

D.R. NO. 94-22

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

In the Matter of

MAHWAH BOARD OF EDUCATION,

Public Employer-Petitioner,

-and-

Docket No. CU-93-32

MAHWAH EDUCATION ASSOCIATION,

Employee Organization.

SYNOPSIS

The Director of Representation determines that the bookkeeper/accountant is a confidential position within the meaning of the Act. Accordingly, he ordered that the broad-based unit be clarified to exclude the title.

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Appearances:

For the Public Employer-Petitioner
Sullivan & Sullivan, attorneys
(Mark G. Sullivan, of counsel)

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

DECISION

On January 22, 1993, the Mahwah Board of Education filed a petition for clarification of unit seeking to clarify its broad-based unit of teachers and support staff represented by the Mahwah Education Association. The Board seeks to exclude the bookkeeper/accountant position from the unit because the position's duties are confidential, rendering it inappropriate for inclusion in any negotiations unit.

In April 1992, the Board promulgated a job description for the bookkeeper/accountant position. The 12-month position's primary goal is to "provide accurate and up-to-date information to the Board...regarding the financial status of the school system." Among

the enumerated duties are: receives district's funds, "from various sources and deposits same in the bank...", maintains a summary analysis of receipts and disbursements; reviews budget commitments for contracted salaries, utilities, etc. The position reports to the business administrator.

The Board maintains that the position provides it with a "work-up of salary proposals dealing with negotiations for the business administrator" and provides "analysis of the Board's proposals relating to the negotiations process." The duties were previously performed by the business administrator. Jeanette Dawson, the person now holding the disputed title, ostensibly performed these tasks during the period before the successor agreement was signed in February 1993.

The Association asserts that the position is not confidential and the Board has already "excluded" from the unit one confidential employee in the "same office location."

On February 15, 1994, we issued a letter tentatively clarifying the unit to exclude the bookkeeper/accountant. No responses were filed.

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.

The Commission narrowly construes 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).^{1/} In State of New Jersey, the Commission explained its approach in determining whether an employee is confidential:

We scrutinize the facts of each case to find for whom each employee works, what he does, and what he knows about collective negotiations issues. Finally, we determine whether the responsibilities or knowledge of each employee would compromise the collective negotiations process if the employee was included in a negotiating unit. 11 NJPER at 510

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, including contract administration. River Dell Reg. Bd. of Ed., 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 Bd. of Ed., D.R. No. 80-35, 6 NJPER 276 (¶11131 1980); Montague Tp. Bd. of Ed., P.E.R.C. No. 87-36, 12 NJPER 773 (¶17294 1986).

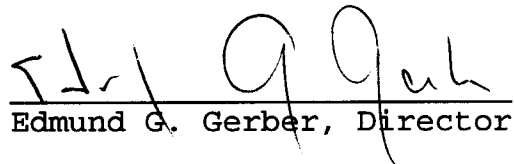
Jeanette Dawson, the disputed employee, reports to the business administrator, who is responsible for negotiations

^{1/} See also Ringwood Bd. of Ed., P.E.R.C. No. 87-148, 13 NJPER 503 (¶18186 1987), aff'd App. Div. Dkt. No. A-4740-86T7 (2/18/88).

"work-ups", particularly negotiations salary proposals in advance of disclosure to the majority representative. Dawson is assigned the duty of creating the work-ups. This makes her privy to negotiations strategies before their actual use.

Under these circumstances, I find that the bookkeeper/accountant is "confidential" within the meaning of the Act and the broad-based unit is clarified to exclude the title.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: March 24, 1994
Trenton, New Jersey