

L.D. NO. 95-5

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

KEARNY BOARD OF EDUCATION,

Public Employer,

-and-

Docket No. CU-94-30

KEARNY SCHOOL EMPLOYEES ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer  
Richard M. Copland, attorney

For the Petitioner  
Bucceri & Pincus, attorneys  
(Gregory T. Syrek, of counsel)

DECISION

On February 7, 1994, the Kearny Board of Education and the Kearny School Employees Association agreed to submit to the Commission' Litigation Alternative Program ("LAP") a dispute concerning the unit eligibility of six secretarial positions. The parties have agreed that this decision is binding and resolves the Clarification of Unit petition, Docket CU-94-30, pending before the Commission.

The parties have agreed to the unit placement of five of the six positions and they are withdrawn by the Association. Therefore, I do not consider the following positions: The executive

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secretaries to the Superintendent, Assistant Superintendent/Business Administrator and Board Secretary, the coordinator to the Business Office, and the supervisor of payroll.

The confidential status of the secretary to the Plant Operator (filed as secretary to the Superintendent of Building and Grounds) remains in dispute. Based upon the information submitted to me by the parties at informal conferences conducted on June 20, 1994 and February 7, 1995, and stipulations by the parties, I find the following facts.

The position of secretary to the Director of Plant Operations was created in 1988 as a non-bargaining unit title based upon the understanding reached between the parties at that time that the title would be performing confidential duties. The Association agrees that the secretary has, in fact, performed confidential duties and that she continues to do so. The parties have negotiated two agreements since the creation of the title.

I find that the petition is not timely filed. A clarification of unit petition is appropriately filed where the majority representative has identified and petitioned-for personnel in newly created titles during the contract period in which the new title was established and prior to the execution of the next succeeding contract. Rutgers University, D.R. No. 84-19, 10 NJPER 284 (¶15140 1984); Clearview Reg. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977); Bergen Pines Hospital, D.R. No. 80-20, 6 NJPER 61 (¶11034 1980); cf. Wayne Bd. of Ed., D.R. No. 80-6, 5 NJPER 422

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(¶10221 1979). Here, the execution of two agreements has passed since the creation of the title in 1988.

Moreover, the parties mutually agreed to exclude the secretary to the Director of Plant Operations as a confidential employee. The Association agrees that there has been no change in the title's duties since 1988. A clarification of unit petition is appropriate only when a change of circumstances occurs as to the duties of a title. Clearview Bd. of Ed. and Bergen Pines Cty. Hospital, supra.

#### CONCLUSION

I find that the clarification of unit petition, seeking to include the position of secretary to the Director of Plant Operations (formerly known as secretary to the Superintendent of Buildings and Grounds) is inappropriate. The title is to remain excluded from the Association's bargaining unit as a confidential employee.

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Ilse E. Goldfarb  
Commission Designee

DATED: February 27, 1995  
Trenton, New Jersey