

D.R. NO. 90-9

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

In the Matter of

EAST RUTHERFORD BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. RO-89-128

EAST RUTHERFORD EDUCATIONAL
SECRETARIES, CLERKS & AIDES ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation directs that a secret ballot election be conducted among a unit of secretarial employees employed by the East Rutherford Board of Education. The Director concluded that the Compensatory Education/Board Office Clerk is a confidential employee within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. and must be excluded from the petitioned-for unit. Further, the Director concluded that the Bookkeeper is not a confidential employee and directs that she be included in the unit.

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Appearances:

For the Public Employer
Peter Bariso, Jr., Esq.

For the Petitioner
New Jersey Education Association
(Fred Pieroni, UniServ Rep.)

DECISION AND DIRECTION OF ELECTION

On May 15, 1989 the East Rutherford Educational Secretaries, Clerks, and Aides Association ("Association") filed a Petition for Certification of Representative with the Public Employment Relations Commission ("Commission") seeking to represent a negotiations unit of secretaries, clerks, teacher aides, and library technicians employed by the East Rutherford Board of Education ("Board"). The petition was supported by an adequate showing of interest. The Board objects to the inclusion of the Bookkeeper and Compensatory Education Secretary/Board Office Clerk positions in the proposed unit because it asserts that they are confidential employees within the meaning of the New Jersey

Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act") and therefore must be excluded. There are ten employees in the petitioned-for unit; the status of two of these employees is in dispute.^{1/}

We have conducted an administrative investigation into the issues raised by this petition. N.J.A.C. 19:11-2.2. The following facts appear.

Through its petition, the Association seeks to represent a negotiations unit of unrepresented secretarial, clerical and teacher/library aide employees. The parties agreed to exclude the positions of Secretary to the Superintendent and Secretary to the Board Secretary from the unit.

Barbara Paluzzi has been employed as the Bookkeeper for the Board for approximately six years. On August 7, 1989, the Board announced that Mrs. Paluzzi would be taking the place of the Secretary to the Board Secretary, who recently resigned.

The Bookkeeper reports to the Board Secretary who, at the Board's direction, prepares data for negotiations and negotiations proposals. The Board Secretary also prepares contracts and administers fringe benefits. The Bookkeeper is responsible for providing all payroll and benefit data requested by the Board's negotiation team, and at the team's request, she has researched

^{1/} The parties agreed that any election in this matter would be conducted at the beginning of the 1989-90 school year because many of the proposed unit members are ten-month employees.

current and future benefit costs. The Bookkeeper is also responsible for reconciling bank statements, entering financial information into ledgers, handling food service accounts, computing the payroll and preparing checks, and preparing various reports and statements concerning pensions, benefits and wages.

The Compensatory Education Secretary/Board Office Clerk works part time in the Board office and part time in the Compensatory Education office. The parties agreed that the duties performed for the latter office are not confidential. As Board office clerk, the employee assists the Board Secretary's secretary and the Bookkeeper as necessary. She gathers and collates material for Board meetings, files materials and types negotiations proposals. At the Board Secretary's request, she typed the Board's proposals for current negotiations.

ANALYSIS

The Board asserts that the Bookkeeper and Compensatory Education Clerk/Board Office Secretary are confidential employees within the meaning of the Act and therefore must be excluded from the petitioner's proposed unit. The Association disagrees.

N.J.S.A. 34:13A-3(g) defines confidential employees as those:

...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.

The Commission's policy is to narrowly construe the term confidential employee. Brookdale Community College, D.R. No. 78-20, 4 NJPER 32 (¶4018 1977); State of New Jersey, P.E.R.C. No. 86-18, 11 NJPER 507 (¶16179 1985), mot. to reopen den. P.E.R.C. No. 86-59, 11 NJPER 714 (¶16249 1985); Cliffside Park Bd. of Ed., P.E.R.C. No. 88-108, 14 NJPER 339 (¶19128 1988).

