

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
 WASHINGTON PUBLIC EMPLOYEES) CASE 17719-E-03-2863
 ASSOCIATION)
)
 Involving certain employees of:) DECISION 8391 - PSRA
)
 WASHINGTON STATE - SCHOOL)
 FOR THE DEAF) AMENDED CERTIFICATION
)
)
 _____)

Mark S. Lyon, General Counsel, for the petitioner.

Roy Maier, Director, for the Vancouver Education Association.

No appearance was entered by or on behalf of the employer in this proceeding.

On July 30, 2003, the Washington Public Employees Association (WPEA) filed a motion with the Public Employment Relations Commission, seeking amendment of a certification naming another organization as exclusive bargaining representative of teachers employed at the State School for the Deaf, based on merger of that organization into the WPEA. Based on the materials presented by the WPEA, and the absence of opposition from other potential parties, the Executive Director grants the motion.

BACKGROUND

The School for the Deaf is a state general government agency, with a mission of providing basic education to persons with hearing

impairments. The employer's campus is located in Vancouver, Washington.

Acting under authority conferred by the State Civil Service Law, Chapter 41.06 RCW, a predecessor to the current Washington Personnel Resources Board approved the creation of a bargaining unit of teachers and related professionals employed at the School for the Deaf, and the Washington State Department of Personnel issued a certification naming the Washington School for the Deaf Teachers Association (WSDTA) as exclusive bargaining representative of that bargaining unit.

The Personnel System Reform Act of 2002 (PSRA) was signed into law in 2002, with various effective dates. A new collective bargaining system for state civil service employees is codified as Chapter 41.80 RCW, of which two sections that took effect on June 13, 2002, are pertinent here:

RCW 41.06.340 DETERMINATION OF APPROPRIATE BARGAINING UNITS (1) With respect to collective bargaining as authorized by RCW 41.80.001 and 41.80.010 through 41.80.130, the public employment relations commission created by chapter 41.58 RCW shall have authority to adopt rules, on and after June 13, 2002, relating to determination of appropriate bargaining units within any agency. In making such determination the commission shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees. The public employment relations commission created in chapter 41.58 RCW shall adopt rules and make determinations relating to the certification and decertification of exclusive bargaining representatives.

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RCW 41.80.070 BARGAINING UNITS - CERTIFICATION.
(1) A bargaining unit of employees covered by this

chapter existing on June 13, 2002, shall be considered an appropriate unit The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modification of existing units, the commission shall consider: the duties, skills and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation.

The Public Employment Relations Commission has thus acquired jurisdiction with regard to both the determination of appropriate bargaining units and the certification of exclusive bargaining representatives.

ANALYSIS

The motion filed in this case asserts that the WSDTA has voted to affiliate with and become a chapter of the WPEA. In response to a letter sent to it shortly after the motion was filed in this case, the Vancouver Education Association disclaimed any interest in representing the bargaining unit involved.¹ On September 10, 2003, the employer was given a period of 21 days in which to contest the propriety of the amendment of certification sought by the WPEA in this case. No response was received from the employer.

¹ For at least part of the time since the certification of the WSDTA as exclusive bargaining representative, the Vancouver Education Association had represented the WSDTA in collective bargaining with the employer.

FINDINGS OF FACT

1. The Washington Public Employees Association (WPEA) filed with the Public Employment Relations Commission a motion for amendment of the certification of an exclusive bargaining representative for certain employees of the Washington State School for the Deaf. That motion was accompanied by documentation describing the process by which the Washington School for the Deaf Teachers Association (WSDTA) had affiliated with the WPEA.
2. The WSDTA has historically been the certified exclusive bargaining representative of a bargaining unit which is now properly described as:

All teachers, speech pathologists, school psychologist, audiologist, school librarian, counselor at the Washington State School for the Deaf, excluding confidential employees, internal auditors, supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units, and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors.
3. From the documentation submitted, the affiliation proceedings appear to have been conducted by the WPEA and the WSDTA in a manner designed to afford the affected employees a free choice in the affiliation of their bargaining representative.
4. When offered opportunity, the employer did not contest the propriety of the requested amendment of certification.
5. No other organization is known to exist which claims or may claim to represent employees in the bargaining unit involved,

and no facts have been discovered or brought to the attention of the Executive Director which call into question the facts presented by the WPEA.

CONCLUSIONS OF LAW

1. The unit described in paragraph 2 of the foregoing findings of fact is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.80.070.
2. All conditions precedent to an amended certification have been met.

NOW, THEREFORE, it is

ORDERED

The certification of the bargaining unit described in paragraph 2 of the foregoing findings of fact is amended to name:

WASHINGTON PUBLIC EMPLOYEES ASSOCIATION

as the exclusive bargaining representative of the employees in that unit for the purposes of collective bargaining with their employer.

Issued at Olympia, Washington, this 6th day of February, 2004.

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 391-25-660.