

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
CLASSIFIED PUBLIC EMPLOYEES)	CASE NO. 7062-E-87-1218
ASSOCIATION/CPEA/WEA)	(6682-C-86-347)
)	
Involving certain employees of:)	DECISION 2823 - PECB
BELLINGHAM SCHOOL DISTRICT)	
)	ORDER DETERMINING
)	ELIGIBILITY DISPUTE
)	

John T. Slater, Attorney at Law, appeared on behalf of the employer.

Warren Henderson, Field Representative, appeared on behalf of the petitioner.

Ben B. Blackwell, Assistant Executive Director, appeared on behalf of the intervenor, Bellingham Association of Educational Office Personnel, PSE. Edward A. Hemphill, Attorney at Law, appeared on behalf of the organization in the proceedings incorporated by stipulation.

The above-captioned matter was initiated by a petition for investigation of a question concerning representation filed with the Public Employment Relations Commission on October 6, 1987, pursuant to Chapter 391-25 WAC. The bargaining unit involved includes office clerical and aide employees historically represented by the Bellingham Association of Educational Office Personnel, an affiliate of the Public School Employees of Washington. The incumbent exclusive bargaining representa-

tive moved for and was granted intervention in the proceedings. At a pre-hearing conference held by a member of the Commission staff on November 10, 1987, the parties executed a Supplemental Agreement pursuant to WAC 391-25-270, stipulating to the use of the record made in Case No. 6682-C-86-347¹ to determine a dispute concerning the inclusion of the classification of "offset printing technician" in the bargaining unit.

BACKGROUND

The bargaining unit involved includes approximately 180 employees within a generic description of "office-clerical" and "aides." The incumbent exclusive bargaining representative (PSE) attempted to resolve the inclusion of the disputed position in the bargaining unit during negotiations for a successor agreement in the autumn of 1986. Failing to do so, PSE filed its unit clarification petition prior to the conclusion of those negotiations. Three other labor organiza-

¹ By a petition for clarification of an existing bargaining unit filed with the Commission on December 8, 1986, the intervenor requested the Public Employment Relations Commission to clarify the existing bargaining unit of employees of the Bellingham School District with respect to the status of a newly created position of "Offset Printing Technician." A hearing was held on April 23, 1987, in Bellingham, before William A. Lang, Hearing Officer. The case remained pending when the petition was filed in the above-entitled matter, and the parties to that proceeding were notified on November 6, 1987, pursuant to WAC 391-35-110, that the unit clarification case could not be processed if a question concerning representation existed in the bargaining unit. The parties were invited at that time to consider stipulation to have the dispute, if it still existed, decided in the representation case on the basis of the record already made in the unit clarification case.

tions have been certified as the exclusive bargaining representatives of various other groups of employees of the Bellingham School District. None of those other organizations has claimed that the offset printing technician position should be placed in a bargaining unit other than the one at issue in the above-captioned proceeding.

Prior to June, 1986, the employer had contracted out most of its printing needs. It maintained a printing and reproduction operation at the Vocational Technical Institute (hereinafter, "VTI") operated by the employer, which handled some routine printing jobs. The VTI print shop is equipped with an "A. B. Dick 360" offset printing press with a plate feeder and collator, as well as various copier and mimeograph equipment. This shop handles around 50,000 impressions per month, consisting primarily of tests, forms, flyers, brochures and instructional manuals. The VTI print shop was also equipped to do binding and associated operations.

Jane Madden is in charge of the VTI print shop. She works under the general supervision of an assistant director of the VTI. Madden receives work orders from the instructors, determines priorities and, in some instances, designs layouts. Madden supervises and trains several students who are involved in work-study programs. In addition to the printing functions, Madden checks out audio-visual equipment from inventory to instructors, utilizing a custodian to deliver and set up the equipment. About 75% of her time is spent in printing-related activity; the remainder is spent on the audio-visual function. Madden has prior print shop experience and a college degree in audio-visual arts. She considers her position to be that of a printer. Although hired to do "production printing," she is classified and paid as an aide at a maximum of \$7.26 per hour.

She works throughout the year, as distinguished from the shorter "school year" schedule worked by most aides. The position is in the bargaining unit.

In June, 1986, the employer established a new print shop in the basement of its central administrative offices. The new print shop was created to economize on printing costs, and it averages 350,000 impressions per month. This printing operation is somewhat more sophisticated than the ongoing printing operation at the VTI, having both an "A.B. Dick 360" offset printing press and a "TCS-5" offset printing press. The "TCS-5" machine performs similar functions to those of the "A.B. Dick 360" machine, but does them more efficiently. It is equipped with two plate feeders and a collator, which enable printing both sides of a sheet on one run. It is used on high-volume, short runs. Hard binderies, business cards and complicated printing jobs are still contracted out.

