

STATE OF CONNECTICUT  
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF  
FERGUSON LIBRARY

DECEMBER 30, 1998

-and-

LOCAL 1303-317, COUNCIL 4,  
AFSCME, AFL-CIO

Case Nos. E-17,894  
U-18,090

A P P E A R A N C E S:

Attorney George N. Nichols  
For the Employer

Attorney J. William Gagne, Jr.  
For the Union

**DETERMINATION ON JURISDICTION AND PROCEDURAL ORDER**

On February 1, 1996, Local 1303-317, Council 4, AFSCME, AFL-CIO (the Union) filed a petition (Case No. E-17,894) with the Connecticut State Board of Labor Relations (the Labor Board) seeking to modify an existing bargaining unit of salaried employees of the Ferguson Library (the Library or Employer) to include all hourly, non-supervisory employees who work twenty or more hours per week.

On April 1, 1996, the Union filed a charge (Case No. U-18,090) with the Labor Board, amended on May 24, 1996, alleging that the Library had engaged in unfair labor practices within the meaning of § 31-105 of the State Labor Relations Act (SLRA or the Act). Specifically, the Union alleged that the Library unlawfully reduced the hours of certain employees in retaliation for the exercise of their protected rights under the Act.

On April 4, 1996 the Agent of the Labor Board ordered an election in Case No. E-17,894 among all non-supervisory hourly employees of the Library who work twenty or more hours per week. On April 19, 1996 the Library filed objections to the order of election and a supporting brief with the Labor Board. The election was conducted by mail ballot from May 7, 1996 to

May 20, 1996. On May 28, 1996 the Library filed an objection to the conduct of the election.

After the requisite steps had been taken, the cases were consolidated and brought before the Labor Board for hearing on November 4, 1997. Due to scheduling conflicts, it was decided that the Labor Board would only consider Case No. E-17,894 during the November 4, 1997 hearing date. Both parties appeared at the hearing and were represented.

At the hearing, the Labor Board raised, *sua sponte*, the issue of whether it has jurisdiction over the Ferguson Library pursuant to Conn. Gen. Stat. § 31-101 *et. seq.* The parties agreed to submit briefs addressing the issue of jurisdiction as well as the other objections to the election raised by the Library. The parties submitted six exhibits at the hearing and, following the hearing, the parties submitted an agreed upon exhibit comprising an independent auditors' report of the Ferguson Library. Both parties filed briefs which were received by the Labor Board on December 23, 1997.

After consideration of the evidence presented, the Labor Board determined that it needed more information to decide the jurisdictional question and issued a procedural order dated March 24, 1998 remanding the case to the Agent of the Labor Board to further investigate the petition. In its procedural order the Labor Board stated that it would determine whether the Library constitutes a political subdivision of the State and if not, would forward a petition for advisory opinion to the National Labor Relations Board regarding the jurisdiction of that Board.

On July 31, 1998, the parties entered into a full stipulation of facts and exhibits for the Board's consideration in determining the jurisdictional question. Both parties filed supplemental briefs concerning the jurisdictional issue which were received on September 18, 1998. Based on the entire record before us, we make the following determination concerning jurisdiction and we issue the following procedural Order.

### DISCUSSION

Section 31-101 of the SLRA defines an employer as:

[A]ny person acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include any person engaged in farming, or any person subject to the provisions of the National Labor Relations Act, unless the National Labor Relations Board has declined to assert jurisdiction over such person, or any person subject to the provisions of the Federal Railway Labor Act, or the state or any political or civil subdivision thereof or any religious agency or corporation, or any labor organization, except when acting as an employer, or anyone acting as an officer or agent of such labor organization. An employer licensed by the department of health services under section 19a-490 shall be subject to the provisions of this chapter with respect to all its employees except those licensed under chapters 370 and 379, unless such employer is the state or any political subdivision thereof.

## CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 30th day of December, 1998 to the following:

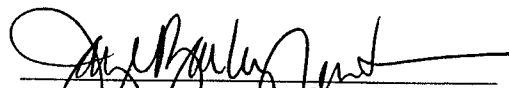
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Jaye Bailey Zanta, General Counsel  
CONNECTICUT STATE BOARD OF LABOR RELATIONS

**ORDER**

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by the State Labor Relations Act, it is hereby **ORDERED** that:

- I. Case Nos. E-17,894 and U-18,090 are reconsolidated;
- II. Case Nos. E-17,894 and U-18,090 will be scheduled for continued hearing;
- III. The outstanding issues in Case No. E-17,894 will be decided with the issues in Case No. U-18,090.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

John H. Sauter  
John H. Sauter  
Chairman

C. Raymond Grebey  
C. Raymond Grebey  
Board Member

Wendella Battey  
Wendella Battey  
Board Member

**CERTIFICATION**

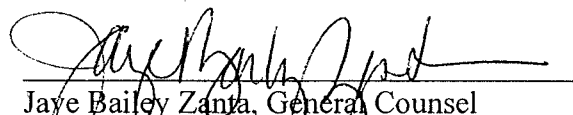
I hereby certify that a copy of the foregoing was mailed postage prepaid this 11th day of January, 1999 to the following:

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