

STATE OF NEW JERSEY
CLASSIFICATION DISPUTES PANEL

In the Matter of

NEW JERSEY DEPARTMENT OF HIGHER EDUCATION
(MONTCLAIR STATE COLLEGE)

-and-

Director of Office Automation

COMMUNICATIONS WORKERS OF AMERICA

DECISION

The New Jersey State Department of Higher Education and the Communications Workers of America have agreed to submit disputes concerning whether certain employees of the State Colleges are properly excluded from CWA negotiations units to this panel. At the informal hearing before the panel, witnesses testified and job descriptions were presented. The parties have agreed that this panel will decide whether the position is properly classified in a title outside the unit or should be placed within the CWA unit.

The State contends that the Director of Office Automation at Montclair State College is a managerial executive and/or a confidential employee, and therefore properly exempted from any negotiations unit. CWA argues that the title should be included in its Higher Level Supervisors Unit. We find that the position is not a managerial executive. However, we find that the employee is a confidential employee under N.J.S.A. 34:13A and must be excluded from any collective negotiations unit.

As a regular part of his duties, Mr. Meyers, the Office Automation Director, frequently must assist College faculty and administrative personnel with problems in transmitting and receiving electronic mail and formatting, editing and printing word processing documents. In conjunction with this responsibility he has the occasion to see confidential, labor sensitive documents involving

negotiations, arbitration and disciplinary strategies from high level management, including the College President and Human Resources Department.

N.J.S.A. 34:13A-3(g) defines confidential employee:

'Confidential employees' are those whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiations unit incompatible with their official duties.

An employee is confidential if the employee's knowledge about the employer's strategies concerning the negotiation and administration of the collective negotiations agreements could compromise the employer's right to confidentiality concerning these issues if the employee was included in a unit. State of New Jersey, P.E.R.C. No. 86-18 (1985).

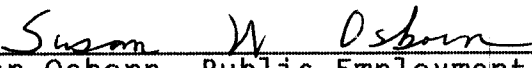
In Tp. of Wayne, 220 N.J. Super. 340 (App. Div. 1987), the Appellate Division found that an employee with access to sensitive confidential information regarding the employer's negotiations or contract administration strategies is a confidential employee, even where the employee has no direct responsibility for the information as part of his regular duties. This is the case here. Meyers' responsibilities in assisting administrative personnel with computer documents and electronic mail give him access to, and therefore knowledge of, the College's sensitive labor relations information.

Therefore, we find that the Director of Office Automation is a confidential employee under N.J.S.A. 34:13A and must be excluded from the CWA units.

THE CLASSIFICATION DISPUTES PANEL



William Druz, Classification Specialist



Susan Osborn, Public Employment
Relations Specialist

DATE: January 24, 1991