

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

In the Matter of

LINDEN FREE PUBLIC LIBRARY  
BOARD OF TRUSTEES,

Public Employer-Petitioner,

-and-

DOCKET NO. CU-81-18

TEAMSTERS LOCAL 866, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND HELPERS OF AMERICA,

Employee Representative.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, concludes that an Account Clerk and the secretary to the Director of the Linden Free Public Library Board of Trustees are confidential employees who must be excluded from a unit of clerical employees and maintenance workers employed by the Board and represented by Teamsters Local 866.

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WAREHOUSEMEN AND HELPERS OF AMERICA,

Employee Representative.

Appearances:

For the Public Employer-Petitioner  
Shevick, Koster, Tobin, Oleckna & Reitman, attorneys  
(Michael N. Tobin of counsel)

For the Employee Representative  
Goldberger, Siegel & Finn, attorneys  
(Howard A. Goldberger of counsel)

DECISION

On October 17, 1980, the Linden Free Public Library Board of Trustees (the "Board") filed an amended Petition <sup>1/</sup> for Clarification of Unit with the Public Employment Relations Commission (the "Commission") raising a question concerning the composition of a collective negotiations unit represented by Teamsters Local 866, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 866").

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<sup>1/</sup> The attorney for the Board filed the initial clarification of unit petition on September 25, 1980, but erroneously named himself rather than the Board as the petitioner.

Local 866's unit includes the following Board employees: Senior Library Assistant, Junior Library Assistant, Junior Library Assistant (Typist), Senior Library Assistant (Steno), Senior Clerk (Steno), Library Exhibit Artist, Building Maintenance Worker, Building Maintenance Worker (part-time), Principal Account Clerk, and Principal Clerk Stenographer. The Board maintained that the Principal Account Clerk and the Principal Clerk Stenographer were confidential employees within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), and therefore should be removed from the unit.

On March 4, 1981, the undersigned issued a Notice of Hearing pursuant to which Commission Hearing Officer Mark A. Rosenbaum conducted hearings on April 28 and June 15, 1981. At the outset of the first hearing, the Board moved to amend its Petition to seek to exclude the position of secretary to the Director of the Library, rather than the position of Principal Clerk Stenographer, from the unit which Local 866 represents. <sup>2/</sup> The Hearing Officer, over the objection of Local 866 which claimed surprise, granted this motion and then afforded all parties an opportunity to examine and cross-examine witnesses, to present

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<sup>2/</sup> According to the Board, the Principal Clerk Stenographer, who was the previous secretary to the Director of the Library, retired between the filing of the Petition and the commencement of the first hearing session. The individual who replaced her as secretary to the Director of the Library held the title of Junior Library Assistant, but was scheduled to receive the position of Clerk Stenographer two weeks after the conclusion of the hearings. The new secretary would not be placed in the title of Principal Clerk Stenographer, apparently due to length of service.

evidence, and to argue orally. Testimony on the first day of hearing concerned the position of Principal Account Clerk; testimony on the second day of hearing concerned the position of secretary to the Director of the Library. <sup>3/</sup> At the conclusion of the second hearing session, both parties waived the right to file post-hearing briefs.

On August 25, 1981, the Hearing Officer issued his Report and Recommendations, which is attached hereto and made a part hereof. He recommended: (1) that the Principal Account Clerk be found a confidential employee and that Local 866's unit be immediately clarified to exclude this title and; (2) that the Clerk Stenographer (the title to be assumed by the present secretary to the Director of the Library) not be found a confidential employee and that Local 866's unit should continue to include this title.

On September 4, 1981, the Board, pursuant to N.J.A.C. 19:11-7.3, filed timely exceptions to the Hearing Officer's Report and Recommendations. The Board specifically excepted to the Hearing Officer's recommendation that the Clerk Stenographer, the sole secretary to the Director of the Library, not be found a confidential employee. Local 866 did not file any exceptions, nor has Local 866 replied to the Board's exceptions.

<sup>3/</sup> To the extent, if any, that Local 866 may have been surprised and unprepared to litigate the alleged confidential status of the secretary to the Director of the Library at the first hearing session, the holding of a second hearing session, one and one-half months later, afforded Local 866 ample opportunity to prepare and thus negated any prejudice stemming from such surprise.

