

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

In the Matter of

TEANECK BOARD OF EDUCATION,

Public Employer,

-and-

TEANECK ASSOCIATION OF EDUCATIONAL
SECRETARIES, a/w NJSFT, AFT, AFL-CIO,

DOCKET NO. CU-82-52

Petitioner,

-and-

TEANECK AIDES ASSOCIATION, NJEA,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, determines that office aides, who perform routine office duties formerly performed by secretaries, shall be included in the unit of Board secretaries represented by the Federation. The record revealed that the office aides currently hired by the Board have different duties and responsibilities than office aides who had been previously hired by the Board and were placed in the Association's aides unit. As opposed to all other employees in the aide titles, the new office aides do not have a significant interaction with students and they share common employment conditions with secretaries.

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Intervenor.

Appearances:

For the Public Employer
Murray & Granello, attorneys
(James P. Granello of counsel)

For the Petitioner
Fougeres R. Ferrier, Staff Representative

For the Intervenor
Vincent E. Giordano, UniServ Field Representative

DECISION

On January 27, 1982, a Petition for Clarification of Unit was filed with the Public Employment Relations Commission ("Commission") by the Teaneck Association of Educational Secretaries, a/w NJSFT, AFT, AFL-CIO ("Federation") raising a question concerning the composition of a collective negotiations unit of

secretarial/clerical and data processing employees at the Teaneck Board of Education ("Board") which the Federation represents. The Federation seeks the inclusion of employees in the title of "office aide" in its negotiations unit. The Teaneck Aides Association, NJEA ("Association"), the majority representative of a unit of all aides and food service personnel employed by the Board, intervened in this matter pursuant to N.J.A.C. 19:11-2.7. The Board and the Association both assert that the title of office aide is included in the Association's unit and, in fact, has been included in that unit since at least 1976.

Pursuant to a Notice of Hearing, a hearing was held before Commission Hearing Officer Joan Kane Josephson, on May 12, 1982, in Newark, New Jersey. All parties were afforded the opportunity to examine and cross-examine witnesses, to present evidence and to argue orally. The Hearing Officer submitted her Report and Recommendations on January 17, 1983, a copy of which is attached hereto and made a part hereof. The Hearing Officer found that the title office aide was newly created and recommended that the Federation's unit of secretaries, clerical and data processing personnel be clarified to include the office aides. The Association filed exceptions to the Hearing Officer's Report and Recommendations. ^{1/}

The undersigned has carefully considered the entire record herein, including the transcripts, exhibits, the Hearing

^{1/} The Board also filed exceptions but later withdrew its exceptions by letter dated January 31, 1983.

Officer's Report and Recommendations, and the exceptions thereto, and finds and determines as follows:

1. The Teaneck 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 employees who are functioning in the job titles which are the subject of this Petition and is subject to the provisions of the Act.

2. The Teaneck Association of Educational Secretaries, a/w NJSFT, AFT, AFL-CIO and Teaneck Aides Association, NJEA, are employee representatives within the meaning of the Act and are subject to its provisions.

The Federation is currently the exclusive representative of secretarial, clerical and data processing personnel employed by the Board. The Association is currently the exclusive representative of aides and food service personnel employed by the Board.

3. The Federation seeks a determination that certain office aide employees hired beginning with the 1981-82 school year are included in its negotiations unit. The Board and the Association opposed the Petition, arguing that the title "office aide," upon its recreation in 1981, has been correctly placed in the Association's unit consistent with the historical placement of the office aide title in the aides unit.

The record reveals that in 1976 the Board created the title office aide, and between 1976 and 1980, it employed one half-time office aide in one of its primary schools pursuant to

the written job description established for that position. In addition, the office aide title was included in the negotiations unit of aides represented by the Association and was listed in both the 1976-79 and 1979-82 collective agreements between the Board and the Association. The Board has not employed office aides in the primary schools since Spring 1980. At that time it no longer perceived a need to employ an office aide in the primary school setting and the incumbent office aide was transferred into another aide position.