The key to confidential status is an employee's access to and knowledge of materials used in labor relations processes, including contract negotiations, contract administration, grievance handling and the preparation for these functions on management's behalf. State of New Jersey (Division of State Police), D.R. No. 84-9, 9 NJPER 613 (¶14262 1983); County of Essex, D.R. No. 84-7, 9 NJPER 574 (¶14239 1983). A finding of confidential status requires a case-by-case examination of each employee's knowledge of information which would compromise the employer's position in the collective negotiations process. River Dell Regional Board of Education, P.E.R.C. No. 84-95, 10 NJPER 148 (¶15073 1984), affm'g D.R. No. 83-21, 9 NJPER 180 (¶14084 1983); Parsippany-Troy Hills Board of Education, D.R. No. 80-35, 6 NJPER 276 (¶11131 1980).

Based upon the materials submitted herein, it does not appear that the Bookkeeper's duties give her access to and knowledge of confidential labor relations materials. The Bookkeeper is responsible for providing payroll and benefit data requested by the Board's negotiation team and, at the team's request, she researched current and future benefit costs. There is no evidence, based upon

the materials submitted here, that the provision of this information or the research conducted gave the Bookkeeper knowledge of the Board's negotiations proposals before they were made known to the union. The knowledge which the Bookkeeper might attain in performing these duties does not necessarily compromise the Board's position in contract negotiations. No specific facts were provided which indicate that the Bookkeeper gained access to and knowledge of confidential materials. There is no evidence that the Bookkeeper has advance knowledge of the Board's negotiations strategy. See Northern Highlands Bd. of Ed., D.R. No. 88-2, 13 NJPER 629 (¶18234 1987). Nor do the Bookkeeper's other accounting responsibilities amount to confidential duties within the meaning of the Act. Salary and benefit data required to complete the payroll is not confidential information within the meaning of the Act. Preparing the payroll only requires the application of contractually agreed-upon salary rates to employee work time. Access to payroll information is not, without more, sufficient to sustain a claim of confidential status. Cliffside Park Bd. of Ed., P.E.R.C. No. 88-108, 14 NJPER 339 (¶19128 1988). There is no evidence that preparing the other reports and handling accounts or processing bills would reveal confidential information to the Bookkeeper. Accordingly, I conclude that the Bookkeeper is not a confidential employee within the meaning of the Act and that the Bookkeeper position is appropriate for inclusion in the petitioned-for unit. See Pennsauken Bd. of Ed., D.R. No. 89-15, 15 NJPER 119 (¶20055 1989).

The Compensatory Education Secretary/Board Office Clerk assists in gathering and collating material for Board meetings. At the Board Secretary's request, she has typed Board negotiations proposals for negotiations. Although her duties in the Board office are only half time, it appears that the knowledge attained from typing the Board's negotiations proposals will compromise the Board's position in collective negotiations. Thus, I conclude that the Compensatory Education Secretary/Board Office Clerk is a confidential employee within the meaning of the Act and is not appropriate for inclusion in the petitioned-for unit. River Dell Bd. of Ed., 10 NJPER 148 (¶15073 1984); Cliffside Park Bd. of Ed., P.E.R.C. No. 88-108, 14 NJPER 339 (¶19128 1988).

Accordingly, I direct that an election be conducted among the employees in the following unit:

INCLUDED: All secretaries, clerks, teacher aides and library technicians employed by the East Rutherford Board of Education.

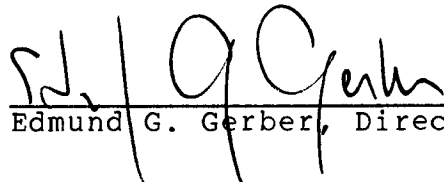
EXCLUDED: Professional employees, craft employees, managerial executives, confidential employees, police employees, fire employees and supervisors within the meaning of the Act, Secretary to the Superintendent, Secretary to the Board Secretary, Compensatory Education Secretary/Board Office Clerk, all employees in other collective negotiations units and all other employees employed by the East Rutherford Board of Education.

The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote must have been employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation or temporarily laid off, including those in the military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the public employer is directed to file with us an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the units, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously provided to the employee organization with a statement of service filed with us. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

The exclusive representative, if any, shall be determined by a majority of the valid votes cast in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: October 19, 1989
Trenton, New Jersey