The undersigned has carefully considered the entire record herein, including the transcript, exhibits, the Hearing Officer's Report and Recommendations, and exceptions, and finds and determines as follows:

1. The Linden Free Public Library Board of Trustees is a public employer within the meaning of the Act, is the employer of the employees involved in this Petition, and is subject to the provisions of the Act.

2. Teamsters Local 866, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is an employee representative within the meaning of the Act and is subject to its provisions.

3. On August 2, 1972, the Commission certified Local 866 as the exclusive representative of a unit including all clerical employees of the Board. Pursuant to the recognition clause in the parties' collective agreement, the Board recognizes Local 866 as the exclusive representative of employees in the following classifications: "Senior Library Assistant, Junior Library Assistant, Junior Library Assistant (Typist), Senior Library Assistant (Steno), Principal Account Clerk, Senior Clerk (Steno), Library Exhibit Artist, Principal Clerk Stenographer, Building Maintenance Workers, Building Maintenance Worker (part-time), Junior Library Assistant (part-time), but excluding managerial executives, professional employees, supervisors within the meaning of the Act, craft employees and policemen."

4. The Board has filed a Petition for Clarification of Unit, as amended at the hearing, which seeks to remove two employees from the unit which Local 866 represents: Principal Account Clerk and secretary to the Director of the Library. The Board alleges that the individuals occupying these positions are confidential employees; Local 866 disputes this claim. Accordingly, the matter is properly before the undersigned for determination.

5. The Director of the Library plays a critical role in the negotiations process. He has final responsibility for submitting a budget. He attends private meetings of the personnel and salary committee of the Board. He participates in working out the negotiations proposals and counterproposals which the Board submits to Local 866 and makes recommendations concerning the Board's ultimate approval or disapproval of a contract.

6. The Principal Account Clerk, Ms. Georgine Eastman, performs a host of duties including, inter alia, maintaining financial accounts and books, preparing financial reports for the Board, preparing, paying, and verifying bills, investing library funds, compiling data and preparing annual budgets, maintaining financial and personnel files, administering certain benefit plans, preparing and filing tax returns and pension reports, and keeping personnel records concerning tardiness, days off, vacations and sick leave. In compiling data for the annual budget, she has discussions with the City Treasurer's office in which she learns, before the public, what cost of living increases the City plans to offer (for example, 4% in 1980) and what promotions and extra

salary increases are imminent. She then uses this information as a basis to formulate salary calculations for the forthcoming year and to develop a budget. She works closely with the Director and Board representatives in putting together the budget; these consultations involve discussions of salaries, the filling of certain positions, and other financial data. The Principal Account Clerk, sometimes at the specific instance of the Board and sometimes as a substitute for the Director of Assistant Director, has attended private executive sessions of the Board and personnel and salary committee meetings in which she has explained the financial status of the library, has provided financial data concerning the cost of contract proposals, and has made suggestions regarding the addition or deletion of certain proposed contractual provisions. In particular, she has made suggestions, which the Board implemented, concerning the availability of sick leave and vacations for part-time employees. She receives a copy of personnel and salary committee meeting minutes and executive session minutes; if she detects an error in the preparation of these minutes, she has been instructed to so inform members of the Board. She also received a copy of the Library's proposals in connection with the previous contract and negotiations for a successor contract. If, as occurred for one week in February 1980, both the Director and Assistant Director are absent from work, she serves as Acting Director. The nature of her job has changed greatly during the eight years she has held it; while at first she was strictly a bookkeeper, now she has more input into the Board's financial and personnel-related decision-making.

7. The Director of the Library described the duties of his secretary. They include, inter alia, opening mail, acting as a receptionist, taking dictation, preparing correspondence, attending public Board meetings and typing and indexing minutes, typing the annual budget reports and negotiations contracts, and maintaining personnel and other correspondence files. The mail she opens and the letters she types and sends may pertain to labor relations: for example, letters to or from the Board's attorney, the Board, or the Commission concerning labor negotiations and developments. She also types preliminary materials and data related to negotiations which are then submitted to Board members. The Director's secretary does not attend private executive session Board meetings; the Assistant Director takes notes on these sessions which are then typed. The secretary's office is 10-15 feet away from the Director's office.

