

D.R. NO. 2023-10

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

In the Matter of

QUEEN CITY ACADEMY CHARTER
SCHOOL,

Public Employer,

-and-

Docket No. CU-2021-009

QUEEN CITY EDUCATION
ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a clarification of unit petition filed by the Queen City Education Association (Association) seeking to have its collective negotiations unit of non-supervisory certificated and non-certificated employees employed by the Queen City Academy Charter School (School) clarified as including certain employees in the titles of Administrative Assistant, Administrative Assistant/Development Associate, Administrative Assistant/Business Office, and School Secretary.

The Director found that while the employees' duties gave them advance knowledge with respect to personnel actions and discipline, this was not knowledge that would make them confidential employees within the meaning of the Act. However, the Director also found that the employees had other duties which did give them advance knowledge of grievance and contract negotiations strategies and positions, through their access to relevant computer folders, their handling of mail from labor counsel, their overhearing of conversations in the small open office regarding labor negotiations and grievance processing, and their covering for each other where their individual duties also include attendance at negotiation strategy meetings with labor counsel, analysis of grievances and the preparation of preliminary responses, and other similar duties. Accordingly, the Director found the employees to be confidential employees within the meaning of the Act and dismissed the Association's petition.

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Appearances:

For the Public Employer,
Antonelli Kantor Rivera, attorneys
(Ramon Rivera, of counsel)

For the Petitioner,
Bergman and Barrett, attorneys
(Michael T. Barrett, of counsel)

DECISION

On February 16, 2021, and March 31, 2022, the Queen City Education Association (Association) filed, respectively, a petition and amended petition for clarification of unit, seeking to have its collective negotiations unit of non-supervisory certificated and non-certificated employees employed by the Queen City Academy Charter School (School) clarified as including certain employees in the titles of Administrative Assistant, Administrative Assistant/Development Associate, Administrative Assistant/Business Office, and School Secretary (collectively,

“petitioned-for employees”). The School argues the petitioned-for employees should be excluded as confidential employees within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (Act). The School did not raise any other objection to the petition.

An investigatory conference was held on March 26, 2021. After the amended petition was filed to encompass additional employees, the assigned staff agent requested briefs, responses to an information request, and supporting certifications. The email scheduling the submission deadlines emphasized that the School could not rely on written job descriptions and broad assertions of duties, but should provide certifications as to specific examples of times that work involving confidential labor relations materials were actually performed, with dates and documentary evidence, partially redacted if necessary when serving the Association.

Two requests by the School for extensions for its submissions were granted, and, on May 20, 2022, the School filed and served a brief and certifications with exhibits from Chief Executive Officer Danielle West (“West Cert.”) and the alleged confidential employees at issue in this matter: Gianni Edwards (Administrative Assistant/Development Associate) (“Edwards Cert.”), Adrienne Cox (Administrative Assistant/Business Office) (“Cox Cert.”), Janice Knight (Administrative Assistant) (“Knight

Cert."), Aisha Longchamp (Administrative Assistant) ("Longchamp Cert."), and Leslie Garey (School Secretary) ("Garey Cert."). The Association did not provide any submissions by its deadline.

Because the Association did not provide any submission and the School did not provide detail as to specific examples of times that work involving confidential labor relations materials were actually performed, the staff agent conducted another conference with the parties on June 13, 2022, and set new deadlines for the School to provide details and the Association to respond. Three requests by the School for extensions were granted, and on July 19, 2022, the School filed and served a supplemental certification from West and filed exhibits for in camera review ("West Supp. Cert."). Two requests by the Association for extensions were granted, and on August 12, 2022, the Association filed and served its brief and a certification from New Jersey Education Association (NJEA) UniServ Representative Maryanne Rodriguez ("Rodriguez Cert.") with exhibits. The parties' submissions do not present substantial and material factual issues requiring an evidentiary hearing.

N.J.A.C. 19:11-2.6(f).^{1/} I find the following facts.