In September 1981, as the result of a reduction in force among teaching staff and a desire to more efficiently utilize regular secretaries, the Board again "created" the title office aide, operating under a modified job description more suitable to the secondary school setting, for the purpose of augmenting the secondary school (junior high and senior high) secretarial staff by assigning to office aides routine office duties formerly performed by the secretaries. Three full time office aides commenced employment in September 1981, and a fourth was later added. These hirings resulted in cross-claims of representation by the Federation and the Association. The Board considered the office aides as members of the Association's unit of aides, thus giving rise to the instant filing by the Federation.

The undisputed testimony of the Board's Assistant Superintendent indicates that "the duties and responsibilities of the

[current office aides] were made quite different to be working in secondary schools." ^{2/} Whether the current employment of office aides is perceived as having arisen from a newly created title, or a recreated title, or merely a revised title, the determination as to their unit placement, as dictated by the facts of this matter, is the same.

Current office aides work side-by-side with Board secretarial staff performing less-skilled secretarial/clerical job functions. The office aides and the secretaries share common supervision. The record testimony reveals that, when secretaries are absent, office aides perform many of their functions. As opposed to all other employees in aide titles, they do not have a significant interaction with students. Their work, and their employment conditions, are such that they must be included in the Federation's unit of secretaries, with whom they share a community of interest.

In its exceptions, the Association urges that the historical placement of office aides in the aides' unit mandates the inclusion of the current office aides in the aides' unit, absent a record demonstrating irresponsible representation. ^{3/} For the


^{2/} By contrast, the Association urges that the language of the 1976 office aide job description, when compared with the language of the 1981 office aide job description, reveals insignificant differences. The undersigned finds that the oral testimony of the Board's Assistant Superintendent is a far more reliable indicator of the nature of the employment of office aides.

^{3/} Between 1976 and 1980, the Board employed one half-time office aide in a primary school. The title was placed in the aides unit. Both the majority representative of the aides and the majority representative of the secretaries were affiliates of the NJEA during this period. The unit placement was not disputed and accordingly, not reviewed, by the Commission.

above-stated reasons, the undersigned does not find the historical argument significant under the circumstances herein.

The instant determination including office aides in the Federation's unit shall be effective immediately. In re Clearview Reg. H.S Dist. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977). ^{4/}

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: June 17, 1983
Trenton, New Jersey

^{4/} There is no need to consider unit placement relative to the past office aide position. Should such position someday be recreated, a Petition for Clarification of Unit may be filed in the event of a dispute.

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Docket No. CU-82-52

Petitioner,

-and-

TEANECK AIDES ASSOCIATION, N.J.E.A.,

Intervenor.

SYNOPSIS

A Hearing Officer of the Public Employment Relations Commission recommends that a negotiations unit of secretaries and clerical and data processing personnel be clarified to include the title office aides. She found that this was a newly created title and not a pre-existing aides title already included in another negotiations unit of aides represented by a different majority representative. She also found the office aides shared a greater community of interest with the clerical employees than the classroom and lunchroom aides in the other unit.

A Hearing Officer's Report and Recommendations is not a final administrative determination of the Public Employment Relations Commission. The report is submitted to the Director of Representation who reviews the Report, and exceptions thereto filed by the parties and the record, and issues a decision which may adopt, reject or modify the Hearing Officer's findings of fact and/or conclusions of law. The Director's decision is binding upon the parties unless a request for review is filed before the Commission.

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For the Public Employer
Murray and Granello, Esqs.
(James P. Granello, Esq.)