From 1974 to March 20, 1981, the Director's secretary was Anna Chorbor. At the time of her retirement, Ms. Chorbor's job title was Principal Clerk Stenographer. The Board submitted two documents which Ms. Chorbor definitely typed. One exhibit contained the Board's item-by-item position on Local 866's proposals in the most recent set of contract negotiations. Another exhibit consisted of a cover letter to the Board's attorney in June 1977, and the enclosed proposals agreed upon at a negotiating session which were in turn submitted to Local 866's membership and the Board for ratification. The Board submitted a third document which Ms. Chorbor may have typed. This exhibit consisted of the



minutes of a private negotiations committee meeting of April 21, 1980 and set forth the committee's position on various matters in negotiation. The Director testified that Ms. Chorbor typed this document, but admitted that he was out ill when it was prepared and that he based his belief on information received from the Assistant Director after the litigation commenced. Local 866 objected to the admission of hearsay evidence to establish that Ms. Chobor typed the third document.

Since March 20, 1981, Joanne Pileggi has worked as the Director's secretary. At the time of the hearings, Ms. Pileggi was a Junior Library Assistant. The Director testified that in two weeks her title would change to Clerk Stenographer. The Board offered only one document typed by Ms. Pileggi: a letter from the Director to a Board member concerning the Board's counter-proposals to the union representing the Board's professional employees. The letter expressly states that a copy of the Board's specific proposals is enclosed. The Director testified that the proposals were not part of the letter, but were a "separate attachment." <sup>4/</sup>

8. 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.

N.J.S.A. 34:13A-3 excludes "confidential employees" from the

<sup>4/</sup> The record does not reveal whether or not Ms. Pileggi typed these proposals.

Act's definition of "employee" and consequently from the opportunity to be represented in a collective negotiations unit with other public employees.

An examination of the record establishes the confidential status of the Principal Account Clerk. Her functional responsibilities include such important negotiations-related matters as preparing budgets, costing out proposals, and making suggestions to the Board concerning the advisability or inadvisability of certain proposals. These responsibilities, in turn, result in the acquisition of sensitive negotiations-related information including the percentage annual salary increase the City contemplates offering, the Board's reaction to Local 866's proposals, as manifested in private committee and executive session meetings, and the Board's anticipated counterproposals. Her functional responsibilities and the knowledge she gains make her continued inclusion in Local 866's negotiations unit incompatible with her official duties. Compare, e.g., In re Brookdale Community College, D.R. No. 78-10, 4 NJPER 35 (¶ 4018 1977) (Chief Accountant who helped determine costs for a labor budget was confidential employees).

Accordingly, in the absence of exceptions and finding adequate evidence in the record to support the Hearing Officer's recommendation, the undersigned finds the Principal Account Clerk to be a confidential employee.

The undersigned further finds, contrary to the recommendation of the Hearing Officer, that the secretary to the Director

of the Library is also a confidential employee. <sup>3/</sup> The Director plays a major role in the formulation, determination, and effectuation of the Board's labor relations policy. See In re Tp. of Parsippany-Troy Hills Bd. of Ed., D.R. No. 80-35, 6 NJPER 276 (¶ 11131 1980); In re Little Ferry Bd. of Ed., D.R. No. 80-19, 6 NJPER 59 (¶ 11039 1980). In fulfilling this role, he depends upon his secretary to type, prepare, and handle sensitive labor-related materials without breaching his confidence. Thus, for example, his secretary types the negotiating committee's preliminary negotiations proposals and counterproposals and circulates them to various Board members for comment. Further, she has access, by virtue of opening the mail and typing his correspondence, to any labor-related material which the Director receives or sends.

In In re Tp. of Parsippany-Troy Hills Bd. of Ed., supra, the undersigned found the secretary to the Assistant Superintendent of Planning and Evaluation to be a confidential employee on the basis of the Assistant Superintendent's role in the collective

<sup>3/</sup> The Hearing Officer noted that the individual who currently acts as secretary to the Director holds a title (presumably by now, Clerk Stenographer) different from the title (Principal Clerk Stenographer) held by her predecessor. He concluded that testimony and documents concerning the previous secretary's duties were not relevant to the analysis of the current secretary's responsibilities. However, the salient issue in ruling on this Petition is the nature of the functional responsibilities and knowledge of the Director's secretary, not the technical job title which the secretary holds. Where the employer contemplates little or no change in his secretary's duties, evidence of how the Director's previous secretaries have performed is relevant to a determination of what a present secretary's job entails. The Director's description of his secretary's job duties, and, in particular, the present secretary's typing of a cover letter enclosing negotiations proposals, intended for one of the library's negotiations unit, indicate an anticipated and actual continuity in the job duties of his previous and present secretary.

