

L.D. No. 89-1

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
LITIGATION ALTERNATIVE PROGRAM

In the Matter of

EDISON TOWNSHIP BOARD OF EDUCATION

-and-

EDISON TOWNSHIP EDUCATION ASSOCIATION

Docket No. CU-L-88-53

-and-

EDISON TOWNSHIP ASSOCIATION OF ADMINISTRATIVE
SECRETARIES

DECISION

The Edison Township Board of Education ("Board"), the Edison Township Education Association ("ETEA" or "educational secretaries") and the Edison Township Association of Administrative Secretaries ("ETAAS" or "administrative secretaries") have agreed to submit the instant dispute to the Public Employment Relations Commission's ("Commission") Litigation Alternative Program ("LAP"). In this procedure, the parties describe and document the nature of their dispute to a Commission Designee. Failing a direct resolution of the issue by the parties, the Commission Designee issues a recommendation designed to resolve the dispute. The parties have agreed that this decision is final and binding and that it resolves the matter as filed before the Commission.

On May 27, 1988, I conducted an informal session with the parties concerning this dispute. The following representatives were present: Michael Parise, Field Representative for the educational secretaries; Donna Campbell, NJEA Negotiating Consultant for the

administrative secretaries and Ray Cassetta, Consultant, for the Board.

The issue in this matter concerns the unit placement of the title of Secretary to the Director of Adult Continuing Education and Summer School ("ACCESS"). On April 18, 1988, the Board filed a Clarification of Unit Petition seeking to move the ACCESS position from the educational secretaries' unit to the administrative secretaries' unit. The Board argues that this position is more properly placed in the administrative unit because of a strong community of interest and similar job functions. The Board maintains that the ACCESS position's improper placement was due to space limitations which necessitated its location outside the central administration building.

ETEA objects to the petition on timeliness grounds. Its argument is two-fold: 1) that the petition was not filed within the "open" period or at the expiration of the present contract as designated by N.J.A.C. 19:11-2.8, and 2) that it is not the proper subject of a proper clarification of unit petition because the position has been in existence for numerous years and has remained unchanged. In addition, ETEA maintains that the ACCESS position is properly placed in the educational unit because of its physical location in a school.

The administrative secretaries disagree. They support the Board's position that the ACCESS secretary is more properly placed in the administrative unit because she reports directly to a central

administrative "team" member who holds district-wide responsibilities.

At the close of the informal proceeding, the parties requested permission to submit position statements by June 10, 1988. The Associations' statements were received on June 14, 1988. The Board's statement, received on July 5, 1988 was not considered.

Background

Both units are parties to collective negotiations agreements covering the period July 1, 1985 through June 30, 1988. (J-1 and J-2). The recognition clauses are as follows:

Administrative Unit

Employees covered by this Agreement shall be all secretarial and clerical personnel in the central office, with the exception of executive secretaries to the superintendent, deputy superintendent, director of personnel, and board secretary, as well as the payroll supervisor and the coordinator of word processing.

Educational Unit

This Agreement shall apply to all school secretarial and clerical employees, excluding all other employees.

The position of secretary to DACESS was created in 1956. At that time, the program involved only adult education and the position was part-time. In 1982, with the growth of the program and increased responsibilities, the position took on full-time status.

Helen Cecere has been secretary to DACCESS since October 1984. Her position is 12 month and her hours are 7:30 a.m. to 3:30 p.m., Monday through Friday, with some evening work during the first week of each semester for registration. Cecere's office is located in Edison High School. She reports directly to Director Charles Schweitzer, whose responsibilities are district-wide. Schweitzer evaluates Cecere and authorizes her vacations, personal and compensation time. In addition, Schweitzer approves any overtime requests. Cecere never reports to the principal of Edison High School, nor does she perform any of his work.

Cecere's responsibilities include typing, filing and taking shorthand for the Director. She oversees registration and collects tuition for the adult and summer school programs. Cecere prepares the monthly payroll for the adult education, ESL, GED and ABE programs. She orders supplies for her office and the summer school program. Cecere also prepares the brochure for the adult school classes and takes care of press releases associated with the ACCESS office.