For the Petitioner
Fougeres R. Ferrier, Staff Representative

For the Intervenor
Vincent E. Giordano, UniServ Field Representative

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

A Petition for Clarification of Unit was filed with the Public Employment Relations Commission (the "Commission") on January 27, 1982 by the Teaneck Association of Educational Secretaries, a/w NJSFT, AFT, AFL-CIO (the "secretaries unit" or "Petitioner") raising a question concerning the composition of a collective negotiations unit. The petitioner seeks a determination that the collective negotiations unit comprised of all secretarial,

clerical and data processing personnel employed by the Teaneck Board of Education (the "Board") of which the Association of Secretaries is the majority representative includes the title of "office aides." The Teaneck Aides Association, N.J.E.A. (the "aides unit" or "Intervenor"), the majority representative of a unit of all aides and food service personnel intervened in the matter pursuant to N.J.A.C. 19:11-2.7. The Board and the Intervenor both asserted that the title of office aides is included in the aides unit and has been included in that unit since at least 1976.

Pursuant to a Notice of Hearing, a hearing was held before the undersigned Hearing Officer on May 12, 1982 in Newark, New Jersey, at which all parties were given an opportunity to examine witnesses, to present evidence and to argue orally. Briefs were submitted by the parties by June 4, 1982. Accordingly, there is a question concerning the composition of a negotiations unit and the matter is properly before the Hearing Officer for a Report and Recommendations. Upon the entire record in this proceeding, the Hearing Officer finds:

FINDINGS OF FACT

The Teaneck 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. (the "Act"), is the employer of the employees who are the subject of this proceeding, and is subject to the provisions of the Act.

The Teaneck Association of Educational Secretaries, a/w NJSFT, AFT, AFL-CIO and the Teaneck Aides Association, N.J.E.A.

are employee organizations within the meaning of the Act and are subject to its provisions.

On August 19, 1981, the Board approved a "new job description for the Teaneck Public Schools: Office Aide." The approval contains the following "EXPLANATION: This position is created to augment the secretarial staff at the secondary schools." ^{1/} On that date the Board also adopted a job description for Office Aides. ^{2/} The description notes:

"Under the direction of the administrator; assists the administrator's secretary in the following clerical duties:

1. Filing
2. Typing
3. Maintenance of supplies
4. Places and receives telephone calls and records messages
5. Performs other duties as assigned by the administrator"

The description sets out qualifications and terms of employment, making this a "10 month position." At that same Board meeting on August 19, 1981, the Board also approved the employment of three ten month, full time office aides. A fourth office aide was subsequently hired (Tr. 30). The office aides work in the secondary schools; two at the high school and one at each of the junior high schools. ^{3/}

According to A. Spencer Denhan, Assistant Superintendent of Teaneck Schools in charge of Personnel and Administrative Ser-

^{1/} J-4a in Evidence.

^{2/} J-4b in Evidence.

^{3/} Within the Teaneck School system there are eleven schools: one high school (grades 10 to 12), two junior high schools (grades 7 to 9), six intermediate schools (grades 2 to 6), and two primary schools (grades kindergarten to 1).

vices, the Board was faced with the need to reduce their budget in 1981 because of declining enrollment and "created" the position of office aide to handle the more "routine things of the office duties." (Tr. 31)

As the job description indicates the office aides perform general clerical tasks. The office aides may fill in for a short time if other office employees are out, but for long term absences, e.g. vacations, a substitute is brought in. They work closely with the school principal's secretary, who is the head secretary in the office, under the supervision of the school principal. According to Denhan, the building principal is responsible for the overall performance of the office aides. (Tr. 31). The job description states: "Under the supervision of the administrator, assists the administrator's secretary..." ^{4/}

From 1976 to 1980 the Board employed one half-time office aide in Bryant School, one of the primary schools. (Tr. 42) There were no office aides in 1980-81 and in 1981 the Board "created" the position of office aide to augment the secretarial staff of the secondary schools. (J-4a in Evidence) According to Denhan: "The duties and responsibilities of that [secondary office aide] were made quite different [from the aide in the primary school] to be working in secondary schools." (Tr. 34)

^{4/} Office aide Mathilda Gioe responded "yes" when asked on cross-examination if she considered the principal's secretary her "immediate supervisor." (Tr. 19) I have not made a finding that the principal's secretary is the office aide's supervisor based on her answer, however, because I credit the Assistant Superintendent of Personnel and Administrative Services' (Denhan) testimony as to the hierarchy of supervisory responsibility.