negotiations process and the secretary's access to the documents utilized in the process. In reaching this conclusion the undersigned stated:

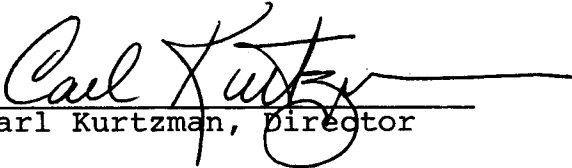
The instant matter, however, does not involve an employee whose functional responsibility is limited to the assembly of raw data which may be later used by those responsible for formulating negotiations proposals, nor does this matter deal with the lowest level clerk. Moreover, the record herein establishes that the secretary to the Assistant Superintendent of Planning and Evaluation has access to and a reasonably certain potential for knowledge of negotiations proposals and personnel files which form the basis for management policy affecting negotiations or contract administration.

Based on the record established in this matter, it is clear that the secretary to the Director of the Library has access to and a reasonably certain potential for knowledge of negotiations proposals and personnel files which form the basis for management policy in the area of labor relations.

Accordingly, the undersigned finds that the functional responsibilities of the secretary to the Director of the Library, and the knowledge which she obtains therefrom make the membership of the Director's secretary in Local 866's negotiating unit incompatible with her official duties. See, e.g., In re East Windsor Reg. H.S. School Dist., D.R. No. 82-9, 7 NJPER 524 (¶ 12231 1981); In re Cranford Bd. of Ed., D.R. No. 78-20, 3 NJPER 352 (1977); and In re Bloomfield Bd. of Ed., E.D. No. 76-40, 2 NJPER 194 (1976).

Accordingly, the undersigned concludes that both the Principal Account Clerk and the secretary to the Director of the Library should be removed from the unit which Local 866 currently represents. <sup>4/</sup>

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
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Carl Kurtzman, Director

DATED: December 30, 1981  
Trenton, New Jersey

4/ Under the principles expressed in In re Clearview Reg. H.S. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977), these removals are effective immediately.

STATE OF NEW JERSEY  
BEFORE A HEARING OFFICER OF THE  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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LINDEN FREE PUBLIC LIBRARY  
BOARD OF TRUSTEES,

Petitioner,

-and-

Docket No. CU-81-18

TEAMSTERS LOCAL 866 (Affiliated  
with the International Brotherhood  
of Teamsters, Chauffers, Warehousemen  
and Helpers of America),

Respondent.

SYNOPSIS

In a Clarification of Unit proceeding, a Commission Hearing Officer recommends that the Principal Account Clerk be found to be a confidential employee within the meaning of the New Jersey Employer-Employee Relations Act and therefore recommends the immediate removal of that title from a negotiations unit represented by Teamsters Local 866. The Hearing Officer also recommends that the Clerk Stenographer not be found a confidential employee under the Act, and therefore recommends that the Clerk Stenographer should remain in the negotiations unit represented by Teamsters Local 866.

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, any 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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TEAMSTERS LOCAL 866 (Affiliated  
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and Helpers of America),

Respondent.

Appearances:

For the Petitioner, Shevick, Ravich, Koster, Tobin, Oleckna,  
& Reitman, Esqs.  
(Michael N. Tobin, of Counsel)

For the Respondent, Goldberger, Siegel & Finn, Esqs.  
(Howard A. Goldberger, of Counsel)

HEARING OFFICER'S  
REPORT AND RECOMMENDATIONS

On September 25, 1981, the Linden Free Public Library Board of Trustees (the "Board") filed a Petition for Clarification of Unit, as amended on October 17, 1980, and April 1981, with the Public Employment Relations Commission (the "Commission") raising a question concerning the composition of a negotiations unit represented by Teamsters Local 866, affiliated with the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America (the "Local")

The Board seeks to have certain titles currently in the Local's collective negotiations unit, specifically the titles of Principal Account Clerk and Clerk Stenographer, removed therefrom because they are held by individuals who are allegedly confidential employees within the meaning of the New Jersey Employer-Employee Relations Act,

N.J.S.A. 34:13A-1 et seq. (the "Act"). The Local argues that the employees in question are not confidential and should remain in their unit.

