

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

IN THE MATTER OF  
MIDDLETOWN SCHOOL COMMITTEE  
-AND-  
NEA MIDDLETOWN

**CASE NO: EE- 1679**  
Unit Clarification: Director  
of Technology

**DECISION AND ORDER OF DISMISSAL**

**TRAVEL OF CASE**

The above-entitled matter came to be heard before the Rhode Island State Labor Relations Board (hereinafter "Board") on a Request for Accretion (hereinafter "Petition") for the position of Director of Technology, currently held by Linda Savastano. The Petition was filed with the NEA Middletown, on August 15, 2006. An informal hearing was held on the matter on October 11, 2006.

The Board's Agent conducted a subsequent investigation on the request. Upon completion of the investigation, the Board's Agent filed an investigative report with the Board, and on May 4, 2007 provided a copy of the same to the parties. The Union submitted a written response to the investigative report on May 10, 2007. The Employer did not submit a response to the investigative report. The members of the RI State Labor Relations Board reviewed the investigative report and Union's response at the Board Meeting of June 12, 2007, and made a preliminary determination that the matter should proceed directly to formal hearing. A formal hearing was held on November 20, 2007. Representatives from the Employer and Union participated and were provided a full and fair opportunity to examine and cross-examine witnesses and to submit appropriate documentary evidence. Upon conclusion of the hearing, both parties submitted their briefs on January 16, 2008, and the Board, at its January 31, 2008 meeting, considered the matter.

## RELEVANT FACTS

In 2006, the Middletown School Department created a new position entitled "Director of Technology Administration" to adapt to the changing technological needs of the District. This new position was posted by the School Department as a twelve (12) month, administrative position. In July 2006, Ms. Linda Savastano, a long-time employee of the school department, was appointed to the position.<sup>1</sup> In September, Ms. Savastano entered into a three (3) year employment contract with the District, for the period September 1, 2006 to August 31, 2009. (Employer's Exhibit #2)

In her position as Director of Technology Administration, Ms. Savastano is required to hold a teaching certification, but has no actual teaching responsibilities or duties. Ms. Savastano's office is located within the "Oliphant" building, which houses the administrative offices of the Middletown School Department. Ms. Savastano reports directly to Rosemarie Krueger, the Superintendent of Schools. In addition to the Director's position, the Department of Technology has the following positions: Network Manager, held by Mark Kargle; System Administrator, held by Russell Kruse; Technology Clerk-Help Desk, two (2) K-12 Technology Specialists and two (2) part-time summer interns. In addition, there are two (2) teachers within the District that have technology responsibilities.

The District has a total of 850 computers, all with hardware and software that must be managed and maintained. Residing within the technology are various systems for which Ms. Savastano is responsible, including web-mail servers, a wide area network, a local area network, a calendaring system, human resources programs, Department of Education reporting programs, as well as other programs and email accounts for all employees.

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<sup>1</sup> Her immediately preceding position was as a Technology Integration Specialist.

## DISCUSSION

The Union argues that the position of Director of Technology Administration is appropriate for inclusion within the bargaining unit certified by EE1679 because: (1) the position is a non-administrative professional employee, and is, therefore, covered by the definition of "certified teacher" set forth in R.I.G.L. 28-9.3-2; (2) the position meets the qualifications of a "professional employee" set forth under the Board's Rules and Regulation; (3) the position is neither supervisory nor confidential; (4) the position has a community of interest with other positions in the bargaining unit.

The Employer argues that the position of Director of Technology Administration is not appropriate for inclusion within the bargaining unit because: (1) the certification in Case No. EE-1679 covers only certified teachers, engaged in teaching duties; (2) the position is not below the rank of Assistant Superintendent; (3) the position does not share a community of interest with the rest of the bargaining unit; (4) the position is a confidential position.

On December 19, 1966, this Board issued the certification of representatives for the bargaining unit represented in EE-1679 and certified a unit of all "certified teachers engaged in teaching duties, in the Middletown School Department." In addition, Article 2 of the Collective Bargaining Agreement for the unit certified under EE-1679 provides in pertinent part: "In accordance with the Teachers Arbitration Act of January 1966, as amended, the Committee hereby recognizes the NEA Middletown as the exclusive bargaining representative of all certified teaching employees of the Middletown school system below the rank of assistant principal." (Joint Exhibit #2. p. 3)

Both Ms. Savastano and Ms. Krieger, testified that in her position as Director of Technology Administration, Ms. Savastano does not engage in any teaching duties. (TR. pps. 94, 102). In addition, both women testified that Ms. Savastano reports directly to Ms. Krieger as part of Ms. Krieger's administrative "cabinet." Therefore, in addition to being disqualified from membership in this bargaining unit by her lack of teaching responsibilities, Ms. Savastano is also disqualified from membership because as part of the Superintendent's inner

circle, her position does not fall below that of an Assistant Principal. The position of Director of Technology Administration is therefore ineligible for inclusion within the bargaining unit certified in EE 1679. With this conclusion, the Board does not reach the other arguments of the parties.

#### **FINDINGS OF FACT**

- 1) The Respondent is an “Employer” within the meaning of the Rhode Island State Labor Relations Act.
- 2) The Union is a labor organization which exists and is 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 is a “Labor Organization” within the meaning of the Rhode Island State Labor Relations Act.
- 3) The position of Director of Technology Administration was created by the Middletown School District in 2006 to adapt to the changing technological needs of the District.
- 4) Ms. Linda Savastano, a long-time employee of the School Department, was appointed to the position.
- 5) The certification for EE 1679 issued by this Board in 1966 covers certified teachers, engaged in teaching duties.
- 6) The recognition clause of the Collective Bargaining Agreement provides that the School Committee recognizes the NEA Middletown as the exclusive bargaining representative of all certified teaching employees of the Middletown school system below the rank of Assistant Principal.
- 7) In her position as Director of Technology Administration, Ms. Savastano is required to hold a teaching certification, but has no actual teaching responsibilities or duties.
- 8) Ms. Savastano reports directly to Superintendent Krieger and, therefore, the position of Director of Technology Administration does not fall below the rank of Assistant Principal.

### **CONCLUSION OF LAW**

- 1) The position of Director of Technology held by Linda Savastano is ineligible for inclusion within this bargaining unit.

### **ORDER**

- 1) The Petition to accrete the position of Director of Technology to the bargaining unit certified by Case No. EE-1679 is hereby denied and dismissed.

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-AND-

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SCHOOL COMMITTEE

CASE NO: EE-1679

**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 Case No. EE-1679 dated **May 14, 2009**, may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **May 14, 2009**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

Dated: May 14, 2009

By: \_\_\_\_\_

  
Robyn H. Golden, Administrator

RHODE ISLAND STATE LABOR RELATIONS BOARD



Walter J. Lanni, Chairman



Frank Montanaro, Member (Dissent)



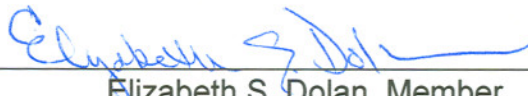
Gerald S. Goldstein, Member



Ellen L. Jordan, Member



John R. Capobianco, Member (Dissent)



Elizabeth S. Dolan, Member

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

Dated: May 14, 2009

By:   
Robyn H. Golden, Administrator