1/ The Rodriguez certification consists entirely of legal argument and comparisons of the duties referenced in the School's supporting certifications with the written job descriptions and postings for Executive Assistant/Development Associate, which were also provided by the School. As such, the factual findings in this decision
(continued...)

The recognition provision of the 2018-2021 collective negotiations agreement (CNA) defines the unit as including "all regularly employed, nonsupervisory certificated and non-certificated employees employed by Queen City Academy Charter School" and excluding "Administrators employed under supervisory certifications, managerial executives, confidential employees, and supervisors within the meaning of the Act; craft employees, police, casual employees and all other employees of the Queen City Academy Charter School."

The employees at issue in this case and their respective titles are Gianni Edwards (Administrative Assistant/Development Associate), Adrienne Cox (Administrative Assistant/Business Office), Janice Knight (Administrative Assistant), Aisha Longchamp (Administrative Assistant), and Leslie Garey (School Secretary). The Administrative Assistant/Development Associate position was created in or around January 2021. The Administrative Assistant position was created in or around 2007. West certifies that the Administrative Assistant/Business Office position predates her arrival and that it and the School Secretary positions were likely created in 2000 or at Queen City's inception. (West Cert., ¶¶7 - 10).

The Queen City Administrative Office's support team consists

1/ (...continued)
are from the School's submissions.

of the aforementioned five employees. They work in a small, open space office without enclosures or similar structures. West certifies that she and the Business Administrator are involved in labor negotiations, grievance processing, employee discipline, and the budget, and that the petitioned-for employees are exposed to materials and discussions pertaining to labor negotiations strategy, grievance processing, and employee disciplinary matters. West certifies that she has had discussions pertaining to labor negotiations, grievance processing, and employee discipline in the presence of the petitioned-for employees. West certifies that when one of the petitioned-for support staff members is absent, the other support staff members cover for any and all duties of the absent member. (West Cert., ¶¶12 - 20).

West certifies that in preparation for internal strategy meetings, the negotiations strategy and positions regarding various proposals were openly discussed in the main office in front of all the main office staff, and that all of the petitioned-for employees were present for and heard discussions regarding negotiations strategy on June 17, 2021; August 25, 2021; November 3, 2021; April 21, 2022; April 27, 2022; June 14, 2022; and June 27, 2022. (West Supp. Cert., ¶¶15 - 16).

Each of the petitioned-for employees has access to the School's "R-Drive", which is a computer network storage drive that contains information pertaining to employee discipline,

contemplated discipline, salary, evaluations, and other personal information. The R-Drive can only be accessed by administrators and the petitioned-for administrative support members. (West Cert., ¶21).

The "Union Negotiations Data" folder is located in the R-Drive. West certifies that it contains labor relations material pertaining to collective negotiations, including confidential documents outlining internal negotiations strategy, grievance processing, and matters pending before the Commission. The "Personnel" folder is also in the R-Drive. West certifies that it contains material related to discipline, non-renewals, corrective action plans, and Rice letters. (West Supp. Cert., ¶¶3-5).

Although the School Secretary is primarily responsible for processing incoming correspondence, each of the petitioned-for employees are responsible for handling and processing mail received in the administrative office. West certifies that this includes analyzing information contained in correspondence with labor counsel. (West Cert., ¶22).

West certifies that each of the petitioned-for employees has prepared board packets requiring the compiling of information to be discussed during executive session, including materials pertaining to labor negotiations, the budget, grievances, and employee discipline. (West Cert., ¶23).

West certifies that the Administrative Assistant/Development

Associate has conducted the initial analysis of grievances received by the administrative office, prepared preliminary responses, discussed grievances with West, attended every labor negotiations session and strategy meeting with labor counsel, and prepared contract analyses and budgets with respect to labor negotiations. West certifies that the Administrative Assistant/Development Associate has been required to identify employees subject to discipline or increment withholding based upon established criteria and tasked with preparing letters to be issued to those employees regarding the same. (West Cert., ¶¶25-30).

