

D.R. NO. 89-8

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

In the Matter of

PHILLIPSBURG BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-51

PHILLIPSBURG EDUCATION ASSOCIATION, NJEA,

Petitioner.

SYNOPSIS

The Director dismisses the Phillipsburg Education Association's petition to add existing units of paraprofessionals and secretaries to its unit of teachers. An election is barred by collective agreements between the Board and the NJEA affiliates currently representing the paraprofessional and secretarial units.

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Appearances:

For the Public Employer
Boyd Harbourt, Esq.

For the Petitioner
New Jersey Education Association
(John W. Davis, UniServ Rep.)

DECISION

On October 14, 1988, the Phillipsburg Education Association, NJEA ("Association") filed a petition to add paraprofessionals and secretaries to its unit of Phillipsburg Board of Education ("Board") professional employees. The paraprofessionals are currently represented in collective negotiations by the Phillipsburg Para-Professionals Association ("PPA") and the secretaries by the Phillipsburg Education Secretarial Association ("PESA"). Like the Association, the PPA and PESA are NJEA affiliates. The PPA and PESA have collective agreements with the Board that do not expire until June 30, 1990.

On November 8, 1988, the Board's attorney and its labor consultant advised the Commission that the Board would not consent to an election. The Board argued that its collective agreements with PPA and PESA barred a representation election. The Board submitted its position statement and copies of its agreements with PPA and PESA on November 14, 1988. We then invited the Association to file a position statement explaining why its petition should not be dismissed based on the contract bar raised by the Board.

On November 30, 1988, the Association filed a position statement. It contends that the PPA and PESA agreements should not bar an election because it does not intend to negotiate new terms and conditions of employment for the units until the agreements expire. It also contends that a dismissal of its petition would prevent the Board's employees from exercising their right to select their own representation because the expiration date of the Association, PEA and PESA agreements are staggered and the Board "would only settle contracts that would never synchronize to the open periods."

N.J.A.C. 19:11-2.8(c) provides that:

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a Petition for Certification of Public Employee Representative or a Petition for Decertification of Public Employee Representative normally will not be considered timely filed unless:

3. In a case involving employees of a school district, the petition is filed during the period between September 1, and October 15, inclusive, within the last 12 months of such agreement.

We stated in City of Hackensack, D.R. No. 86-2, 11 NJPER 570 (¶16199 1985), that:

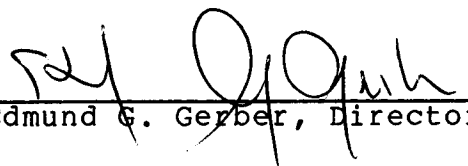
The timely period for filing representation petitions...is designed to balance the interests of various parties in a contested representation matter. Subsection 19:11-2.8 balances the rights of employees to select the organization of their choice to represent them as against the rights of the employer...to negotiate in a stable environment without the threat of a challenging representation petition.

The Association's petition is untimely. Based upon the plain meaning of N.J.A.C. 19:11-2.8(c) and the reasons set forth in Hackensack, the Association's petition must be dismissed. See also Clearview Reg. Bd. of Ed., D.R. No. 78-2, 2 NJPER 248 (1977); Jersey City Bd. of Ed., P.E.R.C. No. 79-15, 4 NJPER 455 (¶4206 1978); Lakewood Bd. of Ed., D.R. No. 86-12, 12 NJPER 216 (¶17087 1986).

ORDER

The Association's petition is dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: December 20, 1988
Trenton, New Jersey