The employer created a new position of "offset printing technician" to run its new print shop. The job description calls for completion of an offset duplicator operator program and one year experience on offset duplicators. The employer hired Randy Smithey, who had five years of previous experience as a pressman in a print shop, to fill the position. Performance responsibilities include managing the day to day operations of all functions of the print shop under general supervision of Michael Boynton, who is the employer's information and publication coordinator. Smithey had no prior experience with the "TCS-5," but spends at least 60% of his time on the TCS-5. Smithey also operates duplicating machinery, is required to clean and perform minor servicing of equipment, orders supplies and maintains records. Major repairs are covered under equipment warranty. Although Smithey has never seen the budget, he is to provide information for

budget planning. The position is a full time, twelve-month job, paid at an hourly rate of \$8.23.

Also assigned to the print shop is an aide who primarily operates the "A. B. Dick 360" machine and performs other tasks, as directed. The aide reports to Boynton, who is the first level of grievance adjustment. Although characterized as an aide, this position also works during the full year. The work schedule calls for four hours of work per day. Mark Grimm was hired to fill the aide position.

Smithey's job description does not specify supervisory duties, but there is evidence of some quasi-supervisory functions. Smithey participated in the interview process which led to the hiring of Grimm, providing technical questions and assisting in rating applicants. Smithey testified that he assigns work and overtime to Grimm, within budgetary limits. Smithey, who is familiar with Grimm's work performance, also provides input to Boynton for use in preparing Grimm's annual evaluation. On the other hand, it seems clear that if a problem were to arise which might involve discipline of Grimm, Smithey would merely discuss the problem with Boynton, who has the disciplinary authority.

POSITIONS OF PARTIES

The petitioner in the above-entitled matter (CPEA) has not taken a position on the disposition of the dispute reserved in the supplemental agreement.

PSE contended at the hearing in Case No. 6682-C-86-347 that the "offset printing technician" position is properly within the bargaining unit. Specifically, it pointed to a level of re-

sponsibilities similar to those of the aide who is in charge of the VTI print shop. PSE also argued that the duties and qualifications of the disputed position are not unlike those of the employer's head custodians, who are included in a custodial/maintenance unit represented by another union.

The employer, on the other hand, viewed the newly created position as one requiring a highly trained technician performing in a supervisory role. The employer asserted that there are substantial differences between the aide position at the VTI print shop and the disputed position, both in regards to the qualifications and complexities of duties. It characterized the aide position as requiring less time on printing, and as requiring lesser qualifications (in the absence of a maintenance requirement), when compared to the new job. The employer also pointed to a difference of "supervisory" responsibilities, suggesting that Smithey should be excluded from the unit on that basis as well. The employer does not contend that the disputed position properly belongs in any of the other units organized among its employees.

DISCUSSION

It is well-established that supervisors are employees under the Public Employees Collective Bargaining Act, Chapter 41.56 RCW. METRO v. Department of Labor and Industries, 88 Wn.2d 925 (1977). RCW 41.56.030(2) excludes from the definition of "public employee" only those who are elected or appointed for a specific term of office and those whose duties necessarily imply a confidential relationship to the employer. See, IAFF Local 469 v. City of Yakima, 91 Wn.2d 101 (1978). Our statute does not contain an exclusion of "managerial" employees. City of Tacoma, Decision 95-A (PECB, 1977). This is in contrast

with the situation in the private sector under the National Labor Relations Act (NLRA), where persons who are primarily managerial or supervisory do not have any rights to organize or bargain collectively. When the legislature enacted the Public Employees Collective Bargaining Act, it chose to ignore the model of the National Labor Relations Act with its years of interpretation and application, and instead enacted very narrow exclusions from the law.

The unit determination criteria set forth in RCW 41.56.060 include the "duties, skills and working conditions" of the employees. The record in this case clearly describes a position in which the incumbent spends most of his working hours involved in the technical aspects of the job. In addition to the estimated 60-70% of his time spent operating the "TCS-5" printing press, Smithey operates collators, paper cutters, binding racks, folding machines and other related equipment, as well as performing routine maintenance. He orders supplies and keeps records on the number of items printed. There is, at most, a marginal difference when comparisons are made between the disputed position and the aide who works in the VTI print shop. Both positions require the operation of reproduction facilities under general supervision. Both positions require considerable production skills involving quality control and efficiency. The disputed position seems to require more technical training and an expectancy of doing minor equipment repairs, whereas the aide at the VTI (who actually performs some minor servicing work) is not required to do so. Review of the Commission's precedent in unit determination cases does not support separating related occupations into separate bargaining units by skill level.