The Teaneck Aides Association represents aides and food service personnel. There are numerous categories of aides. There are primary and intermediate aides who work with students under the direction of the teachers. There are noon aides who supervise students during lunch hour. There are also library, audio visual-elementary, instructional-high school and special education-elementary aides. In 1976 the collective negotiations agreement between the Board and the Aides Association added a category "office aides" (J-2). The prior contract between these parties (J-1) did not include this category. The 1979-82 contract (J-3) included an "Office Aide" category.

The agreement between the Board and the Teaneck Association of Educational Secretaries (J-5) includes all secretarial, clerical and data processing personnel. There are 13 different salary guides for ten and 12 month secretaries and administrative, supervisory and executive secretaries. There are no clerical or data processing personnel salary guides specifically listed.

In September 1981 the three office aides began work in the Teaneck secondary schools. On October 15, 1981 the Teaneck Association of Educational Secretaries filed a representation petition to include the aides in their unit (PERC Docket No. RO-82-79). The issue of whether this was a new or existing title was raised and the Director of Representation suggested that the representation petition be withdrawn and that petitioner consider filing a clarification of unit petition in order for the Commission to make a determination as to the unit placement of the disputed title.

DISCUSSION AND ANALYSIS

The Board and the Aides Association argue that the Office Aides title has existed since 1976 and has been in the aides unit since that time. Based on all the evidence presented, however, the undersigned finds that the office aide represented in the aides unit was an elementary office aide and that the Board created a new position of secondary office aide on August 19, 1981. When the job description of office aides was adopted by the Board on that date, the explanation accompanying the resolution stated: "This position has been created..." (emphasis added). It was logical for the Board to create a new position for a secondary level office aide because of their practice of creating different positions for employees who work at different grade levels. For example, examine the area of classroom aides. There are primary and intermediate aides. They have very similar duties but are considered different titles. Both categories supervise activities of children at lunch time, generally assist teachers and perform other tasks assigned to them by their respective principals. Their only real difference is the grade levels where they are assigned, yet they are listed as separate titles in the aides' contracts. (J-1, 2, 3 in Evid.) The collective negotiations agreements of the aides unit also includes the title "instructional aide." A Board budget summary submitted at the hearing lists this title as "Instructional Aide--High School." (P-7 in Evid.) While the contracts do not contain the designation "high school," this appears to be another classroom aide, this one assigned to the high school. Neither do contracts contain the designation "primary" for the office

aide category; hence, this leads the undersigned to conclude that the same situation applies to office aides as classroom aides. The undersigned also believes that the establishment of the duties for the secondary office aides from duties formerly performed by secretarial unit members further distinguishes this position from the one half-time office aide position that existed from 1976 to 1980 in one primary school, and further solidifies their community of interest with the other office clericals in the secretarial unit.

Since the undersigned finds that this is a new title created in August 1981, and the petitioner filed the original petition on October 15, 1981 (which was withdrawn at the Director of Representation's suggestion and the instant petition filed), the clarification of unit petition is appropriate. The petition has not "slept" on its rights to assert a representational interest in the title and may therefore utilize a clarification of unit petition to achieve the office aides inclusion in its unit. ^{5/}

Having found that the office aide position created in the summer of 1981 is a new title, the disputed issue remaining to be considered is should the secretarial unit be clarified to include this title? The majority representatives of the aides unit and the secretarial unit both claim to be the most appropriate place for the inclusion of this title. Neither unit would really be inappropriate for the inclusion of the title. If the title more appropriately belongs in the aides unit, obviously the unit definition of the

