

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGEN COUNTY WELFARE BOARD

Public Employer

and

Docket No. R-134

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

and

COUNCIL NO. 5, CIVIL SERVICE ASSOCIATION

Intervenor

DECISION

This case is before the Commission on a Request for Review of the Executive Director's Decision and Direction of Election in Bergen County Welfare Board, E.D. No. 22, dated November 6, 1970. The Employer requested the Commission to review the unit determination made therein, contending that the exclusion of office clerical employees from a unit of caseworkers was in error and further contending that caseworker aides should be included in the unit. 1/ The Commission granted the Employer's request and upon consideration of the full record remanded the case for further evidence on the duties of office clerical employees and a determination of the unit placement of aides. Following the remand hearing, the Hearing Officer issued his report on June 10, 1971. 2/ Although the Hearing Officer found a unit of caseworkers, aides and clericals appropriate, he felt constrained by the limits of the petition not to recommend an election in a unit substantially larger than that sought by Petitioner. Therefore, he recommended that an election be conducted in a unit consisting of caseworkers and aides which he also found appropriate.

Exceptions were filed by all three parties; Bergen County Welfare Board, AFSCME and Council No. 5, C.S.A. The exceptions of the Welfare Board, while timely filed with the Commission, were not simultaneously served on all parties, as required by Section 19:14-15 of the Commission's Rules and Regulations. Therefore, they will not be considered. The letter from C.S.A. which joined in the exceptions of

1/ This was the first unit contention by any party regarding the classification "aides".

2/ Since not put in issue by the Employer's Request, the Executive Director's determination on the questions of supervisory and professional employees remains undisturbed as do the jurisdictional findings regarding the public employer and employee representatives, and the existence of a question concerning representation.

the Welfare Board was untimely filed and will not be considered. Exceptions of the Petitioner were timely filed and simultaneously served on all parties.

The Commission has considered the record, the Executive Director's Decision, the Hearing Officer's Reports and Recommendations, and the indicated exceptions and on the basis of the facts in this case finds:

Caseworker aides may appropriately be included in a unit of caseworkers as recommended by the Hearing Officer. All parties agreed to their inclusion and no exceptions were taken to this finding. Therefore, it is adopted pro forma.

The exceptions filed by Petitioner deal with the Hearing Officer's finding that a unit of caseworkers, clericals and aides was not inappropriate. AFSCME contends that the Order of Remand did not require a finding on the unit placement of clericals, that the Executive Director in E.D. No. 22 found the duties of clericals and caseworkers were "dissimilar" and that no party with standing had petitioned for the larger unit. 3/

While it is true that the Order of Remand required only that further evidence on the duties of caseworkers and clericals be elicited, it is evident that the Commission was not convinced that these duties were so "dissimilar" that a unit excluding them was appropriate. Having reviewed the entire record, the Commission concludes for the reasons below that a unit of caseworkers and aides excluding office clerical employees is inappropriate.

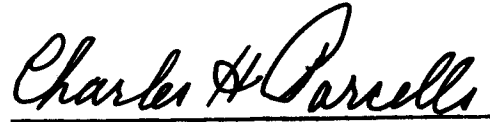
The record indicates that the lines between caseworkers and clericals are blurred. All clerical employees have the same duty station as caseworkers and there is daily contact between the two groups. Both groups are in the classified service, enjoy virtually the same fringe benefits, work the same hours and share common facilities. There is a salary differential, but the range for clericals is not substantially different from that of aides, whom all parties agree should be included in the unit. Some clerical employees perform casework duties, some clericals report to supervisors of casework, and several clericals have become aides. The processing of a typical welfare application demonstrates a high degree of integration and coordination of the clerical and casework functions. Also, as it appears at least from this record, a certain portion of casework function is fairly routine and contains clerical aspects.

The Commission is not unmindful that distinctions do exist especially with respect to functions and educational qualifications but on balance concludes that the interests of clericals, caseworkers and aides are so intimately related that the exclusion of office clericals is inappropriate. Accordingly, the Commission finds that the unit petitioned

3/ Council No. 5, C.S.A. while arguing that the larger unit was appropriate, never submitted sufficient showing of interest to petition for it.

for is inappropriate. The decision of the Executive Director is reversed and the petition herein is dismissed.

BY ORDER OF THE COMMISSION

A handwritten signature in cursive script, reading "Charles H. Parcels", written in black ink. The signature is fluid and somewhat stylized, with the first letters of each word being capitalized and prominent.

Charles H. Parcels
Charles H. Parcels
Acting Chairman

DATED: September 9, 1971
Trenton, New Jersey

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BERGEN COUNCIL NO. 5, CIVIL SERVICE ASSOCIATION

Intervenor

Docket No. R-134

APPEARANCES:

For the Bergen County Welfare Board

Edwin C. Eastwood, Jr., Esq.

For the American Federation of State, County

and Municipal Employees, AFL-CIO

Coleman, Lichtenstein, and Segal

By Mark Z. Segal, Esq.

