

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
PUBLIC SCHOOL EMPLOYEES OF)	
WASHINGTON)	CASE 14940-C-99-961
)	
For clarification of an existing)	DECISION 7218 - PECB
bargaining unit of employees of:)	
)	
MOUNT VERNON SCHOOL DISTRICT)	ORDER OF DISMISSAL
)	
)	

On December 21, 1999, Public School Employees of Washington (PSE) filed a petition with the Commission under Chapter 391-35 WAC, seeking clarification of an existing bargaining unit of custodian, maintenance, food service and transportation mechanic employees of the Mount Vernon School District. The dispute concerns a "dispatcher" in the employer's Transportation Department; Teamsters Union, Local 231 was identified as another employee organization claiming to represent the disputed position. A notice was issued, setting a hearing in the matter for November 15, 2000.

On August 3, 2000, the Washington Education Association (WEA) filed a motion for intervention in the matter, and asserted the existence of a procedural defect. Review of documents on file confirmed the potential existence of a procedural defect. A letter sent to PSE on October 17, 2000, directed that organization to show cause why the petition should not be dismissed.

Nothing further has been heard or received from PSE. The Executive Director now dismisses the petition for the reasons stated in the show-cause letter.

DISCUSSION

Attachments to the petition filed by PSE to initiate this case included:

- a. A copy of an interoffice memo, dated December 7, 1999, from Tim Busch of PSE to Eric Nordlof of PSE, addressing in part a dispatcher in the Transportation Department; and
- b. A copy of a letter, dated December 2, 1999, from the employer to Teamsters Local 231 (with copies to PSE representatives and to WEA representatives), also addressing in part a dispatcher position in the Transportation Department.

The motion for intervention filed by the WEA in this matter asserts that the dispatcher in the Transportation Department is included in a recently-certified bargaining unit represented by the WEA.

Notice is taken of official files and records of the Public Employment Relations Commission, which indicate:

- c. On June 16, 1999, the WEA filed a petition for investigation of a question concerning representation under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of a bargaining unit described as:

All regularly employed full-time and part-time office clerical employees, excluding casual employees, supervisors, confidential employees and all other employees of the district.

Case 14649-E-99-2443 was docketed. A routine request was sent to the employer, providing notices for posting and requesting a list of employees.

- d. On July 7, 1999, the employer supplied a list of employees it proposed as eligible voters in Case 14649-E-99-2443, under a general heading of "Unrepresented Staff 1998-1999", with additional columns headed "Position", "Days/Year" and "Location". One of the lines on that list was: "McCormick, Sharon L. Tran Dispatcher 215 Bus Garage." On a second list, the employer identified eight other employees that it proposed to have excluded from the bargaining unit sought by the WEA.
- e. On July 8, 1999, David G. Fleming, attorney for PSE, filed a motion to intervene in Case 14649-E-99-2443. That motion was accompanied by the required showing of interest, and PSE was thereafter listed as a party in that proceeding.
- f. An Investigation Conference was held in Case 14649-E-99-2443 on August 10, 1999, under WAC 391-25-220. In an investigation statement issued on August 12, 1999, principals participating in the conference were listed as including: "Eric Nordlof, on behalf of the Intervenor, PSE of Washington." The investigation statement went on to list the stipulations made by the parties during the investigation conference, including:

The description of an appropriate bargaining unit:

All full-time and regular part-time office-clerical employees of the Mount Vernon School District, excluding supervisors, confidential employees, casual employees, and all other employees.

The correct eligibility list is the list dated July 26, 1999, prepared by the employer with the **exclusion** of Patricia Lord, Roberta Kelley, Serena Edwards, and Janice Roberts, who have resigned.

Both the WEA and PSE disagreed with the employer's exclusion of Mary Caulkett, Joy Hughes, Lori

McLeod, Judy Rich and Sandra Brown. The parties agreed they would vote by challenged ballot.

[Emphasis by **bold** in original.]

- g. The eligibility list attached to the Investigation Statement included:

"26. Sharon L. McCormick"

The Investigation Statement included a requirement for posting both the statement and the attached eligibility list on the employer's premises.

- h. None of the parties filed any objections to the Investigation Statement.
- i. The Commission conducted a representation election in Case 14649-E-99-2443, wherein no party challenged the eligibility of McCormick to vote. The tally of ballots issued on September 16, 1999, showed the election was inconclusive, and that PSE was eliminated from the runoff election.
- j. The Commission conducted a runoff election in Case 14649-E-99-2443, wherein no party challenged McCormick's eligibility to vote. The tally of ballots issued on October 14, 1999, indicated the result was conclusive in favor of the WEA.
- k. On October 27, 1999, an interim certification was issued in Case 14649-E-99-2443, designating the WEA as exclusive bargaining representative. Post-election proceedings on eligibility issues in Case 14649-E-99-2443 do not involve the transportation dispatcher.

Given the facts of which notice may be taken, it appeared that PSE both filed its unit clarification within the "certification bar" year resulting from Case 14649-E-99-2443, and that PSE was making a collateral attack on the stipulations it made in Case 14649-E-99-2443. In the absence of any response from PSE, those conclusions are accepted.

NOW, THEREFORE, it is

ORDERED

The petition for clarification of an existing bargaining unit filed in the above-captioned matter is DISMISSED as procedurally defective.

Issued at Olympia, Washington, on the 7th day of November, 2000.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, EXECUTIVE DIRECTOR

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC-391-35-210.