

**BEFORE THE STATE BOARD OF MEDIATION  
STATE OF MISSOURI**

STE. GENEVIEVE FEDERATION OF	)	
CLASSIFIED EMPLOYEES LOCAL 4126,	)	
a/w AMERICAN FEDERATION OF	)	
TEACHERS, AFL-CIO,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Public Case No. 80-036
	)	
STE. GENEVIEVE SCHOOL DISTRICT,	)	
R-II,	)	
	)	
Respondent.	)	

**JURISDICTIONAL STATEMENT**

This case appears before the State Board of Mediation upon the Ste. Genevieve Federation of Classified Employees, Local 4126, affiliated with the American Federation of Teachers, AFL-CIO, filing a petition for certification as public employer representative of certain employees of the Ste. Genevieve School District.

On May 22, 1981, June 18, 1981, and November 24, 1981, hearings were held in Missouri at which the representatives of Local 4126 and the Ste. Genevieve School District were present. This case was decided by the State Board of Mediation Chairman, Mary Gant, Employer Member, Herbert Shaw, and Employee Member, Charles Yaeger. The State Board of Mediation is authorized to hear and decide issues concerning appropriate bargaining unit determinations by Section 105.525, RSMo 1978.

At the hearings parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following Findings of Fact and Conclusions of Law.

## FINDINGS OF FACT

The Ste. Genevieve School District consists of four separate schools: Ste. Genevieve Senior High School, Ste. Genevieve Junior High School, Ste. Genevieve Elementary School, and Bloomsdale Elementary School. All School District employees are classified as either "certified" or "non-certified." Certified employees consist of teachers, professional administrators, program directors, and the District superintendent. All other employees are considered non-certified.

Office Clerical. The School District employs four "District Secretaries." These individuals perform various clerical functions on a district-wide basis. Ms. Donze is the Superintendent's personal secretary. Ms. Gresler is the District bookkeeper, Mrs. Hermann is the District payroll clerk, and Ms. Armstrong is secretary to the Director of Special Services and, in addition, is responsible for the hot lunch program.

There are three full-time secretaries at Ste. Genevieve Senior High School. Ms. Steagall is the Head Secretary for the Senior High and reports directly to the Principal. Ste. Genevieve Junior High School employs two full-time secretaries. Ms. Sunblatt is the Head Secretary and reports directly to the Principal. Two secretaries are employed at Ste. Genevieve Elementary School. Ms. Hook is the Head Secretary and reports directly to the Principal. The Bloomsdale Elementary School employs one full-time secretary, Ms. Hoover, who is designated as a Head Secretary and reports directly to the Principal.

The same basic clerical functions are performed by the secretarial staff at each school. The Head Secretary at each of the four schools supervises, evaluates, and assigns work to the full-time and part-time clerical staff at that school. The Head Secretary is responsible to the Principal for the proper completion of the work and serves as the Principal's personal secretary.

Nurse. One nurse is employed by the School District. School Nurse is a non-certified position receiving the same fringe benefits as other non-certified employees. The nurse is not authorized to diagnose illnesses, give shots, or administer medication unless instructed to do so by the student's parents or physician.

Teacher Aides. Two teacher aides are employed by the School District to assist teachers working with behaviorally disordered students and students with learning disabilities. These employees are classified as non-certified and receive the same benefits as other non-certified employees. A teaching degree is not a job requirement. Aides are supervised by both the assigned teacher and school Principal.

Custodians. Eight custodians are employed by the School District to maintain the cleanliness of school facilities. Each school has a Head Custodian who supervises and evaluates the activity of the custodial employees. The Head Custodian spends practically all of his time performing the same custodial duties as other custodial employees. Once a new custodial employee is trained, the Head Custodian spends no time supervising the custodial employee.

Cooks. The School District employs approximately 12 cooks who work more than 20 hours per week. All cooks perform the same basic cooking, serving and clean-up functions. Ms. Ida Otte is the direct supervisor of all cooks in the School District. Occasionally, employees classified as custodians perform cooking duties.

### **CONCLUSIONS OF LAW**

The Ste. Genevieve Federation of Classified Employees, Local 4126, affiliated with the American Federation of Teachers, AFL-CIO, has petitioned to be certified as public employee representative of a bargaining unit of all regular and part-time classified employees working 20 hours or more per week for Ste. Genevieve School District,

excluding teacher aides, professional and confidential employees, guards, and supervisors. The employer contends that it is improper to include office clericals in a unit of service and maintenance employees, and that a bargaining unit of Cooks and Custodians should include the Nurse and Teacher Aides. The employer further contends that all the Secretaries it employs must be excluded from the unit as confidential employees, and that Head Custodians, Head Secretaries, and Head Cooks are supervisors and must be excluded from the proposed bargaining unit. The parties have agreed that the Superintendent's personal secretary, Ms. Donze, and the District's Head Cook, Ms. Otte, should not be included in the bargaining unit. The issue before the Board is whether the unit petitioned for is appropriate.