Pursuant to a Notice of Hearing dated March 4, 1981, hearings were held before the undersigned on April 28 and June 15, 1981. <sup>1/</sup> At the hearing, all parties were given opportunities to examine and cross-examine witnesses, present evidence and argue orally. Both parties waived the right to file post-hearing briefs.

Based on the entire record in these proceedings, the Hearing Officer finds that:

1. The Linden Free Public Library Board of Trustees is a public employer within the meaning of the New Jersey Employer-Employee Relations Act and is subject to its provisions.

2. Local 866, affiliated with the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America is an employee representative within the meaning of the Act and is subject to its provisions.

3. The Board has filed a Petition for Clarification of Unit seeking a determination that the titles of Principle Account Clerk and Clerk Stenographer should not be included within the negotiations unit represented by the Local, a contention which the Local disputes. Accordingly, there is a question concerning the composition of a collective negotiations unit and the matter is properly before the undersigned for a report and recommendations.

<sup>1/</sup> Commission agent Arnold H. Zudick was originally designated as the Hearing Officer in this case. Pursuant to N.J.A.C. 19:11-6.1, the Director of Representation later designated the undersigned to hear this case and the record was amended to reflect this assignment (Exhibit A-2).



4. N.J.S.A. 34:13A-5.3 excludes confidential employees from having the right to collective representation. A confidential employee is defined at N.J.S.A. 34:13A-3(g) as one:

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

5. Mr. David Lance, Director of the Library, testified as to the Board's procedures in the area of labor relations. The Board has a personnel and salary committee which develops policies regarding personnel and their salaries. <sup>2/</sup> The Board's negotiations committee meets with the union, as well as on its own, and reviews negotiations proposals. <sup>3/</sup> Negotiations with the Local are interwoven with the Library's budgeting process, which is the responsibility of Lance. <sup>4/</sup> Ultimately, the Board, acting upon the advice of these committees as well as the recommendations of Lance, has the authority to approve contracts with the Local. <sup>5/</sup> The Board often meets in private executive sessions to discuss proposals for the contract with the Local, and invites relevant personnel to discuss these proposals. <sup>6/</sup> The Local did not challenge the above description of the Library's labor relations procedures.

6. The Principle Account Clerk position, held by Mrs. Georgine Eastman, plays an important role in the budgeting and labor negotiations processes at the Library. Both Lance and Eastman

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<sup>2/</sup> T1 at p. 46.

<sup>3/</sup> Exhibit P-2.

<sup>4/</sup> T1 at p. 52.

<sup>5/</sup> T1 at p. 53.

<sup>6/</sup> T1 at p. 46 and 75.

testified that Eastman often attends meetings of the personnel and salary committee and executive sessions of the Board and receives minutes of such meetings. <sup>7/</sup> While Eastman has often attended these meetings as a substitute for Lance or Mrs. Pryor (Assistant Director of the Library), Eastman has also attended executive sessions at the request of the Board to provide information to them. <sup>8/</sup> Eastman makes suggestions to the Board related to contracts with the Local, and works up the figures on contract proposals based on financial data. <sup>9/</sup> In all of these functions, Eastman is often privy to sensitive negotiations information before it becomes public. <sup>10/</sup>

7. The second disputed individual is the Clerk Stenographer. Lance testified that the Clerk Stenographer, a Miss Joanne Pileggi, <sup>11/</sup> serves as his secretary and performs various clerical tasks, including filing, opening mail, dictation, typing and serving as a receptionist. <sup>12/</sup> She attends public Board meetings, and types minutes thereof, but does not attend private executive sessions of the Board where labor negotiations are discussed. Lance testified that Pileggi takes dictation pertaining to labor relations. <sup>13/</sup> However, upon request by the undersigned to produce examples of such, the Board entered only one

<sup>7/</sup> T1 at pp. 46 and 75-76.

<sup>8/</sup> T1 at pp. 46-47 and 92.

<sup>9/</sup> T1 at pp. 51-54, 75-82, 93-97.

<sup>10/</sup> Id.

