated record.

We find no compelling reasons for granting review and therefore deny the Board's request.

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Goetting, Grandrimo, Smith and Wenzler voted in favor of this decision. None opposed. Commissioners Bertolino and Regan abstained from consideration.

DATED: February 19, 1992
Trenton, New Jersey
ISSUED: February 20, 1992