

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
LAKE WASHINGTON VOCATIONAL-)	
TECHNICAL FEDERATION OF TEACHERS,)	CASE NO. 2790-E-80-543
LOCAL NO. 3533, W.F.T., A.F.T.,)	
AFL-CIO,)	DECISION NO. 1020-EDUC
)	
Involving certain employees of:)	
LAKE WASHINGTON SCHOOL DISTRICT)	DIRECTION OF ELECTION
NO. 414.)	
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Appearances:

Reid Stevens, Negotiator, for the employer.

Al Brisbois, President, Washington Federation of Teachers, and Diane Wilson, President, Local 3553, for the petitioner.

Judith A. Lonnquist, General Counsel, Washington Education Association, for intervenor Lake Washington Education Association.

On May 27, 1980, the Lake Washington Vocational-Technical Federation of Teachers, Local No. 3533, W.F.T., A.F.T., AFL-CIO, filed a petition with the Public Employment Relations Commission seeking certification as exclusive bargaining representative of certificated adult education employees of Lake Washington School District No. 414. Lake Washington Education Association intervened under WAC 391-30-112 on a showing of authorization cards. A pre-hearing conference was held on July 21, 1980, at which time the petitioner was identified as the exclusive bargaining representative of educational employees of the employer at its vocational-technical institute and the intervenor was identified as the exclusive bargaining representative of educational employees of the employer in its K-12 academic program. A statement of results of the pre-hearing conference was issued on August 20, 1980, identifying issues as to the scope of the bargaining unit and the eligibility of voters. Notice was issued setting hearing for September 16, 1980.

At the hearing held on September 16, 1980, after some testimony had been received, the parties entered into a stipulation concerning the disposition of this matter and that stipulation was spread on the record of the hearing.

DISCUSSION:

RCW 41.59.080(1) effectively prohibits the creation of a separate bargaining unit for the employees involved in this case. The employer happens to be one of the very few in the State where the provisions of RCW 41.59.080(6) have been implemented. The statutes provide:

"41.59.080 Determination of bargaining unit--Standards. The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

* * *

(6) 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; and

Although the adult education personnel instruct the same students as the employees in the vocational-technical institute, the unit was described in the V-TI severance proceedings in terms of "vocationally certified" employees, and the subject adult education employees were thus omitted from the vocational-technical institute unit when it was created. The adult education employees have never been included in the academic unit. Close analysis of the statute indicates that the adult education employees cannot stand alone as a separate bargaining unit. They are non-supervisory employees and must be included in one of the existing units. The parties have recognized this unique circumstance and have stipulated to a unit preference vote in order to implement the "desires of employees" clause of RCW 41.59.080 and give the affected employees a choice between one of the two existing units. In that the present situation is inappropriate and cannot be continued, there will be no choice on the ballot for a "status quo" or "no representation" possibility, and a "majority of those voting" will be determinative.

FINDINGS OF FACT

1. Lake Washington School District No. 414 is an employer within the meaning of RCW 41.59 operating both a K-12 academic program and a vocational-technical institute.
2. Lake Washington Vocational-Technical Federation of Teachers, Local 3533, W.F.T., A.F.T., AFL-CIO, is an employee organization presently certified as exclusive bargaining representative of vocationally certificated educational employees of the employer employed in Lake Washington Vocational-Technical Institute.
3. Lake Washington Education Association is an employee organization presently recognized as exclusive bargaining representative of K-12 educational employees of the employer.
4. Adult education employees of Lake Washington School District No. 414 work at or in connection with Lake Washington Vocational-Technical Institute but have not been included in either of the bargaining units described in paragraphs 2 and 3 of these findings of fact.
5. The parties have stipulated in these proceedings concerning the procedures and voter eligibility for a unit preference election whereby the employees in the class described in paragraph 4 will be given an opportunity to vote by secret ballot on which of the bargaining units described in paragraphs 2 and 3 will include them.

CONCLUSIONS OF LAW

1. The adult education employees referred to in paragraph 4 of the foregoing findings of fact cannot constitute an appropriate separate bargaining unit.
2. The stipulation of the parties implements the desires of employees clause of RCW 41.59.080 and will result in elimination of the inappropriate bargaining unit structure now in existence.

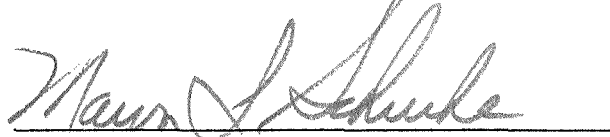
ORDER

1. The stipulation of the parties is accepted as an appropriate methodology for disposition of this matter.

2. An election by secret ballot shall be conducted under the direction of the Public Employment Relations Commission among adult education employees of Lake Washington School District No. 414, as specified in the eligibility list stipulated by the parties, to determine the desires of the employees as to whether they are to be included in the existing non-supervisory vocational-technical educational employee bargaining unit or in the existing non-supervisory K-12 academic educational employee bargaining unit. A majority of those voting shall be determinative.

DATED at Olympia, Washington, this 29th day of October, 1980.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", is written over a horizontal line.

MARVIN L. SCHURKE, Executive Director