<sup>11/</sup> Lance testified that Pileggi was actually a Junior Library Assistant at the time of the hearing, but would become a Clerk Stenographer two weeks thereafter. T2 at p. 4.

<sup>12/</sup> T2 at pp. 8-11.

<sup>13/</sup> T2 at p. 10.

document typed by Pileggi. <sup>14/</sup> The document is of limited probative value, because the substance of the letter does not pertain to sensitive negotiations material. Instead, Exhibit P-5 is merely a cover letter to a Board member concerning Board negotiations proposals. The proposals related to negotiations with another union which represents professional employees of the Board and those proposals were also mailed to that union. Moreover, those proposals were not typed up by Pileggi, and were sent by separate attachment. <sup>15/</sup>

#### ANALYSIS

The record clearly establishes that the Principle Account Clerk has sufficient functional responsibilities at the Library as well as knowledge of sensitive issues in the collective negotiations process to render her membership in the unit represented by the Local incompatible with her official duties. The Principle Account Clerk is therefore a confidential employee within the meaning of the Act, and should be removed from the collective negotiations unit represented by the Local. This removal should be effective immediately. In In re Clearview Regional High School Board of Education, D.R. No. 78-2, 3 NJPER 248 (1977).

The undersigned has reviewed several cases dealing with clerical positions similar to the Clerk Stenographer position herein. In In re Cranford Board of Education, D.R. No. 78-20, 3 NJPER 352 (1977), the Director of Representation upheld the Hearing Officer's findings that certain secretaries to the Assistant Superintendent for Personnel

<sup>14/</sup> Exhibit P-5. Exhibit P-2,3 and 4 were also offered by the Board as evidence of the confidential material handled by the Clerk Stenographer, but all of these materials were typed by another individual in another title (Principle Clerk Stenographer), and are therefore not relevant to the Clerk Stenographer title.

<sup>15/</sup> T2 at p. 20.

were confidential employees since they had typed negotiations related material. In another case, In re Bloomfield Board of Education, E.D. No. 76-40, 2 NJPER 194 (1976), the Executive Director affirmed the Hearing Officer's finding that the secretaries to the Superintendent, Board Secretary/Business Administrator, and the Assistant Board Secretary/Director of Buildings and Grounds were confidential employees because they handled material relating to negotiations.

The evidence contained in the record irrefutably establishes that Pileggi is regularly assigned to an individual who has an integral role in the formulation and implementation of management policies in the area of labor relations. However, the record further establishes that while Pileggi works directly for Lance, she does not have access to or knowledge of sensitive labor negotiations information and, therefore, is not a confidential employee. Her role in the Library, at this point in time, <sup>16/</sup> is comparable to the roles of certain clerical employees found not to be confidential employees in In re Board of Education of Township of West Milford, P.E.R.C. No. 56 (1971):

It may be that the lowest level clerk would, as part of that job, record or assemble data which the Board may consider confidential for a variety of reasons and which may later become a factor in a policy decision, but there is no reason why the performance of that collective function should disqualify one from the possibility of representation. Mere knowledge of raw information acquired in this process would not ordinarily tend to compromise management's right to confidentiality in matters of policy affecting negotiations or contract administration. Nor is there any discernable reason why this same clerk would, because of her function, owe a greater measure of allegiance to the employer or conversely why her performance would affect conflict with the interests of those in the existing unit to whom the data might relate but not yet affect a policy matter.


<sup>16/</sup> The instant decision is based upon the current job responsibilities of the Clerk Stenographer. Of course, this determination would not (Continues)

RECOMMENDATION

For the above stated reasons, the undersigned recommends that:

1. The Principle Account Clerk be found a confidential employee within the meaning of the Act and therefore be found inappropriate for inclusion in any negotiations unit. The negotiations unit represented by Local 866 should be immediately clarified to exclude the Principle Account Clerk.

2. The Clerk Stenographer not be found a confidential employee within the meaning of the Act and therefore should remain in the negotiations unit represented by Local 866.

  
Mark A. Rosenbaum  
Hearing Officer

DATED: August 25, 1981  
Trenton, New Jersey

16/ (Continuation)...preclude the Board from petitioning the Commission at some future date to determine whether the Clerk Stenographer is a confidential employee based on a corresponding evolution of the position.