

the Direction of Election. A unit determination election was conducted on February 3, 1987, at which time three employees named on the list provided by the employer were challenged by one or the other of the unions. In addition, four other individuals presented themselves to vote and were permitted to cast challenged ballots. With more than 50 employees claimed eligible to vote, the 25 ballots cast in favor of a separate bargaining unit (as compared to 19 ballots against a separate unit) were insufficient to validate the unit determination election. A hearing on the challenged ballots was held on March 11, 1987, at Longview, Washington, before Marvin L. Schurke, Executive Director. The parties waived filing of post-hearing briefs.

Beverly Fisher

To be an eligible voter, the employee must have been employed within the "office clerical" voting group on the date of the Direction of Election (December 16, 1986) and must have continued to be employed in that voting group on the date of the election (February 3, 1987). Beverly Fisher was employed within the voting group on the eligibility date but had terminated her employment prior to the election. The stipulation of the parties to sustain the challenge to her ballot is accepted.

Nurse Aide Positions

Edith Sweet and Karen Kikabush were both in "nurses aide" positions in middle schools operated by the employer at the time these proceedings were initiated. Neither of them was on the original eligibility list reviewed by the parties at the pre-hearing conference. The petitioner submitted a letter on July 17, 1986 which claimed, among other things, that Kikabush

should be an eligible voter. Sweet and Kikabush cast challenged ballots in the election.

The distinction between "office clerical" and "aide" employees of a school district was a subject of decisions in Shelton School District, Decision 2084 (PECB, 1984) and Shelton School District, Decision 1609-B (PECB, 1984). Reflecting National Labor Relations Board precedent which distinguishes "office clerical" from "plant clerical" employees, persons who work in support of the administrative functions of a school district have been included in "office clerical" bargaining units, while persons who work in support of teachers and the educational (production) functions of the school district have been allocated to "aide" bargaining units. The fact that employees in both groups may have some similar duties or skills, such as typing or performing computer entry work, does not obliterate the precedents which identify two separate communities of interest. Similarly, occasional cross-over between classifications on a "substitute" basis does not constitute a basis for putting persons normally working as "aides" into an "office clerical" bargaining unit.

Both Sweet and Kikabush report to nurses who are certificated employees within the non-supervisory certificated employee bargaining unit recognized by the school district pursuant to Chapter 41.59 RCW. Although school district nurses are not classroom teachers, the legislature has chosen to treat them like teachers, rather than as administrators, for purposes such as collective bargaining and salary computation. As described in this proceeding, the work of a nurses aide (including dealing with student health emergencies in the absence of the nurse and maintenance of student health records for the nurse) falls within the "aide" classification.

Sweet was and remains employed exclusively as a nurse's aide. The challenge to her ballot is sustained.

Kikabush was employed exclusively as a nurse's aide on and prior to the December 16, 1986 eligibility date for the election. Subsequent to the eligibility date but prior to the election, her desk was moved out of the nurse's office to an adjacent administrative office. Kikabush was thereupon assigned new duties and might arguably have come within the office clerical voting group at that point, but the change came too late to make her an eligible voter. Also within the time between the eligibility date and the election, Kikabush accepted a transfer to an office clerical position one desk over from the work station resulting from the first change, to replace an employee on leave. That change also came too late to make her an eligible voter in the office clerical voting group. The challenge to her ballot is sustained.

The English Department Aides

Barbara Raubuch and Julie Davis both occupy "aide" positions in high schools operated by the employer. Neither Davis nor Raubuch's predecessor was on the original eligibility list reviewed by the parties at the pre-hearing conference. The petitioner submitted a letter on July 17, 1986 which claimed, among other things, that the incumbents of these positions should be eligible voters. Raubuch and Davis cast challenged ballots in the election.

Raubuch works four hours per day exclusively as an aide to the teachers in a high school English department. Her assigned work station is within the classroom area of the school building, separate and apart from the administrative offices. The fact that she does some of her typing on a word processor

located in an administrative office does not change the fact that the work is being done in support of the classroom teaching function. The challenge to her ballot is sustained under the precedents set forth above.

Davis presents a more difficult question. Her work station has been and continues to be within the main administrative office of a high school, where she serves as back-up to the principal's secretary on many functions. She works full-time, but was informed in the Spring of 1986 that half of her work time is charged as an "aide" to the school's English department while the remaining half is apparently charged as an "office aide" to the school's administrative budget. Davis does not make a strict division of her time between departments, but rather fits English department work into a daily routine which appears to focus as a first priority on serving persons at the counter in the office. To the extent that Davis is working in support of the teachers in the English department, that portion of her function is not within the voting group at issue in this case. The "office aide" function appears to be within the general ambit of the office clerical voting group.²

² This employer has not had to pay attention to a line of demarcation between "office clerical" and "aide" functions, since all of the employees in both types of functions have been within the same bargaining unit. The employer has used the "office aide" title to describe low-level clerical functions which might be characterized as "clerk-typist" in other personnel systems. It can sometimes be difficult to allocate positions or functions to bargaining units, and to discern the line between units. South Kitsap School District, Decision 1543 (PECB, 1983). At hearing, the parties recognized the possibility for "dual status" employees to have rights and obligations in two bargaining units, and that some of those involved in this proceeding could be so-classified on the basis of their historical assignments. With the guidance provided here, the employer may prefer to re-align assignments to minimize "dual status".

