

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

IN THE MATTER OF:

TOWN OF EAST GREENWICH
Employer

- AND -

NATIONAL EDUCATION ASSOCIATION/
RHODE ISLAND
Petitioner

CASE NO. EE-3514
(unit clarification)

DECISION AND ORDER

This unit clarification matter arises out of a letter dated August 9, 1994, from the Union to the State Labor Relations Board asking that a unit clarification hearing be held to ascertain the appropriate unit for the position of Substance Abuse Prevention Coordinator in the Town of East Greenwich held by the incumbent Robert Houghtaling. A formal hearing was held on April 9, 1996, on this matter. The parties were represented by Counsel and presented sworn testimony to the Board. A transcript was kept of the hearing, and the transcript was received by the State Labor Relations Board on April 22, 1996.

Each of the parties filed a Brief/Memorandum with the Board following the formal hearing. The Union's Brief was filed with the Board on June 24, 1996. The Town's Memorandum was filed with the Board on May 29, 1996. At the hearing, a job description for the Substance Abuse Coordinator position was introduced as Union Exhibit #3 (see TR p. 8). A job description was also entered as Employer Exhibit #3 (see TR p. 30).

POSITIONS OF THE PARTIES

Union takes the position that the position of Substance Abuse Coordinator within the Town of East Greenwich should be part of the unit defined in Case No. EE-3514 saying that it is an appropriate Bargaining Unit

Town objects to the inclusion of the Substance Abuse Coordinator's position within the Bargaining Unit on the grounds that the position is one of confidentiality.

DISCUSSION

The determination of which employees should be deemed "confidential" and therefore excluded from Collective Bargaining Agreements was directly considered by the Rhode Island Supreme Court in Barrington School Committee vs. Rhode Island State Labor Relations Board, et al, 608 A2d 1126 (1992). In that case, our Supreme Court adopted the "labor-nexus" test to assess the confidential status of an employee. That test is grounded on the employee in question having regular and considerable access to confidential information related to Collective Bargaining negotiations.

In the case before this Board, it is clearly established that this employee in question has absolutely no access to information related to Collective Bargaining, plays no role in formulating Collective Bargaining strategy, has no role in participating in Collective Bargaining on behalf of the Employer, and has no role in implementing labor policy for the Employer. The confidentiality that exists about his position has to do with the nature of the information he obtains from people he is counselling and is distinct from any labor-nexus test or labor-nexus connection.

In light of the fact that this position fails to meet the test of confidentiality as outlined by our Court in the Barrington case since there is absolutely no labor-nexus connection with his it is the opinion of the Board that the position should be included in the Bargaining Unit. Accordingly, an appropriate Order enter accreting this position to the Union.

FINDINGS OF FACT

The Board based upon the testimony before it finds as a fact

1. The Union is a labor organization within the meaning of the Rhode Island State Labor Relations Act, which exists and is constituted for the purpose, in whole or in part, of collective bargaining relative to wages, rates of pay, hours, working conditions and other terms and conditions of employment.
2. The Town of East Greenwich is an employer within the meaning of the Rhode Island State Labor Relations Act.
3. The position of Substance Abuse Prevention Coordinator has no connection with Labor Relations matters or Collective Bargaining and has no labor-nexus connection whatsoever or any role to play in labor policy matters.
4. Although this position does not have regular hours of work or a specified office from which the employee works, the Board finds from the evidence adduced at the Formal Hearing that there exists a commonality of interest sufficient to support the accretion of the position to the Bargaining Unit defined in Case No. EE-3514.

CONCLUSIONS OF LAW

The Board concludes as a matter of law that the Union has proven by a fair preponderance of the credible evidence that the position of Substance Abuse Prevention Coordinator within the Town of East Greenwich is not a confidential employee within the and that the position should rightfully be accreted to the Bargaining Unit defined in Case No. EE-3514.

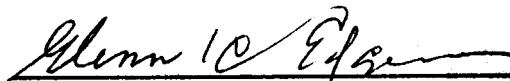
ORDER

The position of Substance Abuse Prevention Coordinator in the Town of East Greenwich is hereby accreted to the Bargaining Unit defined in Case No. EE-3514.

RHODE ISLAND STATE LABOR
RELATIONS BOARD


JOSEPH V. MULVEY, CHAIRMAN


RAYMOND PETRARCA, MEMBER


GLENN EDGECOMB, MEMBER

Entered as Order of the
Rhode Island State Labor Relations Board

Dated: July 11, 1997

By:


DONNA M. GEOFFROY, ADMINISTRATOR