Edwards certifies that in her role as (Executive) Administrative Assistant/Development Associate, she is often responsible for handling and processing mail received in the administrative office, which includes analyzing correspondence with labor counsel and other matters pertaining to labor relations in order to route it to the appropriate individual or office. She certifies that she has been involved in the preparation of board packets which includes compiling information to be discussed during closed session, which she certifies is often confidential and related to labor negotiations, grievances, and discipline. She certifies that she covers for the duties of other administrative staff members and has access to the R-Drive containing confidential information pertaining to employee

discipline, contemplated discipline, salary, evaluations, and other personnel information. She certifies that she has attended every labor negotiations session and strategy meetings with labor counsel from the outset. She certifies that, due to the small open area office, she is often exposed to other discussions and conversations relating to labor negotiations, grievances, discipline, hiring, and promotions. She also certifies that she has conducted the initial analysis of grievances received by the administrative office, prepared preliminary responses, and then discussed the grievances with West. (Edwards Cert., ¶¶1-10).

Employee disciplinary letters dated May 18, 2021, and June 2, 2021, were provided as in camera exhibits and are certified by West to have been prepared by Edwards. These letters appear to be written notices of non-compliance with school policies regarding absences and punching in and out on pay clocks. The letter regarding excessive absences indicated that an administrative meeting would be held. (West Supp. Cert., ¶¶6- 7, Exhibits E and F).

On June 17, 2021, Edwards was present for a preliminary strategy meeting with School labor counsel and a meeting with the Association. On August 26, 2021, she was present for a meeting with the Association and internal discussions with the School's labor counsel. On November 3, 2021, she was present for a strategy meeting with the School's labor counsel. On November

10, 2021, she was present for a meeting with the Association and internal discussions with the School's labor counsel. On December 20, 2021, she was present for a meeting with the Association and internal discussions with the School's labor counsel. On April 21, 2022, and April 27, 2022, she was present for negotiations strategy meetings with the School's labor counsel. On May 9, 2022, she was present for mediation with the Association regarding the parties' new contract, which included internal discussions regarding negotiations strategy with the School's labor counsel in preparation for the mediation and during breakout internal discussions. On June 14, 2022, and June 27, 2022, she was present for negotiations strategy meetings with the School's labor counsel. (West Supp. Cert., ¶12).

West certifies that the Administrative Assistant/Business Office has prepared responses to grievances received by the administrative office, attended labor negotiations strategy meetings with labor counsel, and provided assistance with labor negotiations, budgets, and scattergrams relating to employee compensation. West certifies that the Administrative Assistant/Business Office has been required to identify employees subject to discipline or increment withholding based upon established criteria and tasked with preparing letters to be issued to those employees regarding the same. West certifies that the Administrative Assistant/Business Office has been

required to prepare drafts for updated employment policies and has knowledge of contemplated changes prior to disclosure to the Association. (West Cert., ¶¶31-37).

Cox certifies that in her role as Administrative Assistant/Business Office, she is often responsible for handling and processing mail received in the administrative office, which includes analyzing correspondence with labor counsel and other matters pertaining to labor relations in order to route it to the appropriate individual or office. She certifies that she has been involved in the preparation of board packets which includes compiling information to be discussed during closed session, which she certifies is often confidential and related to labor negotiations, grievances, and discipline. She certifies that she covers for the duties of other administrative staff members and has access to the R-Drive containing confidential information pertaining to employee discipline, contemplated discipline, salary, evaluations, and other personnel information. She certifies that she prepares scattergrams pertaining to salary and healthcare and assists with the negotiations and discussions around the strategy for healthcare. She also certifies that she has attended some labor negotiations sessions and strategy meetings with labor counsel, and that, due to the small open area office, she is often exposed to other discussions and conversations relating to labor negotiations, grievances,

discipline, hiring, and promotions. (Cox Cert., ¶¶1-10).

