

STATE OF RHODE ISLAND
BEFORE THE STATE LABOR RELATIONS BOARD

In the MATTER of
TOWN OF BARRINGTON

and -

CASE NO. EE-3430

BARRINGTON CLERKS/AIDES/
BUS DRIVERS NEARI/NEA

D E C I S I O N

and

O R D E R

The above matter comes before the board on the petition of NEARI/NEA (hereinafter referred to as the Petitioner) wherein the Petitioner seeks to organize and collectively bargain for certain clerks, aides, bus drivers and secretaries in the Town of Barrington. After the petition had been filed, the board determined that there was a sufficient showing of interest to warrant the conducting of an election. However, the Town of Barrington (hereinafter referred to as the Respondent) objected to the election taking place since they believed that the facts would show that the Secretary to the Superintendent and the Secretary to the Business Manager were, in fact, confidential positions which would be excluded from bargaining under the Municipal Employees' Act (Title 29, Chapter 9.4). The basic thrust of the Respondent's argument was that these employees perform or will perform clerical functions relating to "confidential" materials dealing with labor negotiations and/or the grievance/arbitration process.

The Petitioner, on the other hand, indicates that both of these positions namely, Secretary to the Superintendent and Secretary to the Business Manager should be included in the bargaining unit affording them all of the rights enumerated under the Municipal Employees' Act.

Extensive testimony was taken concerning both positions and the Board will address, in essence, the testimony concerning the Secretary to the Business Manager first.

Much of the testimony concerning this particular position was elicited from Mr. Ralph Malafronte, Business Manager for the Barrington School Committee, who testified concerning the duties and responsibilities of his secretary. To buttress his testimony, the Respondent also introduced certain exhibits attempting to show that this position should be excluded from the bargaining unit. The Petitioner also introduced the job description for the position known as Secretary to the Business Manager.

While there was some conflict in the testimony as to exactly the nature and extent of the job duties and responsibilities of the Secretary to the

Business Manager, suffice it to say that the Board is not convinced that these job duties and responsibilities are of such a nature or function to warrant this job classification being excluded from the bargaining unit.

There is no question that if it were to be shown that the employee occupying this particular position was exercising managerial functions or acting in a confidential capacity with respect to persons exercising managerial functions in the field of labor relations, the Board would, of necessity, have to exclude the position from the bargaining unit. However, the Board has not been shown that such is the case, and consequently, the Board finds that the duties involved are not of such consequence to have the position classified as a "confidential" position thereby excluding it from the bargaining unit.

However, the Board comes to a different conclusion with respect to the Secretary to the Superintendent of Schools.

The transcript clearly shows that the superintendent is responsible for formulating, determining and effectuating management policies in the field of labor relations. As such, he has the overall responsibility for contract negotiations and must review and make recommendations to the school committee on all proposals and counter proposals that are customarily and usually made during the course of collective bargaining negotiations. Not only does he negotiate with respect to contracts, he also directly hears and responds to grievances and reviews employee discipline.

There is no question that the person occupying the position as Secretary to the Superintendent acts in a confidential capacity to the superintendent with respect to collective bargaining negotiations and other related labor relations areas. That is, she researches past practices relating to proposals presented by the union and types the employer's proposals for teacher negotiations, prepares and handles confidential communications between the superintendent and the school committee regarding negotiations, types the responses to grievances and handles confidential salary information prepared by the Respondent for negotiations.

Without further reciting other testimony with respect to this position, there is no question the person occupying the position of Secretary to the Superintendent has regular access to confidential labor relations information concerning negotiations, grievances and other economic proposals prior to its being made available to the Petitioner.

Thus, the Board concludes that the position of Secretary to the Superintendent is a confidential position and should be excluded from the bargaining unit.

FINDINGS OF FACT

1. The Barrington School Committee is a duly constituted committee within the State of Rhode Island, a municipal corporation, duly organized under the Constitution and the General Laws of Rhode Island, with its head-

quarters at the Barrington School Department, 283 County Road, Barrington, Rhode Island.

2. NEARI/NEA 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 concerning grievances or other mutual aid or protection.

3. The Petitioner filed with the Board a petition for Certification of Representatives wherein it sought to represent certain clerks, aides, bus drivers and secretaries employed by the Town of Barrington.

4. The Respondent refused to recognize as positions to be included within the bargaining unit, the positions of Secretary to the Superintendent and Secretary to the Business Manager.

5. That on April 18, 1988, the Rhode Island State Labor Relations Board held a formal stenographic hearing and ordered an election to be held on June 3, 1988, concerning the unit that the Petitioner had petitioned for.

6. That as part of the Board's Order dated April 18, 1988, the Board formally challenged the two positions of Secretary to the Business Manager and Secretary to the Superintendent.

7. An election was held on June 3, 1988, at which time the employees who voted in the election selected the petitioner as their bargaining representative.

8. That the position of Secretary to the Business Manager is not a confidential position.

9. That the position of Secretary to the Superintendent is a confidential position.

CONCLUSION OF LAW

1. The Board finds that the position of Secretary to the Business Manager is not a confidential position and shall be included within the Petitioner's bargaining unit.

2. The Board finds, as a matter of law, that the position known as Secretary to the Superintendent is a confidential position and shall be excluded from the bargaining unit.

ORDER

WHEREFORE, it is hereby ordered that the position of Secretary to the Business Manager be included immediately within the Petitioner's bargaining unit.

RHODE ISLAND STATE LABOR RELATIONS BOARD

S/ Joseph V. Mulvey
Chairman

S/ Frank J. Montanaro
Member

S/ Glenn H. Edgecomb
Member

S/ Daniel L. Beardsley, Jr.
Member

Entered as order of the
Rhode Island State Labor
Relations Board

DATED: December 28, 1988

BY: John H. Winter
John H. Winter, Administrator