

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	CASE 16427-C-02-1052
TEAMSTERS UNION, LOCAL 524,	)	
	)	
For clarification of an existing	)	DECISION 7827 - PECB
bargaining unit of employees of:	)	
	)	
WEST VALLEY SCHOOL DISTRICT	)	ORDER OF DISMISSAL
	)	
	)	

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The petition for clarification of bargaining unit in the above-referenced matter was filed with the Public Employment Relations Commission by Teamsters Union, Local 524 (union) on June 5, 2002. The union represents a bargaining unit of classified employees performing maintenance, custodial, paraprofessional, child nutrition and transportation duties. The petition sought to exclude the maintenance and custodial employees from the existing unit and to form a separate unit for these individuals, due to a lack of commonality of interest with other employees in the unit.

The petition was reviewed under WAC 391-35-020.<sup>1</sup> A deficiency notice was issued on July 3, 2002, indicating that it appeared that the petition raised a question concerning representation under Chapter 391-25 WAC and did not meet the requirements of WAC 391-35-020.

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<sup>1</sup> At this stage of the proceedings, the question at hand is whether the petition states a claim for relief available through unit clarification proceedings before the Public Employment Relations Commission.

The deficiency notice stated that unit clarification proceedings are controlled by Chapter 391-35 WAC, which includes:

WAC 391-35-020 TIME FOR FILING PETITION--LIMITATIONS ON RESULTS OF PROCEEDINGS.

TIMELINESS OF PETITION

(1) A unit clarification petition may be filed at any time, with regard to:

(a) Disputes concerning positions which have been newly created by an employer.

(b) Disputes concerning the allocation of employees or positions claimed by two or more bargaining units.

(c) Disputes under WAC 391-35-300 concerning a requirement for a professional education certificate.

(d) Disputes under WAC 391-35-310 concerning eligibility for interest arbitration.

(e) Disputes under WAC 391-35-320 concerning status as a confidential employee.

(f) Disputes under WAC 391-35-330 concerning one-person bargaining units.

(2) A unit clarification petition concerning status as a supervisor under WAC 391-35-340, or status as a regular part-time or casual employee under WAC 391-35-350, is subject to the following conditions:

(a) The signing of a collective bargaining agreement will not bar the processing of a petition filed by a party to the agreement, if the petitioner can demonstrate that it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class through a unit clarification proceeding, and it filed the petition prior to signing the current collective bargaining agreement.

(b) Except as provided under subsection (2)(a) of this section, the existence of a valid written and signed collective bargaining

agreement will bar the processing of a petition filed by a party to the agreement unless the petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class.

#### LIMITATIONS ON RESULTS OF PROCEEDINGS

(3) Employees or positions may be removed from an existing bargaining unit in a unit clarification proceeding filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions.

(4) Employees or positions may be added to an existing bargaining unit in a unit clarification proceeding:

(a) Where a petition is filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions; or

(b) Where the existing bargaining unit is the only appropriate unit for the employees or positions.

(5) Except as provided under subsection (4) of this section, a question concerning representation will exist under chapter 391-25 WAC, and an order clarifying bargaining unit will not be issued under chapter 391-35 WAC:

(a) Where a unit clarification petition is not filed within a reasonable time period after creation of new positions.

(b) Where employees or positions have been excluded from a bargaining unit by agreement of the parties or by a certification, and a unit clarification petition is not filed within a reasonable time period after a change of circumstances.

(c) Where addition of employees or positions to a bargaining unit would create a doubt as to the ongoing majority status of the exclusive bargaining representative.

The deficiency notice advised the union that the case would be held open for a period of 21 days following such notice, to permit the union to file and serve an amended petition setting forth material qualifying the petition for processing under WAC 391-35-020. The deficiency notice further advised the union that in the absence of a timely amendment, the petition would be dismissed as procedurally deficient. Nothing further has been received from the union.

NOW, THEREFORE, it is

ORDERED

The petition for clarification of bargaining unit in the above captioned matter is DISMISSED as procedurally deficient.

ISSUED at Olympia, Washington, this 5<sup>th</sup> day of September, 2002.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

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.