On November 4, 2021, Cox was present for a meeting regarding insurance with the School's labor counsel. On May 9, 2022, she was present for mediation with the Association regarding the parties' new contract which included internal discussions regarding negotiations strategy with the School's labor counsel in preparation for the mediation and during breakout internal discussions. On June 14, 2022, she was present for negotiations strategy meetings with the School's labor counsel. On June 27, 2022, she was present for negotiations strategy meetings with the School's labor counsel. (West Supp. Cert., ¶13).

West certifies that the Administrative Assistants have performed initial analysis of grievances received by the administrative office and discussed them with West. West certifies that they are involved in the disciplinary process through preparation of memoranda pertaining to proposed employee discipline when misconduct or infractions are brought to her attention by the principal. West certifies that they draft, prepare, and mail non-renewal letters to staff, requiring analysis of personnel information and preparation of a statement of reasons in support of the non-renewal. West certifies that they identify staff members who are potentially subject to increment withholding based upon established evaluative criteria and make recommendations based upon said criteria and personnel

information. West certifies that they draft and prepare form letters to submit to the subject employees with respect to corrective action or proposed discipline. West certifies that they are involved in the employee hiring process and conduct background checks for potential hires. West certifies that they provide assistance to West and the Business Administrator in labor negotiations through the analysis of contracts, budgets, and preparation of scattergrams. West certifies that they draft and prepare form letters to employees with high sick leave usage in preparation for employee corrective action or proposed discipline. (West Cert., ¶¶38-50).

Longchamp, as one of the Administrative Assistants, certifies that she is often responsible for handling and processing mail received in the administrative office, which includes analyzing correspondence with labor counsel and other matters pertaining to labor relations in order to route it to the appropriate individual or office. She certifies that she covers for the duties of other administrative staff members and has access to the R-Drive containing confidential information pertaining to employee discipline, contemplated discipline, salary, evaluations, and other personnel information. She certifies that due to the small open area office, she is often exposed to other discussions and conversations relating to labor negotiations, grievances, discipline, hiring, and promotions. She

also certifies that at times she may be asked to compile information to be discussed during closed sessions, which she certifies is confidential and related to labor negotiations, grievances, and employee discipline. (Longchamp Cert., ¶¶1-7)

An email was provided as an in camera exhibit which West certifies to have been prepared by Longchamp in response to a grievance after Longchamp reviewed and analyzed the grievance and determined the School's position. The email shows that it was sent from Longchamp's email account with her email signature (indicating her title as Confidential Administrative Assistant) and sent to the grievant. The grievance number is noted and the email indicates that, after consideration, a determination regarding the grievance was made. Although the email does not fully indicate what the grievance was concerning, an explanation regarding the determination and the School's position is provided. The email lets the grievant know that the grievant can reach out to Longchamp or West with any questions. (West Supp. Cert., ¶10, Exhibit H).

Knight, in her role as another Administrative Assistant, certifies that she has been involved in the preparation of board packets which includes compiling information to be discussed during closed session, which she certifies is often confidential and related to labor negotiations, grievances, and discipline. She certifies that she covers for the duties of other

administrative staff members and has access to the R-Drive containing confidential information pertaining to employee discipline, contemplated discipline, salary, evaluations, and other personnel information. She certifies that, due to the small open area office, she is often exposed to other discussions and conversations relating to labor negotiations, grievances, discipline, hiring, and promotions, as well as dismissals and non-renewals. She certifies that she has participated in grievance meetings and been responsible for summarizing the meeting's minutes. She certifies that she provides support to principals by assisting in the employee disciplinary process and preparing memoranda pertaining to employee discipline. She certifies that she types letters pertaining to non-renewals and mails those letters to the affected employees. She certifies that she has drafted form letters to employees with high sick leave usage in preparation for employee corrective action or proposed discipline. She also certifies that she has prepared documents identifying individuals who are potentially subject to increment withholding based upon a variety of criteria. (Knight Cert., ¶¶1-10).