For Bergen Council No. 5, Civil Service Association

Seymour Chase, Esq.

By Gerald J. Oratio, Esq.

HEARING OFFICER'S REPORT AND RECOMMENDATION

Pursuant to a petition for certification of public employee representative filed with the Public Employment Relations Commission by the American Federation of State, County and Municipal Employees, AFL-CIO, hearings were held before the undersigned Hearing Officer February 3, 1970 and April 8, 1970.

Petitioner claimed that a unit of case workers and supervisors of case work was an appropriate unit. The Intervenor, Bergen Council No. 5, Civil Service Association, contested the appropriateness of the unit sought by Petitioner. The Public Employer, Bergen County Welfare Board, also disputed the appropriateness of the unit sought by Petitioner and urged a finding that the appropriate unit was one composed of case workers and clerical employees of the Welfare Board.

On September 21, 1970, the undersigned issued his Hearing Officer's Report and Recommendations in which he recommended that supervisors of case work not be found to be supervisors within the meaning of the Act, that neither supervisors of case work nor case workers be found to be professional employees, and that an election be directed in a unit consisting of case workers and supervisors of case work.

Exceptions to the Hearing Officer's Report and Recommendations were received by the Executive Director October 2, 1970. Thereafter,

on November 6, 1970, the Executive Director issued a decision, E.D. No. 22, in which in the absence of exceptions he adopted pro forma the recommendation of the Hearing Officer that supervisors of case work and case workers are not "professional" employees and in which he directed an election in a unit of case workers excluding supervisors of case work, the latter being found to be supervisors within the meaning of the Act.

On November 18, 1970, the Commission received a request for review of the Executive Director's decision from the Public Employer. The request for review was granted by the Commission and on December 14, 1970, an Order of Remand and Notice of Hearing was served on the parties.

The Order of Remand and Notice of Hearing reads, in pertinent part, as follows:

After review and due consideration, the Commission has concluded that there is insufficient record evidence to permit a complete determination of all issues. Accordingly, the case will be remanded to the Hearing Officer for the purpose of taking evidence relating to the unit placement of aides and for the purpose of taking additional evidence on the functions and duties of case-workers and office clerical employees. For purposes of this remand the Commission considers closed the questions of whether or not the case-workers are "professional" employees, and whether or not Supervisors of Case Work are "supervisors" within the meaning of the Act.

In accordance with the Order of Remand and Notice of Hearing and an Order Rescheduling Hearing, the case was opened on February 23, 1971. At that time, it appeared that the parties would come to an agreement on all issues. However, this did not prove to be the case so after additional Orders Rescheduling Hearing dated March 5, March 23 and March 31, the matter was heard on April 22, 1971. The parties agreed at the hearing that there was no need to file briefs.

DISCUSSION:

The Order of Remand specifies two issues. One of these relates to the unit placement of aides. The parties stipulated at the hearing that aides should be included in the unit as finally constituted, whether this be with case workers only as sought by Petitioner or with case workers and clerical employees as favored by the Public Employer. Accordingly, on this issue there is no dispute and the undersigned finds, in agreement with all parties, that aides

should be included in the unit which, minimally, includes case workers.

The second area to be considered is the functions and duties of case workers and office clerical employees.

The Bergen County Welfare Board employs somewhat over 100 employees. Directly under the Board in descending order is a Director, a Deputy Director, a Supervisor of Administration, and a Training Supervisor. Next, there are approximately 14 supervisors of case work. The 65 case workers report to these supervisors of case work as do the 10-15 welfare aides. At the top of the clerical staff are two clerical supervisors to whom the approximately 30 clerical employees report. Somewhat more than half of the clerks are in a typing pool and the remainder - about 12 - are in the Finance Department. The clerical employees occupy one of four Civil Service job titles: clerk, clerk typist, clerk stenographer, and clerk transcriber. ^{1/}

Educational requirements for the four clerical titles are uniform: graduation from high school, vocational school, or the equivalent in education and experience. Case workers are required to be college graduates. The aides are required to have 60 college credits or high school graduation plus two years of experience in work involving investigation of financial matters, credit, or other investigations.

All of the clerical employees and most of the case workers spend all of their working time in the office of the Welfare Board. Some of the case workers spend a portion of their time in the field visiting clients although 25 or 30 case workers do not go into the field at all. (Tr. 42)

The work of case workers and clerical employees as well as all other employees of the Welfare Board is highly integrated. In a general sense, all employees are engaged in pursuit of the mission of the agency. More specifically the case workers determine eligibility of clients and establish budgets for them. Clerical employees type case histories and other records, process the checks which the clients receive, and send the checks to the recipients.. Therefore, clerical employees and case workers perform separate but complementary functions. The agency could not function without both of these groups of activities being performed. Presumably, of course, supervisors could carry out the activities of case workers on an emergency or short-term basis or case workers could perform the requisite clerical tasks ordinarily carried out by the clerical staff. However, in normal circumstances the work of case workers and clerical employees is highly integrated.