^{5/} See In re Clearview Reg. H.S. Bd/Ed, D.R. No. 78-2, 3 NJPER 248 (1977); In re Wayne Bd/Ed, D.R. No. 80-6, 5 NJPER 422 (¶10221 1979), aff'd P.E.R.C. No. 80-94, 6 NJPER 54 (¶11028 1980); In re State of New Jersey, D.R. No. 80-8, 5 NJPER 454 (¶10229 1979), aff'd P.E.R.C. No. 80-65, 5 NJPER 538 (¶10277 1979); and In re Bergen Pines Hospital, D.R. No. 80-20, 6 NJPER 61 (¶11034 1980).

secretarial unit cannot be clarified to include the title. While the petition asks that the secretarial unit definition be clarified, the basic question that must first be decided is which of the two units would be the more appropriate. State v. Prof. Assoc. of N.J., 64 N.J. 231 (1974).

The Board suggests the secretarial unit would not be appropriate for the inclusion of the office aide because of Ms. Gioe's testimony that she considered the principal's secretary her "boss." As indicated above, I would not make such a finding based on Ms. Gioe's answer to a leading question on cross-examination, but rather accepted the testimony of the Board's witness that the principal is her supervisor.

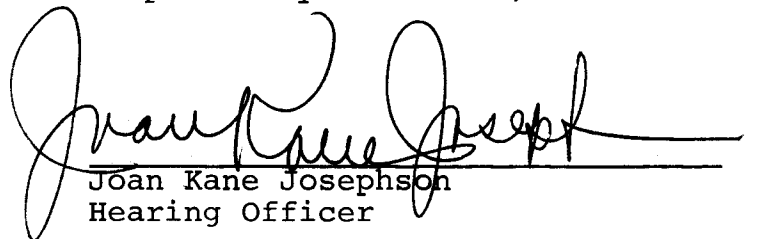
The undersigned believes that the appropriate unit placement of the office aide (secondary schools) is the unit that includes "all secretarial, clerical and data processing personnel." Initially, I reach this conclusion because the office aides position was created to perform duties that had previously been assigned to employees in the secretarial unit. According to Assistant Superintendent Denhan, the Board took secretarial unit work and assigned it to the secondary office aides: "The Board felt...they had to make cuts....They looked at the secretarial staff and they realized much of the secretaries' time was taken up...doing routine things....they would hire an office aide to assist the secretary..."

Additionally, the undersigned believes the office aides duties are similar enough to those of clerical employees to conclude that the secretarial unit should include the title. Like the secretaries, the office aides do not work directly with the students.

The clerical staff, secretarial and office aide employees, work together and report to the principal. While a community of interest exists among all Board employees and the entire school system is directed at the educational process for the students, the undersigned considers the clerical staff to serve more in the role of support staff. On the other hand, aides covered under the aides contract have direct contact with the students, and have a different role in the educational process. While the secretaries' duties may be somewhat more sophisticated than office aides, their job functions would not appear to be really dissimilar and they are often interchangeable. Classroom aides' duties cannot be interchangeable with teachers' duties. Classroom aides could not replace certificated personnel even on a very temporary basis. Nor could library aides replace certificated librarians. While this is admittedly a close case, a choice must be made and the undersigned believes the definition of the secretarial unit should include the (secondary) office aides.

Accordingly, the undersigned recommends that the Teaneck Association of Educational Secretaries a/w NJSFT, AFT, AFL-CIO be clarified to include the title office aides, effective immediately. 6/

Respectfully submitted,



Joan Kane Josephson
Hearing Officer

Dated: January 17, 1983
Trenton, New Jersey

6/ When a CU involves a newly created job title, the determination is effective immediately and when the clarification issue involves a question of identification, whether the title is within the inclusionary language of the unit definition, the determination is effective immediately. In re Clearview Reg. H.S. Bd/Ed, supra, p. 252.