

D.R. NO. 87-6

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

In the Matter of

PLAINFIELD BOARD OF EDUCATION,

Public Employer,

-and-

DOCKET NO. CU-86-65

PLAINFIELD EDUCATION ASSOCIATION,

Employee Representative-Petitioner.

SYNOPSIS

The Director of Representation determines that the newly created position of Secretary to the Assistant Superintendent of Pupil Personnel Services is confidential, and, thus, dismisses the Association's petition which seeks to clarify this title into its unit. Although many of the new title's confidential responsibilities are prospective, the title's current confidential duties, combined with its proposed confidential responsibilities, renders the title effectively confidential within the meaning of the Act.

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Appearances:

For the Public Employer  
King, King & Goldsack, Esqs.  
(Victor E.D. King, of counsel)

For the Petitioner  
New Jersey Education Association  
(Ronald Harvey, UniServ Rep.)

DECISION

On May 12, 1986, a Petition for Clarification of Unit was filed with the Public Employment Relations Commission ("Commission") by the Plainfield Education Association NJEA/NEA ("Association"), with respect to a collective negotiations unit of all non-supervisory employees employed by the Plainfield Board of Education. The Association seeks to clarify the inclusion of the "newly created" position of Secretary to the Assistant Superintendent of Pupil Personnel Services. The Board disputes the

title's includability in the unit, and, instead, asserts that the title is confidential within the meaning of N.J.S.A. 34:13A-3(g).<sup>1/</sup>

We have caused an administrative investigation to be conducted in this matter in order to determine the facts. Based upon the administrative investigation, we find the following:

1. The Plainfield Board of Education is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), is the employer of the disputed employee, and is subject to the Act's provisions.

2. The Plainfield Education Association is an employee representative within the meaning of the Act and is subject to its provisions. The Association is the majority representative of a collective negotiations unit of all non-supervisory employees employed by the Board.

3. The Board represents that the title in question will have access to all dictated memos, reports and letters with respect to staff evaluations within the department of pupil personnel services (both professional and secretarial) and will type all evaluations of teachers of the handicapped. Additionally, the title

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<sup>1/</sup> N.J.S.A. 34:13A-3(g) defines confidential employees as:  
...employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

prepares files for grievance hearings, sometimes sits in on grievance hearings, and types grievance decisions and memos with respect to suggested or recommended decisions which are then sent to the Superintendent of Schools. The title further maintains the Assistant Superintendent's confidential negotiations files, collects data relevant to negotiations, and types correspondence to other members of the Board's negotiations team and its professional negotiator. The title will be assisting the Assistant Superintendent in planning sessions with other members of the negotiating team, and will take notes of the team's confidential meetings during which negotiations tactics will be discussed by the team and the professional negotiator. Along with the other confidential secretaries, the title will be asked, on a rotating basis, to attend planning sessions in preparation for negotiations where the following individuals will be present: the professional Negotiator, the Board Attorney, the Board Superintendent, other members of the negotiation team, other Board of Education members and the Board's consultant. Finally, the title will have advanced notice and knowledge of board positions on various issues still on the table during negotiations, and of those issues not yet on the table but awaiting further developments during the process.

It appears that the title sought to be included by the petition is handling confidential labor relations matters on behalf of the Board and would be expected to have access and knowledge of the issues involved in the collective negotiations process in the

course of the regular exercise of the duties of Secretary to the Assistant Superintendent of Pupil Personnel Services. Therefore, this title is an "employee whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make its membership in an appropriate unit incompatible with its official duties."<sup>2/</sup>

For the foregoing reasons, I conclude that the newly created position of Secretary to the Assistant Superintendent of Pupil Personnel Services, is confidential"within the meaning of the Act, and, thus, decline to clarify the Association's unit to include that title.

By letter dated August 19, 1986, I advised the parties of my intention to dismiss the petition based upon the facts presented and the relevant case law. That letter afforded the parties an opportunity to present any additional facts or additional statements

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<sup>2/</sup> Confidential employees are excluded from the Act's definition of public employees and cannot be included in a negotiations unit with other public employees. See N.J.S.A. 34:13A-3(d); N.J.S.A. 34:13A-5.3. River Dell Bd. of Ed., D.R. No. 83-21, 9 NJPER 180 (¶14084 1983); Old Bridge Tp., D.R. No. 82-17, 7 NJPER 639 (¶12287 1981); Western Monmouth Utilities Auth., D.R. No. 82-38, 8 NJPER 140 (¶13061 1982); Linden Free Public Library, D.R. No. 82-32, 8 NJPER 76 (¶13031 1981); East Windsor Reg. School Dist., D.R. No. 82-9, 7 NJPER 524 (¶12231 1981); Little Ferry Bd. of Ed., D.R. No. 80-19, 6 NJPER 59 (¶11033 1980); Rahway Bd. of Ed., D.R. No. 80-12, 5 NJPER 506 (¶10261 1979).

of position relating to this matter. No further submissions have been made. Under all the circumstances found here, the petitioned-for unit clarification is hereby dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: September 12, 1986  
Trenton, New Jersey