Respondent has challenged the appropriateness of the Petitioner claiming that Local 4126 is the alter ego of Teachers Local 3265. It is Respondent's contention that Missouri Law, as interpreted by this Board, prohibits the same Local of a union from representing both certified and non-certified employees. However, this Board has only held that it is against the law and public policy of Missouri for it to certify a bargaining unit which combines teachers and non-teachers, AFT Local 420 vs. St. Louis Board of Education, Public Case No. 79-020 (SBM 1980). Therefore, the Board overrules Respondent's objections to the Petitioner's appropriateness. The Board has adopted the position that an employee must be considered confidential, and thus not an "employee" under Section 105.510, RSMo 1978, if there exists a confidential relationship between the employee and managerial or supervisory employees, MNEA vs. Belton School District, Public Case No. 81-015 (SBM 1982). We reject a blanket exclusion of all the Respondent's secretaries as confidential employees. The Board holds that because of their position of trust, upon which the principal must rely, the Head Secretary to each school is excluded from the bargaining unit. We further hold that the

four District secretaries are excluded from the unit as confidential employees because of their position of trust upon which District supervisory personnel must rely.

Supervisors have consistently been excluded by the Board from the bargaining units of clearly non-supervisory employees. The Board utilizes a number of factors in determining whether an employee is a supervisor. These factors include: number of employees supervised; whether the supervisor is primarily supervising employees; whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; and authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees, Western Missouri Public Employees, Local 1812, vs. Jackson County Department of Corrections, Public Case No. 90 (SBM 1977). Here, the Head Custodians supervise the activity of two employees. They have no power to effectively recommend hiring, promotion, transfer, discipline or discharge of the employees under them. The facts clearly show that the Head Custodian spends very little or no time supervising a custodial employee once that employee has been trained. Because of this lack of supervisory responsibility the Board finds that the Head Custodians are not supervisors and are included in the bargaining unit.

An appropriate unit is defined by Section 105.500(1), RSMo 1978 as:  
"a unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned."

The Board has adopted a number of factors in determining whether employees have a community of interest. Service Employees Local No. 96 vs. City of Blue Springs, Public Case No. 79-031 (SBM 1980). The factors applicable here are the amount of contact and interchange among employees and similarity of work performed. Another factor the Board relies on in determining community of interest questions is the danger of

overfragmentation of bargaining units. Service Employees Local 50 vs. City of Springfield, Public Case No. 79-013 (SBM 1979).

The Board joins the cooks and custodians into one bargaining unit because of the similarity of the work they perform and the contact and interchange among these two classifications. Both cooks and custodians perform manual labor, with custodians at times filling in as cooks.

The Board has traditionally held that office employees do not share a community of interest with service and maintenance employees because of the difference in the type of work performed. Service Employees International Union, Local 96, AFL-CIO, vs. City of Blue Springs, Public Case No. 79-031 (SBM 1980). However, it is also the position of the Board that employees who possess skills and duties not shared by other employees will require separate representation only when it is necessary to protect the right to effective bargaining. Service Employees International Union vs. City of Springfield, Public Case No. 79-013 (SBM 1979). In this case, separating the four non-confidential secretaries from the bargaining unit is not necessary to protect their right to effective bargaining. In fact, separating these four non-confidential secretaries from the unit would greatly reduce their strength at the bargaining table, thereby seriously impairing their right to effective bargaining. Because of the danger to the employees right to effective bargaining that overfragmentation of the unit creates, the Board finds that the four non-confidential secretaries share a sufficient community of interest to be included in the bargaining unit. We include the teacher aides and nurse in the bargaining unit for the same reason.

### **DECISION**

The State Board of Mediation finds that the appropriate unit of employees is as follows:

"All regular and part-time (working more than 20 hours per week) non-certified, classified employees of the Ste. Genevieve School District; excluding supervisors, confidential secretaries, and all other employees of the Ste. Genevieve School District."

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation, or a designated agent thereof, among the employees in the unit found appropriate, as early as possible, but no later than sixty (60) days from the date below. The exact time and place will be set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately proceeding the date below, including employees who did not work during that period because of vacation or illness. Ineligible to vote are those employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote whether or not they desire to be represented for the purpose of exclusive representation by Petitioner, Ste. Genevieve Federation of Classified Employees, Local 4126, affiliated with American Federation of Teachers, AFL-CIO.

It is hereby ordered that the Respondent shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner, within fourteen (14) days from the date of receipt of this decision, an alphabetical list of the names and addresses of employees in the unit determined to be appropriate who were employed during the designated payroll period.

Signed this 25th day of June, 1982.

STATE BOARD OF MEDIATION

(S E A L)

/s/ Mary L. Gant  
Mary L. Gant, Chairman

/s/ Herbert Shaw  
Herbert Shaw, Employer Member

/s/ C. J. Yaeger 6/22/82  
Charles Yaeger, Employee Member