

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of	)	
	)	
WASHINGTON FEDERATION OF	)	CASE NO. 941-E-77-187
TEACHERS, AFL-CIO,	)	
Involving certain employees of	)	DECISION NO. 379-A-EDUC
	)	
RENTON SCHOOL DISTRICT NO. 402	)	ORDER REMANDING FOR
(Renton Vocational-Technical	)	FURTHER PROCEEDINGS
Institute)	)	
	)	
	)	
	)	

APPEARANCES:

MR. PETER D. FRANCIS, Attorney-at-Law, appeared on behalf of the petitioner.

MR. BILLY J. FOGG, Director of Employee Relations, appeared on behalf of the employer.

MS. SYMONE SCALES, Attorney-at-Law, appeared on behalf of intervenor Renton Education Association.

This matter is before the Commission for review of an order of dismissal issued by the Executive Director pursuant to WAC 391-30-124. The employer has taken no position on the matter. The intervenor supports the order of the Executive Director. The petitioner seeks reversal of the dismissal and a direction of an election.

Correct interpretation and application of RCW 41.59.080(6) is fraught with difficulty. We concur with the analysis of the Executive Director except with respect to his observations limiting the focus of inquiry, his fifth finding of fact and his conclusions of law.

RCW 41.59.080 in its preamble requires consideration of the history of collective bargaining along with other factors in determining the appropriateness of any unit proposed for collective bargaining. The question of "extent of organization" is not raised by the facts of this case. RCW 41.59.080(6) says that:

"A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered

to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies."

Whether or not there was a viable relationship between the District and an active employee organization recognized as the representative of the district-wide teacher unit is immaterial. Employees may reasonably be expected to make the best use of the representation available to them.

The focus of inquiry must be broadened to include "what history of bargaining?" There was no "collective bargaining" for certificated employees of public school districts until the enactment of RCW 41.59.

The district-wide teacher unit was not established by an election by the Commission or any other authority. Accordingly, the history of bargaining in such a unit is not binding on the Commission. In Andrews Industries, Inc., 105 NLRB 946, 949, the National Labor Relations Board said:

"Nor, in our opinion, does the past bargaining history afford any persuasive reason for such units. We note in this regard that the bargaining history was not based on a Board determination in a litigated case, but only in part on a consent election in the Teamsters' unit. Such election is of course not controlling."

And see General Electric Co. (River Woods), 107 NLRB 70, 72, where the Board held:

"Although the Board is reluctant to disturb the contract unit or units established as a result of collective bargaining and desires to give recognition and weight to a satisfactory bargaining history effectively evincing the intent of the parties, it does not accord conclusive weight to a history which is repugnant to established Board policy respecting the composition and scope of bargaining units. As the interests and working conditions of office clerical employees differ substantially from those of the production and maintenance employees, we shall, in accord with well-established Board policy exclude them from the production and maintenance unit."

The order of dismissal issued by the Executive Director is reversed and the matter is remanded to the Executive Director for further proceedings under the rules pursuant to the following:

#### DIRECTION OF ELECTIONS

1. An election by secret ballot shall be held under the direction of the Public Employment Relations Commission among all full-time and regular part-time vocationally certified employees of Renton School District No. 402 employed in Renton Vocational-Technical Institute, excluding the Superintendent of Schools, administrative officers of the District,

confidential employees, supervisors, non-supervisory educational employees employed in the kindergarten through twelfth grade program of the District and non-certificated employees, to determine whether a majority of the employees eligible to vote in such election desire to be included in a bargaining unit separate and apart from other non-supervisory certificated employees of Renton School District No. 402.

2. An election by secret ballot shall be held under the direction of the Public Employment Relations Commission among the employees in the voting group described in paragraph 1 of this direction of election, to determine whether a majority of the employees voting desire to be represented by Washington Federation of Teachers, AFL-CIO, or by Renton Education Association, WEA-NEA, or by no representative for the purposes of collective bargaining with Renton School District No. 402. This representation election shall be conducted at the same time as the unit determination election directed in paragraph 1 of this direction of elections. In the event that a majority of those eligible fail to vote in favor of the creation of a separate unit, the ballots cast on the question concerning representation shall be impounded.

DATED this 9<sup>th</sup> day of June, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Mary Ellen Krug  
MARY ELLEN KRUG, Chairman

Michael H. Beck  
MICHAEL H. BECK, Commissioner

Paul A. Roberts  
PAUL A. ROBERTS, Commissioner