The Computer Room Aides

Virginia Handy and Vickie Rigdon were both in split assignments at the time these proceedings were initiated, both were on the original eligibility list reviewed by the parties at the pre-hearing conference, and none of the parties raised objection to their eligibility at that time. Rigdon and Handy were both challenged by the incumbent exclusive bargaining representative when they presented themselves to vote in the election.

Rigdon has subsequently terminated her employment with the school district, but that fact does not dispose of her eligibility at the time of the election. Rigdon was described in the initial eligibility list as a "computer room aide" for 5.5 hours per day, and she continued in that role up to the time of the election. She would not be an eligible voter in the "office clerical" voting group on account of that "aide" work. Rigdon was listed on the initial eligibility list as a "computer room secretary" clearly within the office clerical voting group, but that assignment was changed in the autumn of 1986 to an "office aide" which appears to come within the office-clerical voting group.

The parties stipulated that Handy was an eligible voter in the office clerical voting group on account of her historical and ongoing assignment as a computer secretary. Handy works as an office aide for the balance of her work time, and also appears to be within the office-clerical voting group when performing that function.

Conclusions

With sustaining the challenges to (and voiding) the ballots cast by Fisher, Sweet, Kikabush, and Raubuch, the number of

claimed eligible voters is reduced to 48 and the 25 valid ballots cast in favor of a separate bargaining unit are sufficient to determine the outcome of the unit determination election. Since it is not necessary to open the unit determination ballots of Davis, Rigdon and Handy, they will be impounded to protect the rights of the employees concerning secrecy of their ballot.


In view of the stipulation that Handy is eligible, her representation ballot will be included in the ballot box prior to the tally of that election.

ORDER

1. The challenges to the ballots cast by Beverly Fisher, Edith Sweet, Karen Kikabush and Barbara Raubuch are SUSTAINED on the basis that they were not eligible voters within the office clerical employee voting group on both the eligibility date for the election and on the date of the election. An amended tally of ballots is attached.
2. The impoundment of ballots cast in the representation election in this proceeding is terminated. A tally of ballots for the representation election is attached.

Dated at Olympia, Washington, this 2nd day of April, 1987.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

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

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TALLY SHEET

NAME OF
EMPLOYER

Longview School District

CASE
NUMBER

6428-E-86-1132

PART 1 - CROSS-CHECK OF RECORDS

The undersigned agent of the Public Employment Relations Commission certifies that he/she has conducted a cross-check of records in the above case, and that the results were as follows:

Number of Employees in Bargaining Unit.....

Number of Employee Records Examined.....

Number of Employee Records Counted as Valid Evidence of Representation...

PART 2 - SECRET BALLOT ELECTION

The undersigned agent of the Public Employment Relations Commission certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated below, were as follows:

1. Approximate number of eligible voters..... 48

2. Void Ballots..... 4

3. Votes Cast For: Separate Bargaining Unit ... 25

4. Votes Cast For: _____ ... _____

5. Votes Cast For: No Separate Bargaining Unit ... 19

6. Votes Cast For: _____ ... _____

7. Votes Cast For: NO REPRESENTATION..... _____

8. Valid Ballots Counted.(total of 3, 4, 5, 6 and 7)..... 44

9. Challenged Ballots..... 3

10. Valid Ballots Counted plus Challenged Ballots (total of 8 and 9)..... 47

11. Number of Valid Ballots Needed to Determine Election..... 25

Challenges are sufficient in number to affect the results of the election.
 are not

The results of the election appear to be inconclusive.
 conclusive favoring choice on line 3

PUBLIC EMPLOYMENT RELATIONS COMMISSION

DATE ISSUED

April 2, 1987

By

Maura Schulte

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For _____

For _____

For _____

For _____

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TALLY SHEET

NAME OF EMPLOYER Longview School District CASE NUMBER 6428-E-86-1132

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PART 2 - SECRET BALLOT ELECTION

The undersigned agent of the Public Employment Relations Commission certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated below, were as follows:

- 1. Approximate number of eligible voters..... 48
- 2. Void Ballots..... 4
- 3. Votes Cast For: CPEA/WEA ... 25
- 4. Votes Cast For: _____ ... _____
- 5. Votes Cast For: NEIU Local 288 ... 20
- 6. Votes Cast For: _____ ... _____
- 7. Votes Cast For: NO REPRESENTATION..... _____
- 8. Valid Ballots Counted.(total of 3, 4, 5, 6 and 7)..... 45
- 9. Challenged Ballots..... 2
- 10. Valid Ballots Counted plus Challenged Ballots (total of 8 and 9)..... 47
- 11. Number of Valid Ballots Needed to Determine Election..... 25

Challenges are sufficient in number to affect the results of the election.
 are not

The results of the election appear to be inconclusive.
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

DATE ISSUED April 2, 1987

By [Signature]

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For _____ For _____
For _____ For _____
For _____ For _____