COMMONWEALTH OF PENNSYLVANIA Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF

:

Case No. PERA-R-01-462-W

CAMERON COUNTY SCHOOL DISTRICT

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FINAL ORDER

On May 9, 2002, Cameron County School District (Employer) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) to a Nisi Order of Certification issued on April 30, 2002, in which the Board Representative adopted the findings of fact and conclusions of law from an Order Directing Submission of Eligibility List issued by a duly designated hearing examiner of the Board, on March 14, 2002, in which the hearing examiner concluded that the secretarial position held by Jan Skinner is not confidential within the meaning of the Public Employe Relations Act (PERA). Skinner's position was included in a bargaining unit of all full-time and regular part-time nonprofessional employes for purposes of an election that was conducted on April 16, 2002. In that election, the Cameron County Educational Support Personnel Association, PSEA/NEA (Association) was selected by a majority of the valid votes cast and the Association was accordingly certified as the exclusive bargaining representative of the Employer's nonprofessional employes.

In its exceptions, the Employer alleges that the hearing examiner erred in (1) failing to make various findings of fact and (2) concluding that the secretarial position held by Skinner is not confidential within the meaning of PERA. Section 301(13) of PERA defines "confidential employe" as:

"[A]ny employe who works: (i) in the personnel offices of a public employer and has access to information subject to use by the public employer in collective bargaining; or (ii) in a close continuing relationship with public officers or representatives associated with collective bargaining on behalf of the employer."

43 P.S. § 1101.301(13).

The Employer's contention that the hearing examiner erred in failing to make various findings of fact is without merit. In <u>Page's Department Store v. Velardi</u>, 464 Pa. 276, 346 A.2d 556 (1975), the Pennsylvania Supreme Court stated as follows regarding a claim that the fact finder erred in failing to make findings of fact:

When the fact finder in an administrative proceeding is

required to set forth his findings in an adjudication, that adjudication must include all findings necessary to resolve the issues raised by the evidence, which are relevant to a decision.

464 Pa. at 287, 346 A.2d at 561. After a thorough review of the findings proffered by the Employer, the findings of fact made by the hearing examiner and the entire record, the Board is satisfied that those findings accurately reflect Skinner's actual job duties. Those findings reveal that Skinner's primary duties involve purchasing and accounts receivable. Although Skinner also serves as a fill-in for the Superintendent's secretary, whose position the parties agreed was confidential and excluded from the bargaining unit, Skinner also testified that she has never performed any work related to any collective bargaining or District-wide budgets. Accordingly, the hearing examiner correctly concluded that Skinner did not qualify as a confidential employe under Section 301(13)(i) of PERA.

Although the Employer correctly points out that the Superintendent testified that he advised the Board of School Directors regarding timed mediation and negotiations with the Employer's professional bargaining unit, which would tend to support a conclusion that the Superintendent is "associated with collective bargaining" within the meaning of Section 301(13)(ii) of PERA, the result does not change. We agree with the hearing examiner that the Employer failed to substantiate that Skinner is engaged in a close, continuing relationship with the Superintendent so as to justify her exclusion from the bargaining unit under Section 301(13)(ii) of PERA. It is the Superintendent's own secretary, who is excluded from the bargaining unit, who has a close, continuing relationship with the Superintendent that justifies a confidential exclusion. Skinner merely fills in for the Superintendent's secretary on occasion and the Board has consistently held that such fill-in duties cannot form the basis of a statutory exclusion. Philadelphia Housing Authority, 22 PPER ¶ 22206 (Final Order, 1991), aff'd, 23 PPER ¶ 23029 (Court of Common Pleas of Philadelphia County, 1992); Zelienople Borough, 24 PPER ¶ 24005 (Final Order, 1992); Ford City Borough, 19 PPER ¶ 19117 (Final Order, 1988); Child Development Council of Centre County, 10 PPER ¶ 10276 (Order and Notice of Election, 1979). Further, the Employer has not demonstrated on the record that Skinner, in her occasional fill-in role, had access to information of a confidential nature within the meaning of Section 301(13) of PERA. Therefore, the hearing examiner correctly concluded that Skinner was not a confidential employe within the meaning of PERA.

Accordingly, after a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions filed by the Employer and affirm the Nisi Order of Certification.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed to the above case number be and the same are hereby dismissed and the Nisi Order of Certification is hereby made absolute and final.

 $\,$ SIGNED, SEALED, DATED and MAILED this thirteenth day of June, 2002.

PENNSYLVANIA LABOR RELATIONS BOARD
JOHN MARKLE JR., CHAIRMAN
EDWARD G. FEEHAN, MEMBER