Typically, there is little or no interchange of employees. However, as mentioned above, several of the clerical employees do interview clients and perform the same job tasks as do aides and some case workers. However, this is not the usual situation. At one time, several clerical employees accepted positions as aides. However, in both cases, they asked to be and were reinstated in their former clerical positions. However, a clerical employee with two years of relevant investigatory

^{1/} Two or three of the clerical employees, according to record testimony, perform at least some of the same functions as do aides and caseworkers. Assuming that this is true, such duties do not fall within the written specifications of any of the clerical positions. They can most properly be considered as aberrations rather than the norm. For the purpose of this discussion, we shall concentrate on the vast majority of clerical employees who, in fact, perform clerical functions consistent with their job descriptions.

experience or two years of college credits is eligible to become an aide. One cannot become a caseworker without a college degree. (Tr. 61)

Salary ranges for the group of positions are as follows:
 case workers - \$7737-11,220; welfare aides - \$5237 - 6,809; clerk (submission from counsel for Public Employer does not indicate whether all clerical titles receive the same rate of pay or whether this applies only to the Civil Service job title "clerk") - \$4750-6654.

Clerical employees and case workers do have other common aspects of employment in addition to those set forth above. The fringe benefits of all Welfare Board employees apparently are similar although case workers are entitled to certain education benefits which are not available to clerical employees. (Tr. 30 and 31) Lunchrooms, coatrooms, rest rooms and other facilities are the same for clerical employees and case workers. (Tr. 43)

There are also some differences. These relate mainly to the jobs themselves. Clerical employees are generally not involved in staff meetings with case workers, aides and supervisors. (Tr. 37 and 38) ^{2/} Case workers do some liaison work with other public agencies and groups. Clericals do not do this. (Tr. 36 and 37) Typing letters is the major function of the clerks in the typing pool. (Tr. 59) The other clerical employees check and maintain other financial records. The case workers establish eligibility, determine appropriate budgets, counsel clients, etc.

CONCLUSIONS AND RECOMMENDATIONS

The aides should be included with the case workers as stipulated by the parties.


In the opinion of the undersigned, the information discussed above, giving due regard for the community of interest among the employees concerned as specified in Section 7 of the Act, establishes the appropriateness of a unit of case workers, aides and office clerical employees. That group of employees does have a community of interest and there is no evidence of a conflict of interest among those employees. The record indicates that if case workers have any difficulties with or complaints regarding the clerical employees, such things are discussed by the case worker with the appropriate supervisor of the clerical employee concerned and is not discussed or handled directly by the case worker and the office clerical employee. The supervisor takes any necessary action. (Tr. 24) There is no record evidence to suggest a conflict of interest.

While the Order of Remand does not specifically call for a finding and recommendation from the Hearing Officer on the unit placement of office clerical employees, the undersigned is of the opinion that a finding and recommendation might be of assistance to the Commission in resolving this issue. If this is incorrect, the Commission, of course, will disregard the recommendation.

^{2/} The several who are have been discussed above. These are the ones who interveiw clients and perform the same functions as aides and case workers.

As stated above, the undersigned would find a unit of case workers, aides, and office clerical employees to be an appropriate unit giving due regard for the community of interest among the employees concerned. However, the question of the appropriateness of such a unit does not appear to be relevant. Petitioner seeks a unit of case workers and aides. Intervenor, because of the insufficiency of its showing of interest to contend that a larger unit is appropriate, simply urged that the petition be dismissed. Thus, the only question, in the opinion of the Hearing Officer, is whether or not a unit of case workers and aides is an appropriate unit. The question is not whether there is one or more other appropriate units including these employees nor is it whether there is a more appropriate unit. If a unit of case workers and aides is an appropriate unit, then an election should be directed in that unit to determine the majority representative, if any. If that unit is not appropriate, then the petition should be dismissed. This is not to say that an election should only be directed in the unit which conforms precisely to the unit petitioned for. In this instance, the undersigned recommends direction of an election in a unit including aides in spite of the fact that aides were not included in the original petition. Nevertheless, their inclusion is regarded as proper for the following reasons: 1) all parties agree that they should be included, 2) petitioner's showing of interest is sufficient to support such a unit contention, and 3) the addition of less than 15 aides to approximately 65 case workers does not modify substantially either the scope or the composition of the unit.

To add approximately 30 clerical employees to that unit in the absence of a request to do so as by the Petitioner or a similar contention by a properly accredited Intervenor would, in the opinion of the undersigned, constitute an unjustified alteration to the unit sought by Petitioner. Accordingly, it is recommended that an election be directed in a unit consisting of case workers and aides in accordance with the Rules and Regulations of the Public Employment Relations Commission.



Jeffrey B. Tener
Hearing Officer

DATED: June 10, 1971
Trenton, New Jersey