

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF

PROVIDENCE SCHOOL DEPARTMENT

CASE NO: EE- 1707A & EE 3167
Unit Clarification:
Foreman: Central Supply Warehouse

-AND-

R.I. COUNCIL 94, AFSCME, AFL-CIO

-AND-

R.I. LABORER'S DISTRICT COUNCIL

DECISION & ORDER

TRAVEL OF CASE

The above-entitled matter came on to be heard before the Rhode Island State Labor Relations Board (hereinafter "Board") on two separate Requests for Accretion (hereinafter "Petitions") for the position of Foreman, Central Supply Warehouse. The first Petition was filed with the Board by R.I. Council 94, AFSCME, AFL-CIO on July 30, 2001. The second petition, filed by RI Laborer's District Council was filed on August 7, 2001. An informal hearing was held by the Board's Agent on September 14, 2001 with representatives of both the Unions and the Employer. However, prior to the investigation being completed, the Board's Agent retired. Consequently, once the Board was provided with a new Investigative Agent, the investigation was re-commenced. Upon completion of her investigation, the Board's Agent filed an investigative report with the Board and on June 17, 2003 provided a copy of the same to the parties. The Employer does not interpose an objection to the position of Foreman, Central Supply Warehouse being accreted to an appropriate bargaining unit. The Employer has expressed an opinion that the bargaining unit certified by Case No. 3167 is an appropriate bargaining unit.

A formal hearing was held by the Board on October 30, 2003. Each union filed a brief in this matter, and the Employer elected not to file a brief. In arriving at the decision herein, the Board has considered the testimony and evidence submitted at the formal hearing and has reviewed the briefs of both Unions.

DISCUSSION

On June 7, 1967, Rhode Island Council 94, AFSCME-AFL-CIO, Local 1399 was certified to represent all non-teaching personnel including secretaries, clerks and drivers, but excluding all other employees employed by the Providence School Committee.

On December 23, 1976, the Laborer's District Council, Local 1033 was certified to represent Audiometrist Technician, Laboratory Technician, Water Safety Instructor, Community Liaison Worker, Program Assistant, Bus Inspector, Supportive Counselor, Paraprofessional Resource Assistant, Records Specialist Cataloguer, Human Relations Specialist, Budget Officer, Budget Analyst, Supervisor Federal Lunch Program Acct., Office Manager, Supervisor of Payroll A/V Consultant (A/V Dept) Supervisor School Lunch, Coordinator of Maintenance, Coordinator of Operations, Class A Foreman, Head Custodian, Order of Processing Expeditor and excluding Administrative Assistants, Plant Engineer, Supervisor of Transportation, and School Controller.

Since the Board is faced with competing petitions, but no opposition from the Employer, the Board focuses its inquiry in this matter on the community of interest factors, as defined by Section 8.04.5. of the Board's Rule and Regulations.

1) Similarity in scale and manner of determining benefits.

The salary range for the position of Foreman, Central Supply Warehouse is at the first step is \$36,000 to \$36,674.¹ The current yearly salary range for twelve month positions at the first step of earnings for positions represented by Local 1033 ranges from \$24,858.58 (Water Safety Instructors) to \$64,896.00 (Senior Budget Officer). The current yearly salary range for twelve month positions at the first step of earnings for positions represented by Council 94 ranges from \$23,058 to \$36,674. Thus, if the position of Foreman, Central Supply Warehouse was accreted to the Council 94 unit, it would be one of the highest paid positions in the unit. Conversely, if accreted to the Local 1033 unit, the position would be solidly in the middle range of salaries. Therefore, the Board finds that this factor tends to support a finding that the position shares a community of interest with Local 1033

¹The job posting for the position establishes an overall salary range of \$36,000 to \$41,500.00

2) Similarity of employment benefits, hours of work, and other terms and conditions of employment.

The benefits enjoyed by the position of Foreman, Central Supply Warehouse are essentially identical to the benefits enjoyed by both unions. Thus, this factor does not assist the Board.

3) Similarity in the kind of work performed.

The job description for the position of Foreman, Central Supply Warehouse provides that the position reports to the Purchasing Administrator and that the position will have overall responsibility for all stock clerks and drivers, as well as operation of the District's warehouse. The stock clerks and drivers are all members of the Council 94 bargaining unit. Therefore, if the position of Foreman, Central Supply Warehouse were to be accreted into Council 94's bargaining unit, there would be an untenable conflict of interest.