An in camera exhibit of multiple Bulletin Board evaluations dated January 7, 2020, was provided, which West certifies Knight prepared. These evaluations noted for the employees things such unacceptable caliber/rigor, missing updates, missing

standards/objectives/tasks, spelling mistakes, inconsistent grading, rubrics in need of assistance, and outdated scholar work, and indicated when the board would be rechecked. (West Supp. Cert., ¶9, Exhibit G).

West certifies that the School Secretary is involved in the disciplinary process via the preparation of memoranda pertaining to potential employee discipline when required by workflow or leaves of absence. West certifies that the School Secretary is primarily responsible for handling and processing mail received by the administrative office, analyzing the information contained in it, which West certifies can include correspondence with labor counsel pertaining to labor relations. West certifies that the School Secretary is responsible for State NJ Smart Reporting, which houses personnel information. (West Cert., ¶¶51-54).

Leslie Garey certifies that in her role as School Secretary, she is the individual primarily responsible for handling and processing mail received in the administrative office, which includes analyzing correspondence with labor counsel and other matters pertaining to labor relations in order to route it to the appropriate individual or office. She certifies that she covers for the duties of other administrative staff members and has access to the R-Drive containing confidential information pertaining to employee discipline, contemplated discipline, salary, evaluations, and other personnel information. She

certifies that she is directly involved with State NJ Smart Reporting and inputs and uploads confidential information. She also certifies that, due to the small open area office, she has the potential to hear conversations between other parties in the office. (Garey Cert., ¶¶1-7).

ANALYSIS

Confidential employees are excluded from the Act's definition of "employee" and do not enjoy the Act's protections. N.J.S.A. 34:13A-3(d). N.J.S.A. 34:13A-3(g) defines "confidential employees" of public employers other than the State as:

[E]mployees whose functional responsibilities or knowledge in connection with issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

The Commission's policy is to narrowly construe the term confidential employee. Ridgewood Bd. of Ed., P.E.R.C. No. 87-148, 13 NJPER 503 (18186 1987), aff'd NJPER Supp. 2d 186 (¶165 1988); State of New Jersey, P.E.R.C. No. 86-18, 11 NJPER 507 (16179 1985), recon. den. P.E.R.C. No. 86-59, 11 NJPER 714 (16249 1985). In State of New Jersey, we explained our approach in determining whether an employee is confidential.

We scrutinize the facts of each case to find for whom each employee works, what he does, and what he knows about collective negotiations issues. Finally, we determine whether the responsibilities or knowledge of each

employee would compromise the employer's right to confidentiality concerning the collective negotiations process if the employee was included in a negotiating unit. Id. At 510

See also, Ringwood Bd. of Ed., supra. In New Jersey Turnpike Authority v. AfSCME, Council 73, 150 N.J. 331 (1997), our Supreme Court approved the standards articulated in State of New Jersey and explained:

The baseline inquiry remains whether an employee's functional responsibilities or knowledge would make their membership in any appropriate negotiating unit incompatible with their official duties. N.J.S.A. 34:13A-3(g); see also State of New Jersey, supra, 11 NJPER 507 (16179 1985). Obviously, an employee's access to confidential information may be significant in determining whether that employee's functional relationship or knowledge make membership in a negotiating unit inappropriate. However, mere physical access to information without any accompanying insight about its significance or functional responsibility for its development or implementation may be insufficient in specific cases to warrant exclusion. The test should be employee-specific, and its focus on ascertaining whether, in the totality of the circumstances, an employee's access to information and knowledge concerning its significance, or functional responsibilities in relation to the collective negotiations process make incompatible that employee's inclusion in a negotiating unit. We entrust PERC in the first instance the responsibility for making such determinations on a case-by-case basis." [Id. at 358]

In evaluating confidential status claims, we have consistently applied strict standards of proof. Absent a proffer of specific duties and a demonstration that the purported confidential duties are actually performed, we will not find confidential status. City of Camden House Authority, D.R. No. 2014-7, 40 NJPER 219 (¶84 2013).

