

D.R. NO. 95-17

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

In the Matter of

TOWNSHIP OF WEST WINDSOR,

Public Employer,

-and-

Docket No. CU-95-22

C.W.A., LOCAL 1032,

Petitioner.

SYNOPSIS

The Director of Representation clarifies a unit of white collar employees and blue collar employees to include the payroll/benefits coordinator.

The title was listed in the recognition clause of the current collective negotiations agreement but the public employer asserted that the duties of the position rendered it confidential within the meaning of the Act.

The Director found no evidence that the payroll/benefits coordinator performed any confidential duties.

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Appearances:

For the Public Employer
Robert W. Bruschi, Administrator

For the Petitioner
Paul Pologruto, Local Representative

DECISION

On October 17, 1994, the Communications Workers of America, Local 1032, AFL-CIO, filed a Petition for Clarification of Unit. CWA seeks to clarify its unit of blue collar and white collar employees of West Windsor Township to include the payroll/benefits coordinator.

The disputed title is specifically included in the recognition article (Article 1) of the recently negotiated 1994-96 collective agreement signed by the parties. The Township asserts however, that employees in this title are confidential within the meaning of the Act.

The Township asserted that the payroll/benefits coordinator(s) "maintain personnel records for all employees in the

municipality" and their knowledge of disciplinary issues, etc., which are "personal in nature" are handled "within this office."

On December 23, 1994, I issued a letter tentatively clarifying the unit to include the disputed title. No responses were filed.

The Act defines confidential employees as those,

...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.

[N.J.S.A. 34:13A-3(g)].

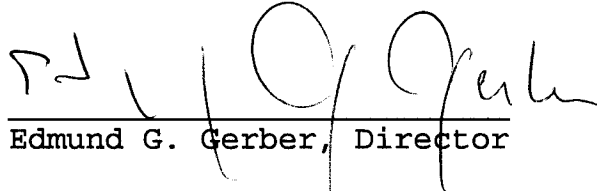
The Commission narrowly defines the term, "confidential employee." See State of New Jersey, P.E.R.C. No. 86-18, 11 NJPER (¶16179 1985); mot. to reopen den. P.E.R.C. No. 86-59, 11 NJPER 714 (¶16249 1985). "A determination that an employee is confidential and therefore excluded from the Act's protections, N.J.S.A. 34:13A-5.3, should not be based on speculation..." Lacey Tp. Bd. of Ed., P.E.R.C. No. 90-38, 15 NJPER 628 (¶20263 1989). The Commission has frequently stated its inquiry:

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 employer's right to confidentiality concerning the collective negotiations process if the employee was included in a negotiating unit. [State of New Jersey, 11 NJPER 507].

See also State of NJ (OER) and Council of NJ State College Locals, P.E.R.C. No. 90-22, 15 NJPER 596 (¶20244 1989), aff'd App. Div. Dkt. No. A-1445-89T1 (1/22/91); Sayreville Bd. of Ed., P.E.R.C. No. 88-109, 14 NJPER 341 (¶19129 1988), aff'd App. Div. Dkt. No. A-4297-87T1 (4/21/89); 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).

The Township has not offered any facts suggesting that the duties of the payroll/benefits coordinator are confidential within the meaning of N.J.S.A. 34:13A-3(g). Accordingly, I determine that the blue collar and white collar unit is clarified immediately to include this disputed title.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: January 10, 1995
Trenton, New Jersey