

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
WEST VALLEY SCHOOL DISTRICT) CASE 14622-C-99-938
For clarification of an existing) DECISION 7006 - PECB
bargaining unit represented by:)
WEST VALLEY EDUCATIONAL) ORDER OF DISMISSAL
SUPPORT ASSOCIATION / WEA)
_____)

On June 4, 1999, the West Valley School District (employer) filed a petition with the Public Employment Relations Commission under Chapter 391-35 WAC, seeking clarification of an existing bargaining unit represented by the West Valley Educational Support Association / WEA (union). The employer sought removal of a "maintenance secretary" position from the bargaining unit in which it has historically been included, and re-allocation of that position to a "WV Central Office Support Group". The petition acknowledged that the employer and union had a collective bargaining agreement in effect when the petition was filed, and that the contract was to remain in effect until August 31, 1999.

In a letter issued on February 1, 2000, the parties were given a period of 14 days in which to show cause why the petition should not be dismissed as procedurally insufficient under WAC 391-25-020(1). Nothing further was received from the employer.

The Executive Director now dismisses the petition, as procedurally defective.

DISCUSSION

The Commission's unit clarification procedures do not provide an open season for upset of established arrangements. See, Toppenish School District, Decision 1143-A (PECB, 1981). The rule cited in the "show cause" directive provides:

WAC 391-35-020 Petition--Time for filing.

(1) Disputes concerning status as a "confidential employee" may be filed at any time.

(2) Where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit filed by a party to the collective bargaining agreement will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings:

(i) It put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class via the unit clarification procedure; and

(ii) It filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

(3) Disputes concerning the allocation of employees or positions between two or more bargaining units may be filed at any time.

The petition filed in this case clearly did not assert that the disputed individual was a "confidential" employee. Nor did it, on

its face, allege any change of circumstances since the collective bargaining agreement was signed. Similarly, while there was a suggestion that the disputed position be allocated to another group of employees, that fell far short of claiming that two unions representing separate bargaining units had made conflicting claims to the position. In the absence of any response to the "show cause" directive, those deficiencies are fatal to the petition.

NOW, THEREFORE, it is

ORDERED

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

ISSUED at Olympia, Washington, on the 24th day of March, 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.