In addition, the Commission has held that mere access to personnel files, or advance knowledge of employee personnel information unrelated to management's handling of grievances or the negotiations process, does not render an employee confidential, as that term is defined by our Act. Bloomfield Public Library, D.R. No. 2011-09, 37 NJPER 153 (¶47 2011). "The key to finding confidential status is the employee's knowledge of materials used in the labor relations process, including contract negotiations, contract administration, grievance handling and preparation for these processes." Pompton Lakes Bd. of Ed., D.R. No. 2005-16, 31 NJPER 73 (¶33 2005); see also State of New Jersey (Div. of State Police), D.R. No. 84-9, 9 NJPER 613 (¶14262 1983). This type of knowledge must be distinguished from "knowledge of information which is confidential in the traditional sense or definition because it concerns security or personal matters," since the latter understanding on its own "is not sufficient to remove employees based upon the definition of a confidential employee within the meaning of the Act." Camden Bd. of Ed., D.R.

No. 2007-6, 32 NJPER 383 (¶159 2006), citing Cliffside Park Bd. of Ed., P.E.R.C. No. 88-108, 14 NJPER 339 (¶19128 1988); State of New Jersey, 11 NJPER at 510.

Although the School has shown that the employees at issue in this case have involvement with the process of hiring, evaluations, non-renewals, and discipline, I do not find that their knowledge obtained through these duties involves confidential labor relations strategies and positions regarding collective negotiations. See W. Milford Tp. Bd. of Ed. P.E.R.C. No. 56, NJPER Supp 218 (¶56 1971) (secretaries were not confidential despite having information regarding supervisors' recommendations for personnel decisions on who to recruit because such information was not used in making labor relations policy); Passaic Cty., D.R. No. 2015-3, 41 NJPER 296 (¶98 2015) (employees responsible for handling sensitive information for various personnel matters, including resignations, retirements, and discipline found to not be confidential), citing Camden Bd. of Ed. Cf. Lincoln Park Nursing & Convalescent Home, Inc., 318 N.L.R.B. 1160, 1164, 151 L.R.R.M. 1075, 318 NLRB No. 123 (September 18, 1995) (typing of warnings, termination notices, disciplinary matters, and other material relating to personnel problems does not render an employee confidential); B.F. Goodrich Co., 115 N.L.R.B. 722, 725, 37 L.R.R.M. 1383, 115 NLRB No. 103 (March 7, 1956) (secretaries to managers who had responsibilities

such as hiring, discharging, disciplining, promoting, and granting merit increases to employees found to not be confidential); In Re of Automatic Elec. Co., 78 N.L.R.B. 1057, 1059, 22 L.R.R.M. 1335, 78 NLRB No. 146 (August 17, 1948) (secretaries who overheard discussions on disciplinary actions affecting other employees found to not be confidential).^{2/}

However, I do find that the School has sufficiently shown that the employees at issue in this matter have other duties which expose them to confidential information regarding the School's positions and strategies with respect to collective negotiations. Documentary evidence shows that Longchamp has advance knowledge of the School's position with respect to at least some grievances, where the School's position depends on its interpretation of the collective negotiations agreement and the scope of the negotiations unit. While the other in camera exhibits provided by the School do not on their own show confidential labor relations positions (they merely include

^{2/} Indeed, our Act provides that supervisory employees having the power to hire, discharge, and discipline, or to effectively recommend the same (and thus who discuss potential discipline internally) may be in their own collective negotiations units. N.J.S.A. 34:13A-5.3, -5.10(b)(1), -6(d). It would be inconsistent with legislative intent to find that such duties render an employee confidential and excluded from the coverage of the Act. If the supervisory employees making such personnel decisions and recommendations are not thereby confidential, it follows that their secretarial and clerical support staff are not confidential merely from having advance knowledge of these decisions and recommendations.

