

STATE OF CALIFORNIA

EDUCATIONAL EMPLOYMENT RELATIONS BOARD

In the Matter of:	)	
	)	
RICHLAND ELEMENTARY SCHOOL DISTRICT,	)	
Employer	)	
and	)	Case No. LA-UC-14
	)	
CALIFORNIA SCHOOL EMPLOYEES	)	
ASSOCIATION, CHAPTER 39,	)	EERB Decision No. 26
	)	
Employee Organization	)	September 12, 1977

Appearances: Frank J. Fekete, Attorney (School Legal Service of Kern County); Carl B.A. Lange, III (Schools Employer-Employee Relations Service) for Richland Elementary School District; Robert M. Baker for California School Employees Association, Richland Chapter 39.

Before Alleyne, Chairman, Gonzales and Cossack, Members.

OPINION AND ORDER

This case is before the Educational Employment Relations Board on the California School Employees Association's exception to the hearing officer's attached decision concluding that the employees occupying the position of secretary III (three such positions) are confidential employees within the meaning of the Educational Employment Relations Act and as such excluded from the negotiating unit.

The hearing officer's decision is substantially in accord with Board precedent established in Sierra Sands Unified School District.<sup>1</sup> Consequently, after considering the record and the attached proposed decision in light of the exceptions filed, the Board adopts the proposed order of the hearing officer as the order of this Board.

By: Raymond J. Gonzales, Member

Reginald Alleyne, Chairman

Jerilou Cossack, Member

Dated: September 12, 1977

Text issued: September 30, 1977

<sup>1</sup>Sierra Sands Unified School District, EERB Decision No. 2, October 14, 1976.





Subsequent to the District's recognition of CSEA as the exclusive representative of all classified employees with the noted exceptions, the parties were unable to agree on whether or not certain employees were confidential. On January 10, 1977, this hearing was requested by CSEA to determine the contested confidential status of various positions.

At the hearing on this matter, the parties stipulated that unit composition was not at issue.<sup>1</sup> The parties further stipulated that there were no management or supervisory positions in dispute.

The stipulation is accepted by the hearing officer without further inquiry. The sole issue which remains to be determined is as follows:

Are any or all of the four employees serving in positions of: secretary III (three such positions) and duplicating account secretary or secretary II (one such position) to be excluded from the negotiating unit due to their "confidential" status within the meaning of the Educational Employment Relations Act.<sup>2/</sup>

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<sup>1</sup>/ The positions stipulated as included within the unit **are as follows:** helper I; part-time helper; helper II; head cook; manager; clerk I; clerk II; clerk III; secretary I; secretary II; developmental aide; community aide; health aide; instructional aide; auxiliary services aide; community liaison aide; part-time custodian; custodian I; custodian II; bus driver custodian; head gardener driver; maintenance person; bus driver mechanic; library clerk; library technician; library assistant; developmental aide-headstart; community aide-headstart; teaching assistant-headstart; director of headstart.

<sup>2</sup>/ Government Code Section 3540 et seq.; See specifically Section 3540.1(c).

## DISCUSSION

### I

Richland Elementary School District has an average daily attendance of 1,740 students in the kindergarten through eighth grades (k-8). The District has three schools: (1) a primary school, grades kindergarten through grades three; (2) an intermediate school, grades four through six; and (3) a junior high school, grades seven through eight. The primary school is located on a separate campus three blocks from the intermediate and junior high schools. The intermediate and junior high schools are located on a common building site but are housed in separate buildings. The site at which the intermediate and junior high schools are located is also the location of the District's administrative offices, also housed in a separate building.

The administrative organization of the District can be briefly described as one headed by a superintendent. The District has one assistant superintendent who is immediately below the superintendent. Under the assistant superintendent are three principals. Also under the assistant superintendent is the District's administrative assistant, who in essence acts as the District's business manager. Each of the principals is assigned a secretary III. The administrative assistant has no secretary per se but supervises persons who act in that capacity, one of which is a duplicating account secretary or secretary IT.

The District's three principals can be treated as having similar duties and responsibilities for purposes of this hearing. Principals serve on the District's "management team". As such they are responsible for consulting, receiving and considering collective negotiating proposals with the superintendent and District negotiator. Meetings held for that purpose

involve instructing the District negotiator, and developing statements and strategies relative to the negotiation process. Principals have been instructed to sit in on negotiating sessions and aid the District's negotiator. Principals evaluate and supervise certificated and classified staff and are the first level of the grievance procedure.