Additionally, a review of other job descriptions (Payroll Supervisor, Purchasing Expediter, Supervisor of Food Services and Teacher Assistant Specialist) submitted into evidence reveal a similar level of general oversight for subordinate employees. All of these positions supervise a staff of clerical employees who are members of the Council 94 bargaining unit. Thus, the position of Foreman, Central Supply Warehouse shares a community of interest with these other general oversight positions contained in the Local 1033 bargaining unit.

4) Similarity in the qualifications, skills and training of the employees.

According to the Payroll Supervisor job description, the occupant must have "extensive supervisory experience" and "experience in a progressively responsible payroll position." See Local 1033 Exhibit #4. Similarly, among the preferable qualifications of the Assistant to the Director of Purchasing position is "comparable work experience" or a Bachelor's degree in Business and a "minimum of three (3) years experience in purchasing of materials, supplies and equipment. See Local 1033 Exhibit #5. The Supervisor of Food Services must possess "knowledge of the principles of food service management" and "knowledge of modern techniques of supervision and management." See Local 1033 Exhibit #6. Similarly, the Teacher Assistant Specialist must have "experience in working with teacher assistant policies and procedures" and "experience with the coordination of teacher assistant training sessions and workshops. See Local 1033 Exhibit #7.

It is clear then that these positions share a common theme of requiring a certain minimum level of knowledge and experience in their respective areas of responsibility. As for the position of Foreman, Central Supply Warehouse, this position requires “at least three (3) years experience as a clerk/supervisor or related duties, experience in Central Inventory procedures and “working knowledge of data processing. See Council 94, Exhibit #3.

As to the Council 94 bargaining unit, no other job descriptions were submitted to demonstrate any level of community interest with the position of Foreman, Central Supply Warehouse. Therefore, the Board concludes that the reliable credible evidence in the record demonstrates that the position of Foreman, Central Supply Warehouse shares a community of interest with the Local 1033 bargaining unit as to this factor.

5) History of Collective Bargaining

Council 94 argues that the position of Foreman, Central Supply Warehouse is really just a new job description for the now vacant position for Foreman, Stock Clerk, Central Supply. Council 94 states that the position of Foreman, Stock Clerk, Central Supply was in its bargaining unit for more than 20 years until it was re-posted as the Foreman, Central Supply Warehouse. Council 94 argues that it agreed with the Employer than Council 94 did not waive its right to petition this Board for inclusion of the position of Foreman, Central Supply Warehouse into its bargaining unit. Council 94 characterized the duties and responsibilities for the position of Foreman, Central Supply Warehouse and that of the Foreman, Stock Clerk, Central Supply as being essentially the same, with only two slight differences. Council 94 argues that the only substantive change is that the new position of Foreman, Central Supply Warehouse requires less education and education, but pays more money. The Board notes that this last allegation does appear to have merit.²

In any event, the Board also notes that Council 94 agreed that the position could be posted as a non-union position, without waiving its right to petition this Board for accretion. Such action is of no real import however, because this agreement between the Employer and Council 94 cannot serve to prevent other unions such as Local 1033 from seeking to accrete an admittedly non-union position. Moreover, because of all of the foregoing reasons, to the

² The Board also notes that position of Foreman, Central Supply Warehouse reports to the Purchasing Administrator and that the position of Foreman Stock Clerk, Central Supply reports to the Audits and Contracts Administrator or the Purchase and Supply Expediter. The Board however is unable to discern the significance, if any, of this information because there is no organizational chart in the record that demonstrates the hierarchy for reporting purposes. The only chart in the record demonstrates the positions that report to the Foreman.

extent that the new position of Foreman, Central Supply Warehouse is substantially the same as Foreman, Stock Clerk, Central Supply, it seems to this Board that the position of Foreman, Stock Clerk, Central Supply previously had more of a community of interest with the Local 1033 unit. This petition will now correct that misplacement.