evaluations, written warnings, and screenshots of folder names on the R-Drive), the screenshots together with the details from the certifications of the petitioned-for employees themselves and the chief executive officer, convince me that these employees have engaged in and will continue to engage in duties that expose them to confidential labor relations information. That is, while a mere certification that the duties of a job description are performed is generally not enough to establish confidential status, and while documentary evidence of sample work actually performed and showing the relevant confidential information is preferred, sufficient details in certifications regarding specific duties and examples of times that work involving confidential labor relations materials were actually performed can lead to a finding of confidential employee status.

Edwards, Cox, Knight, Longchamp and Garey all certify they overhear conversations due to the small open office environment, where such conversations involve labor negotiations and grievance processing. They all certify that they have access to the R-Drive, which West further certifies (and the screenshots corroborate) contains a "Union Negotiations Data" folder containing labor relations material pertaining to collective negotiations, including confidential documents outlining internal negotiations strategy and grievance processing. They all certify that they handle and process mail that includes correspondence

from labor counsel pertaining to labor relations. They all certify that the latter five cover for the duties of each other.

Edwards has conducted the initial analysis of grievances received by the administrative office, prepared preliminary responses, discussed grievances with West, attended every labor negotiations session and strategy meeting with labor counsel, and prepared contract analyses and budgets with respect to labor negotiations. She has been involved in the preparation of board packets which includes compiling information to be discussed during closed session, which is often related to labor negotiations and grievances. West provided details and specific examples of times when Edwards was present for internal negotiations strategy meetings with the School's labor counsel and mediation regarding the contract.

Cox has prepared responses to grievances received by the administrative office, attended labor negotiations strategy meetings with labor counsel, and provided assistance with labor negotiations, budgets, and scattergrams relating to employee compensation. She prepares scattergrams pertaining to salary and healthcare and assists with the negotiations and discussions around the strategy for healthcare. She has been required to prepare drafts for updated employment policies and has knowledge of contemplated changes prior to disclosure to the Association. She has been involved in the preparation of board packets which

includes compiling information to be discussed during closed session, which is often related to labor negotiations and grievances. She has attended some labor negotiations sessions and strategy meetings with labor counsel. West provided details and specific examples of times when Cox was present for internal negotiations strategy meetings with the School's labor counsel and mediation regarding the contract.

Garey is the individual primarily responsible for handling and processing mail received in the administrative office, which includes analyzing correspondence with labor counsel and other matters pertaining to labor relations in order to route it to the appropriate individual or office.

Longchamp, at times, has been asked to compile information related to labor negotiations and grievances to be discussed during closed sessions. She performs initial analysis of grievances received by the administrative office and discusses them with West. As stated above, an in camera exhibit of such a grievance was provided by the School.

Knight has been involved in the preparation of board packets which includes compiling information to be discussed during closed session, which is often related to labor negotiations and grievances. She has participated in grievance meetings and been responsible for summarizing the meeting's minutes.

Given the small open office, these employees see the work

performed by each of them, and they fill in for each other in performing the duties that make them confidential employees. The duties above demonstrate that each of these employees has responsibilities and knowledge in connection with issues involved in the collective negotiations process that would make them confidential employees within the meaning of the Act and make their membership in the petitioner's unit incompatible with their official duties. As I find that the employees sought by the Association to be clarified as included in its collective negotiations unit - Gianni Edwards (Administrative Assistant/Development Associate), Adrienne Cox (Administrative Assistant/Business Office), Janice Knight (Administrative Assistant), Aisha Longchamp (Administrative Assistant), and Leslie Garey (School Secretary) - are confidential employees, I dismiss the Association's clarification of unit petition.

ORDER

The Association's clarification of unit petition is dismissed.

/s/ Ryan M. Ottavio
Ryan M. Ottavio
Director of Representation

DATED: February 13, 2023
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by February 24, 2023.