

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In the Matter of

*NEA-Carrizozo
Petitioner,*

and

*Carrizozo Municipal Schools
Public Employer.*

DECISION AND ORDER

On May 1, 1995, a "Report of the Director and Direction of Election" issued in Case No. CP 26-95(SD) following investigation of NEA-Carrizozo's petition to represent approximately 21 certified, licensed professional positions in the Carrizozo Municipal Schools.

During the processing of the petition, the school district objected to inclusion of the position of Chapter I Coordinator within the petitioned-for unit because, the public employer asserts, it is a supervisory position. Also, Carrizozo Municipal Schools objected to including on the voter eligibility list those individuals who have resigned, retired, or whose contract has not been renewed for the next school year.

With respect to the supervisory status of the position Chapter I Coordinator, the Report of the Director notes that the issue may be resolved through a challenged ballot and, if not resolved in that manner, "the party may consider a petition to the Board through a unit clarification proceeding or seek a representation hearing."

As for the eligibility to vote of those individuals who are retiring, resigning, or whose contract was not renewed, the Report of the Director relied upon Rule 2.17(a) wherein employees occupying petitioned-for bargaining unit positions are eligible to vote "if they [are] employed during the last payroll period preceding" the directed election. Finally, the unit's composition is appropriate for the occupational group is presumptively valid. In view of these findings and conclusions, a direction of election issued for a secret, mail ballot election.

On May 8, 1995, the school district requested a review of the "Report of the Director and Direction of Election." In that request for review, the public employer argues that Rule 2.17 is contradicted by Rule 1.3(k) which should be applied to determine voter eligibility. In this regard, Rule 1.3k. states:

"regular employee" means an employee who has been hired to work by a public employer, including part-time employees, but shall not include casual employees and employees who have no reasonable expectation of continued employment.

Based on its interpretation of Rules 2.17 and 1.3k., the school district submitted a list of eligible voters that included the position of Chapter I Coordinator--with a designation that it would be a challenged ballot--and did not include six names of individuals who are not returning to employment after this school year.

Petitioner did not file a written response to the request for review.

Having considered the two issues presented in the public employer's request for review, we adopt the findings and conclusions in the "Report of the Director and Direction of Election." Eligibility of any voter may be challenged by either party to the representation election.

ORDER

A secret mail ballot election shall be conducted among the employees in the following unit:

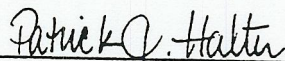
Included: All licensed, certified professional employees including teachers, special education, early childhood, guidance counselors, librarian/media specialist, subject matter specialist, and special education personnel.

Excluded: All management employees, supervisors, and confidential employees as defined by the Act and all others.

In accordance with the Act and the Board's rules, eligible employees in the unit shall be given an opportunity to vote between representation by NEA-Carrizozo and "No Representation."

The Board reviewed Case No. CP 26-95(SD) during open session at its May 17, 1995, meeting in Santa Fe, New Mexico, following notice and publication of the meetings pursuant to the Open Meetings Act, NMSA 1978, §§ 10-15-1 to 10-15-4 (Repl. Pamp. 1992).

By direction of the Board.



Patrick J. Halter
Director, PELRB

Issued: May 19, 1995
Albuquerque, New Mexico