

D.R. NO. 94-2

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

In the Matter of

ATLANTIC COUNTY WELFARE DIVISION,

Public Employer,

-and-

AFSCME COUNCIL 71, AFL-CIO,

Docket No. CU-93-7

Petitioner,

-and-

CWA LOCAL 1085, AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation finds that, of the two Atlantic County employees holding the title Social Work Specialist, one is a supervisor within the meaning of the Act and the other is not. Accordingly, the Director clarifies AFSCME's rank-and-file unit to include the non-supervisory position, and finds that the employee with supervisory duties will remain in CWA's supervisors' unit.

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Appearances:

For the Public Employer  
Martin R. Pachman, attorney

For the Petitioner  
Emmanuel Murray, Staff Representative

For the Intervenor  
Dudley Burdge, Staff Representative

DECISION

On July 27, 1992, AFSCME District Council 71 filed a Petition for Clarification of Unit with the Public Employment Relations Commission. AFSCME seeks to clarify its unit of non-supervisory employees of the County Division of Welfare to include the title Social Work Specialist. The title is presently included in a unit of Welfare Division supervisors represented by CWA Local 1085. CWA intervened in this matter pursuant to N.J.A.C.

19:11-2.7 with a copy of its 1992-95 contract, which covers the disputed title.

In March 1992, the County Division of Welfare<sup>1/</sup> revised and upgraded the job duties of social work specialists. It created separate internal job descriptions for its two social work specialists and placed both employees in the CWA supervisors unit. AFSCME objects to this unit placement, contending that the titles are not supervisory and should be placed in the AFSCME unit. The County and CWA oppose the petition, asserting that the title is correctly placed in the CWA supervisors unit.

The March 1992 upgrade included a requirement that social work specialists possess a master's degree. However, the County created separate internal job descriptions for each of the specialists. Joseph Curtin is the specialist in the Intense Social Services section. His job description provides,

By virtue of this position's master of social work degree, the person serving in the social work specialist position in Intense Social Services is expected to have skills and knowledge above that which we require of persons serving as social workers.

Curtin's job description further requires him to step into crisis situations to "accompany social workers to dysfunctional families," and offer "recommendations to social workers for modification of social work techniques to provide more effective services with

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<sup>1/</sup> The County has since renamed that division as the Division of Economic Assistance."

particular clients", and to "handle the most difficult Intense Social Services cases." Curtin reports to the Supervisor of the Intense Social Services section. While he assists lower-level supervisors with methods of service delivery and recommends technique improvements to the social workers, he has no supervisory authority over them.

The second social work specialist, Margaret Shallow, is assigned to head the Social Services Intake and Assessment section of the Welfare Division, one of five sections of the Welfare Division's direct services segment. She reports to Administrative Supervisor David DeSandis. The internal job description which the County prepared for Shallow does not require Shallow to possess a master's degree. It does provide that Shallow will provide "day-to-day supervision" of her unit. It further requires her to instruct and train members of her section, assign and monitor such clerical functions as recordkeeping and reception. The County asserts that Shallow has the authority to recommend discipline against professional and clerical members of her section and is responsible for their performance evaluations which are used to determine assignments, promotions, increases and retention. As such, the County asserts that Shallow is a supervisor within the meaning of the Act. Neither AFSCME nor CWA dispute those assertions.

Based upon the foregoing, I find that, although the two employees share the same title, Shallow is a supervisor within the

meaning of the Act and Curtain is not. N.J.S.A. 34:13A-5.3 defines a supervisor as an employee having the power to hire, discharge, discipline or effectively recommend such actions. See Tp. of Cherry Hill, P.E.R.C. No. 30 (1970). It appears from the facts presented that Shallow has the authority to recommend discipline and the non-retention of probationary employees within her unit. Additionally, her evaluations of subordinate staff members may impact on such significant personnel matters as salary increases, promotions, and non-retention; these responsibilities create a potential conflict of interest between her and the other AFSCME unit employees. See Bd. of Ed. of West Orange v. Wilton, 57 N.J. 404 (1971). Accordingly, I find that Shallow is a supervisor within the meaning of the Act and therefore, is appropriately included in the CWA supervisors unit.


While Curtain has an advanced degree, there is no allegation that his relationship with the other social work staff members extends beyond a mentoring role. Accordingly, I find that Curtain is a non-supervisory employee and is appropriate for inclusion in the AFSCME unit.<sup>2/</sup>

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<sup>2/</sup> AFSCME argues that if the employees have different educational requirements and different job duties, then one or the other is inappropriately titled under civil service. This is not an area over which we have jurisdiction and we offer no comment. When considering unit placement for employees holding the same title, we usually prefer to place employees with the same title in the same unit. Here, although the employees hold the same title, their job functions are quite different. Accordingly, we feel compelled to place the employees in separate units.

Based upon the foregoing the AFSCME unit is clarified to include the social work specialist position in the Intense Social Services section (presently occupied by Joseph Curtain). The social work specialist position in the Intake and Assessment section (presently occupied by Margaret Shallow) shall remain in the CWA supervisors unit.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: July 2, 1993  
Trenton, New Jersey