FINDINGS OF FACT

- 1) The Respondent is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
- 2) Both Unions are labor organizations which exist and are constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection and as such are "Labor Organizations" within the meaning of the Rhode Island State Labor Relations Act.
- 3) On June 7, 1967, Rhode Island Council 94, AFSCME-AFL-CIO, Local 1399 was certified to represent all non-teaching personnel including secretaries, clerks and drivers, but excluding all other employees employed by the Providence School Committee.
- 4) On December 23, 1976, the Laborer's District Council, Local 1033 was certified to represent Audiometrist Technician, Laboratory Technician, Water Safety Instructor, Community Liaison Worker, Program Assistant, Bus Inspector, Supportive Counselor, Paraprofessional Resource Assistant, Records Specialist Cataloguer, Human Relations Specialist, Budget Officer, Budget Analyst, Supervisor Federal Lunch Program Acct., Office Manager, Supervisor of Payroll A/V Consultant (A/V Dept) Supervisor School Lunch, Coordinator of Maintenance, Coordinator of Operations, Class A Foreman, Head Custodian, Order of Processing Expeditor and excluding Administrative Assistants, Plant Engineer, Supervisor of Transportation, and School Controller.
- 5) The salary range for the position of Foreman, Central Supply Warehouse is at the first step is \$36,000 to \$36,674. ⁴ The current yearly salary range for twelve month positions at the first step of earnings for positions represented by Local 1033 ranges from \$24,858.58 (Water Safety Instructors) to \$64,896.00 (Senior Budget Officer)

³ As for the other factors in the community of interest test, there was little information in the record, if any on these factors, so the Board does not consider the same.

⁴ The job posting for the position establishes an overall salary range of \$36,000 to \$41,500.00

The current yearly salary range for twelve month positions at the first step of earnings for positions represented by Council 94 ranges from \$23,058 to \$36,674.

- 6) The position of Foreman, Central Supply Warehouse reports to the Purchasing Administrator and has overall supervisory responsibility for all stock clerks and drivers, all who are members of the Council 94 bargaining unit.
- 7) Other positions within Local 1033's unit, including Payroll Supervisor, Purchasing Expediter, Supervisor of Food Services and Teacher Assistant Specialist supervise a staff of clerical employees who are members of the Council 94 bargaining unit.
- 8) The record before the Board contains little, if any documentary evidence as to the community of interest between other Council 94 positions and the position of Foreman, Central Supply Warehouse

CONCLUSIONS OF LAW

- 1) The position of Foreman, Central Supply Warehouse shares a community of interest with other positions of Local 1033's bargaining unit, including: Payroll Supervisor, Purchasing Expediter, Supervisor of Food Services and Teacher Assistant Specialist.

ORDER

- 1) The petition to accrete the position of Foreman, Central Supply Warehouse to the bargaining unit certified by Case No EE 3167 is hereby granted.
- 2) The petition to accrete the position of Foreman, Central Supply Warehouse to the bargaining unit certified by Case No EE 1707A is hereby denied and dismissed.

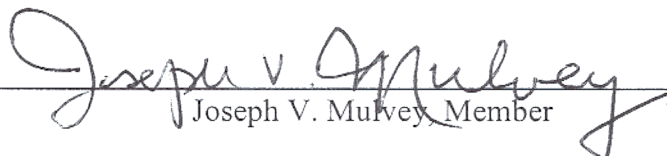
RHODE ISLAND STATE LABOR RELATIONS BOARD



Walter J. Lanni, Chairman



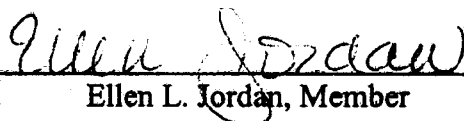
Frank J. Montanaro, Member



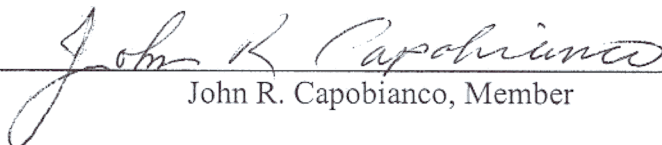
Joseph V. Mulvey, Member



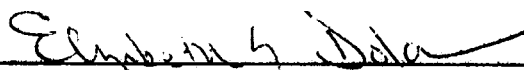
Gerald S. Goldstein, Member



Ellen L. Jordan, Member



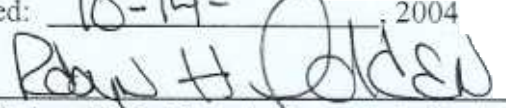
John R. Capobianco, Member



Elizabeth S. Dolan, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: 10-14- 2004

By: 

Robyn H. Golden, Acting Administrator

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RI COUNCIL 94, AFSCME, AFL-CIO

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RI LABORERS' DISTRICT COUNCIL

AMENDED NOTICE

**NOTICE OF RIGHT TO APPEAL AGENCY DECISION
PURSUANT TO R.I.G.L. 42-35-12**

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of EE Nos. 1707A & 3167, dated **10/14/04**, may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **10/14/04**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. **28-7-31**

Dated: October 14, 2004

By: 
Robyn H. Golden, Acting Administrator