The files of the principals contain student records, employee evaluations, psychological reports, and notes and documents from District "management team" strategy meetings.

The administrative assistant also serves on the District's "management team". The duties of the administrative assistant are to generally assist the assistant superintendent, develop budget data, assist on personnel matters, keep accounts, budget preparation and supervise personnel. In general she acts as a business manager. She prepares salary proposals during negotiations with employees. The administrative assistant is housed in the District's central administrative offices.

The District's central files are a repository for collective negotiations data collected and compiled by management and preliminary drafts of proposals.

The secretary III's (three such positions) are each located in the District's schools and act as secretary to the principal. Their duties will be treated as being the same for purposes of this hearing. Their duties include typing, filing, recordkeeping and taking transcription. Each secretary III has general and primary responsibility for the clerical operation of the principal's office. She types the principal's notes and other documents relating to collective negotiations. She has access to the principal's files in the regular course of her duties.

The secretary II is located in the District's central administrative office. She normally and regularly performs secretarial services for the administrative assistant who does not have a regular secretary. The duties of the secretary II include typing, copying, filing, proofreading and gathering cost, budget and salary proposal information. She regularly types salary proposals and salary information. She does almost all of the filing in the District's central files.

IT

Government Code Section 3540.1 (c) provides that "'confidential employee' means any employee who in the regular course of his duties, has access to, or possesses information relating to his employer's employer-employee relations".

In Sierra Sands 3/ the Educational Employment Relations Board in interpreting Government Code Section 3540.1(c) said, "The underlying assumption then, is that the employer... must be assured of the individual loyalty of a nucleus of staff designated as 'confidential employees'".

It is found from the evidence presented that the secretary III's are confidential employees within the meaning of the Act and the secretary II is not a confidential employee.

It is important to note that the District has an enrollment of only 1700 pupils. Because of its size, the District is administered by a central staff consisting of only three persons--the superintendent, assistant superintendent and an administrative assistant. The principals, therefore, play a larger role in representing the management team here than they might in a larger district. They develop position statements for negotiations, sit

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<sup>3</sup> EERB Decision No. 2 (October 14, 1976); See also Fremont Unified School District, EERB Decision No. 6 (December 16, 1976).

in on the sessions and instruct the negotiator.

Each of the secretary III's is found to be confidential because of the important role performed by his or her boss in negotiations. Each secretary types and files notes on negotiations strategy sessions. These responsibilities are carried out in the regular course of his or her duties.

The secretary II acts as the secretary to the administrative assistant, who serves as the business manager. The administrative assistant prepares the budget and prepares salary information for negotiations.

The evidence does not indicate the nature of the salary data prepared. If the information the secretary II types and files is data used to show current salaries or project possible increases, it is not confidential. No evidence shows that she sees proposals which evaluate salary data and which, if revealed, would affect the employer's negotiating position. The filing of central office personnel and other records considered to be "confidential" by the District does not necessarily mean that an employee has access to confidential employer-employee relations information. The secretary II should remain in the unit.

#### PROPOSED DECISION

It is the proposed decision that:

1. The employees occupying the position of secretary III (three such positions) are confidential employees within the meaning of the EERA and as such excluded from the negotiating unit.
2. The duplicating account secretary or secretary II is not a confidential employee and shall be included in the negotiating unit.

The parties have seven (7) calendar days from receipt of this proposed decision in which to file exceptions in accordance with Section 33380 of California Administrative Code Title 8. If no party files timely exceptions, this proposed decision will become final on August 2, 1977, and a Notice of Decision will issue from the Board.

Dated: July 22, 1977

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David W. Girard  
Ad Hoc Hearing Officer

**EDUCATIONAL EMPLOYMENT RELATIONS BOARD**

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September 13, 1977

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RE: Richland Elementary School District, Case No. LA-UC-14 - EERB Decision  
No. 26

Enclosed is a copy of the Order adopted by the Educational Employment Relations Board concerning Richland Elementary School District's exception to the hearing officer's proposed decision dated July 22, 1977.

Sincerely,

Charles L. Cole  
Executive Director

Enclosure  
CLC/tz

cc Evron Barber, Superintendent  
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