Looked at from the opposite perspective, there is more difference between the two aide positions which the employer

would concede are in the bargaining unit than between the disputed position and the aide who operates the VIT print shop. Like the disputed position, the aide at the VTI is expected to manage the daily operation of the print shop, order supplies, keep production records, assist clients and make independent production decisions. The print shop aide, on the other hand, mostly works at the printing press, and lacks responsibility for supply and priority decisions. Based on this record, nothing is found which precludes accretion of the newly created position to the existing bargaining unit on a basis of duties, skills and working conditions.

As an exercise of the unit determination authority conferred by the statute, the Commission has excluded "supervisors" from the bargaining units containing their rank-and-file subordinates when it appears that the supervisors' exercise of their supervisory duties would create a potential for conflicts of interest if they were included in the same unit with their subordinates. City of Richland, Decision 279-A (PECB, 1978), aff. 29 Wn.App 599 (Division III, 1981), cert. den. 96 Wn.2d 1004 (1981). By Smithey's own account, he is at most a working foreman overseeing and assisting a less experienced worker. Since Grimm works about one-half of a full-time work schedule, it would be mathematically impossible for Smithey to spend the majority of his time in supervision of the aide. Further, the supervisory duties which are performed by Smithey appear to be, by the employer's own design, ministerial rather than substantive. The position description for the offset printing technician does not mention any supervisory duties whatsoever. Grimm works under Smithey's technical direction, but his job description indicates that he is administratively supervised by Boynton. It is clear that Boynton is Grimm's first level supervisor for grievance adjustment and is Grimm's supervisor for purposes of any disciplinary actions. Smithey is clearly

in the best position to know the quality of Grimm's performance, but there is no evidence Smithey is the evaluator of record or even has the authority to effectively recommend corrective actions in the evaluation process. To the contrary, Smithey testified that if Grimm was not doing his job correctly, he would try to help him. If there were continued difficulties, Smithey would talk to Boynton rather than act on his own. Smithey is not a supervisor within the meaning of Commission precedent.

FINDINGS OF FACT

1. Bellingham School District is a common school district of the State of Washington, organized and operated under Title 28A RCW and is a "public employer" within the meaning of RCW 41.56.030(1).
2. Classified Public Employees Association, affiliated with the Washington Education Association, a "bargaining representative" within the meaning of RCW 41.56.030(3) has filed a timely and properly supported petition for investigation of a question concerning representation of certain office clerical and aide employees of Bellingham School District.
3. Bellingham Association of Educational Office Personnel, an affiliate of Public School Employees of Washington, a "bargaining representative" within the meaning of RCW 41.56.030(3), has been granted intervention in the proceedings as the incumbent exclusive bargaining representative of all office clerical and aide employees of Bellingham School District.
4. A dispute has arisen as to whether the position of "offset printing technician" is to be included in the bargaining

unit. The parties have stipulated to have that dispute determined by the Commission on the record made under Chapter 391-35 WAC in Case No. 6682-C-86-347.

5. The "offset printing technician" is a technical position primarily involved in printing production tasks. The major responsibilities include operating offset printing presses and related equipment, performing routine maintenance, ordering supplies and maintaining records. The technician manages the daily operation of the print shop under general supervision.
6. The existing bargaining unit includes an aide who has generally similar responsibilities, except for the amount of maintenance work required, as the operator of a print shop located in the vocational-technical institute operated by the employer. The existing bargaining unit also includes a part-time aide who performs printing production work in the same facility as the incumbent of the disputed position.
7. The authority of the disputed position over the part-time print shop aide position confined to providing technical direction and administrative supervision limited to the assignment of work, approval of overtime within budgetary limits and providing input to a supervisor on work performance.
8. Actual supervisory authority concerning both the disputed position and the part-time print shop aide is vested in the employer's information and publication coordinator.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-25 WAC.


2. The "offset printing technician" is a primarily technical job which has similar duties, skills and working conditions, and a community of interest, with other employees in the existing bargaining unit.

ORDER

The incumbent of the offset printing technician position is included in the bargaining unit and is an eligible voter in the representation election to be conducted in the above-captioned matter.

Dated at Olympia, Washington, this 9th day of December, 1987.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing objections with the Commission pursuant to WAC 391-25-590.