Throughout the tenure of her employment, Cecere's position has remained unchanged. She has always been a member of the educational secretaries unit, although she voices no objection to being moved to the administrative unit. Cecere believes that she has more in common with the administrative secretaries based on the fact that she reports to a director with district-wide responsibilities.

Educational secretaries work throughout the district in individual schools and report directly to the principals of each school. The principals evaluate each secretary and approve all requests for personal days, vacation and overtime. The educational secretaries hold 12-month positions and their hours vary depending on the level of their school. The principals' responsibilities are not district-wide, but rather relate only to their individual schools.

Marie Weir is head secretary in Woodrow Wilson High School. She has been in that position since 1973. Her hours are 8 a.m. - 4 p.m. with a one hour lunch break. Weir's duties, which are representative of other educational secretaries, include opening mail, ordering supplies, and typing correspondence and reports for the building principal. In addition, Weir oversees the school's main office counter and handles matters involving the public, students and teachers. Her position has been in the educational secretaries unit since its inception.

The majority of administrative secretaries are located in the district's central administration building. Each report to and are evaluated by a director or other central administration "team" member with district-wide responsibilities.

Julia Weintraub is secretary to the Director of Special Services. This is a 12-month position and her hours are 8:30 a.m. - 4:00 p.m., with a one-half hour lunch break. Weintraub works with the 15 Child Study Team members. Her duties, which are

representative of other administrative secretaries, include performing word processing and other paperwork for the special services department. Weintraub is responsible for assignment of teachers, communication with staff and parents, and preparing the special services payroll. Her position has always been in the administrative secretaries unit.

As president of the administrative secretaries unit, it is Weintraub's opinion that the ACCESS position is improperly placed in the educational unit. She stated that the distinction between the two units is based on whether the secretary works for someone with district-wide or building-wide responsibilities, and not on the secretary's physical location. Weintraub pointed to three other secretaries who are not located in the central administration building, but who report to persons who have district-wide responsibilities. These positions, which are in the administrative unit, are the secretaries to the Transportation Coordinator and the Superintendent of Custodians and Grounds. Their offices are located in the Maintenance Building. Weintraub believes Cecere was placed in the high school due only to space limitation and does not object to her position being moved to the administrative unit.

Charles Boyle has been superintendent of the Edison Schools for 20 years. He confirms the existence of two secretarial bargaining units and agrees that the distinction is based on building-wide versus district-wide responsibilities. Moreover, Boyle stated that when he approved an upgrade for the ACCESS

position, he was under the mistaken belief that the position was in the administrative unit.

Analysis

The first issue which must be addressed is whether the title of secretary to DACCESS should be placed in the administrative secretaries' unit or should remain in the educational secretaries unit. Having reviewed the facts, it is clear that the position has some elements of community of interest with both units. Thus, the question becomes which is the "most appropriate" unit.

The Commission favors broad-based units. In State of NJ and Prof. Assn. of N.J., 64 N.J. 231 (1974). In resolving questions of community of interest, the Commission has set forth several factors which must be considered:

...[U]nity of interest, common control, dependent operation, sameness in character of work and unity of labor relations as pointing to common interest. They regard similarity of obligation to the employer as a factor; likewise similarity of working conditions; they consider the possible disruptive effect on employer-employee relations if the employees involved are admitted to one unit. They decide whether the group involved will operate cohesively as a unit; whether the unit will probably be effective in the public quest for industrial peace. Community of interest has been regarded as identity of interest.

Bd. of Ed. of West Orange v. Wilton, 57 N.J. 404, 420-421 (1971).

In the instant case, the ACCESS position is similar in virtually every respect to positions included in the administrative unit. Like the administrative secretaries, the ACCESS secretary reports to and is evaluated by a director or central office "team"

member who has district-wide responsibilities. Both are 12-month positions with similar hours and both perform functions which effect the district as a whole.

By contrast, the ACESS secretary has little or no job function similarities with the educational secretaries. The educational secretaries' responsibilities are limited to the school in which they work and do not involve district-wide concerns. They report to and are evaluated by building principals. In essence, the educational secretaries aid in the day-to-day operation of school buildings.

The one factor which ties the ACESS secretary to the educational unit is physical location. Both are located outside the central administration building in individual schools. However, based on all the facts of this case, I find that this is not enough to warrant the ACESS position's continued placement in the educational unit. While the ACESS secretary is located in Edison High School, she does not report to that building's principal like the other school secretaries. Moreover, there are at least two other secretaries who are located outside the central administration building, who have similar district-wide responsibilities, and who have been placed in the administrative unit. Lastly, it is undisputed that the only reason the ACESS secretary remains outside the central administration building is because of space limitations. Therefore, I conclude that the distinction between the units is based on district-wide versus building-wide

responsibilities and that the ACCESS position would be more appropriately placed in the administrative unit.

Ordinarily, the conclusion that a title is more appropriately placed in another unit would necessitate a finding that it be clarified into that unit at the expiration of the current contract. Clearview Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (¶14106 1977). However, the Commission has found that where the parties agreed to exclude a certain title at the inception of the unit, and where subsequent recognition clauses do not specifically include the title, and where there is no evidence that the majority representative attempted to represent or negotiate for the title or file grievances on behalf of the employee in the title, then absent changed circumstances, a clarification of unit petition cannot be used to include the title in the unit. Clearview; Warren Township, D.R. 82-10, 7 NJPER 529 (¶12233 1981); Wayne Bd. of Ed., D.R. No. 80-6, 5 NJPER 422 (¶10221 1979), aff'd P.E.R.C. No. 80-94, 6 NJPER 54 (¶11028 1980). As was stated in Warren:

If the Commission were to permit a clarification of unit petition under those circumstances, it would be a procedure which might lead to the addition of the occupant of the title to the unit in the face of the illegitimate disenfranchisement of that employee's voting rights in the previously conducted representation election.
Id. at 530.

Further, the Commission held in Wayne:

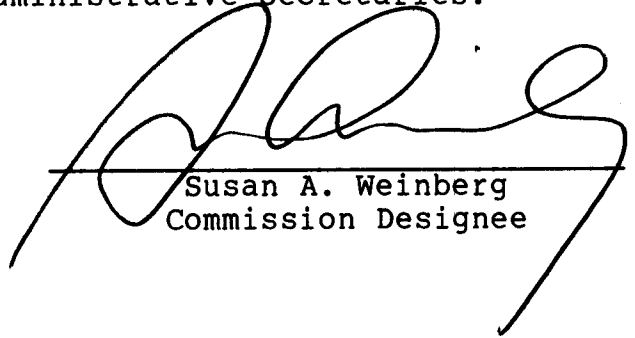
In those cases where it is found that there has been an agreement to exclude or evidence of a waiver on the part of the majority representative, it will result in the conclusion

that this petition raises a question concerning representation. If it is found with regard to a classification that a question concerning representation exists, that portion of the clarification petition relating to such classification will be dismissed.
(emphasis supplied)

In the instant case, the position of secretary to DACCESS has been in existence since 1956. Since the inception of both the administrative and educational units, that position has been in the educational unit. There have been at least two administrative unit contracts where the ACCESS title has not been specifically included, and during the term of which ETAAS has not attempted to negotiate or file grievances on its behalf. Lastly, there is no evidence of changed circumstances with regard to the job duties or functions of the ACCESS position. Accordingly, because neither the Board nor ETAAS have previously pursued their rights to include the ACCESS position in the administrative unit, I conclude that it cannot be clarified at this time. Clearview; Wayne; Warren.

However, this matter does raise a legitimate question concerning representation. ETAAS has stated its desire to represent the ACCESS position. Helen Cecere has also expressed her willingness to be represented by that unit. Moreover, as both units' contracts expired on June 30, 1988, a question concerning representation is timely. In this situation, it would be superfluous to require ETAAS to file a formal representation petition and to hold a concomitant secret ballot election for the single ACCESS employee. Therefore, having previously found it appropriate, I recommend that the Board

recognize the inclusion of the position of secretary to DACCESS in the Edison Township Association of Administrative Secretaries.



Susan A. Weinberg
Commission Designee

Dated: July 8, 1988
Trenton, New Jersey