

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
UNITED CLASSIFIED WORKERS)	CASE NO. 4072-E-82-761
OF WASHINGTON)	
)	DECISION NO. 1535 - PECB
Involving certain employees of:)	
RENTON SCHOOL DISTRICT NO. 403)	DIRECTION OF ELECTION

On May 4, 1982, United Classified Workers of Washington filed with the Public Employment Relations Commission a petition for investigation of a question concerning representation of certain employees of Renton School District No. 403. The unit claimed appropriate is a unit of:

"Transportation, Garage Mechanics, Building Maintenance, Audio Visual Maintenance, Food Service, Truck Drivers and Warehousepersons, Swimming Pool Maintenance, and Print Shop Personnel: Excluding Secretaries and the Supervisors of Transportation, Maintenance, Audio Visual, Food Service, Purchasing Department, Swimming Pool, and Print Shop; and one (1) group leader Warehouse, one (1) group leader Supply and one (1) group leader Print Shop,"

heretofore represented by Public School Employees (PSE). PSE intervened in the proceedings. A pre-hearing conference was held on June 7, 1982, by J. T. Cowan, Hearing Officer, at which time issues were framed as to (1) whether the United Classified Workers Union of Washington is qualified to act as representative under the statute; and (2) whether some 20 substitute (on-call) employees are eligible voters in the election. The hearing officer issued a statement of the results of the pre-hearing conference, pursuant to WAC 391-08-220, and no objections have been filed with respect to the matters stated therein.

DISCUSSION

Status as Labor Organization

In a letter to the parties dated October 15, 1982, the hearing officer notified the parties of the proposed taking of administrative notice in this case of the proceedings and decision in Kent School District, Case No.

4071-E-82-760. Administrative notice is hereby taken of those proceedings, which resulted in certification of United Classified Workers Union of Washington as exclusive bargaining representative of an appropriate bargaining unit of employees under RCW 41.56. In that proceeding, the parties, including Public School Employees of Washington, entered into an election agreement inherently acknowledging that UCWU is an employee organization qualified for certification under RCW 41.56.

Substitutes

The eligibility issue addressed in the statement of results of pre-hearing conference is whether "substitutes" are to be included in the bargaining unit. While "substitute" is a popular term in the jargon of school district employers and employees, the decisions of the Commission have consistently focused attention on the "regular" vs. "casual" distinction common in the jargon of labor relations. Accordingly, in Sedro Woolley School District, Decision 1351-C (PECB, 1982), the class of "all substitutes" was broken down into two sub-groups and those having a reasonable expectancy of continued employment were included in the bargaining unit along with full-time and permanently assigned part-time employees, based on a 30 days' work in a one-year period eligibility test. While the parties would be free in this case to litigate the eligibility test for "substitutes", the decisions in Sedro Woolley and the several substitute teacher cases cited therein suggest that the number of "substitutes" who might ultimately qualify for inclusion in a bargaining unit will be small in relation to the overall size of the bargaining unit. The collective bargaining rights of the large group of eligible employees should not be held up pending litigation and determination on a small fringe group. Our notices of representation elections do not list eligible voters by name. Persons who may claim to be in the bargaining unit by reason of service as a "substitute" are entitled to present themselves at the polls during the election and to cast a challenged ballot.

The matter is being remanded to the Hearing Officer for conduct of the election directed herein. If appropriate, an interim certification will be issued following the election, identifying the organization which has won the right to represent the bargaining unit in the future. Thereafter, notice will be issued setting hearing on the eligibility dispute which remains.

FINDINGS OF FACT

1. Renton School District No. 403 is a school district organized under Title 28A RCW and is a "public employer" within the meaning of RCW 41.56.030(1).

2. United Classified Workers of Washington is a "bargaining representative" within the meaning of RCW 41.56.030(3) which has filed a timely and sufficiently supported petition for investigation of a question concerning representation of certain employees of Renton School District No. 403.
3. Public School Employees of Washington is a "bargaining representative" within the meaning of RCW 41.56.030(3) and is the incumbent representative of the bargaining unit of employees of Renton School District No. 403 which is the subject of the petition in this proceeding. PSE has intervened pursuant to WAC 391-25-170.
4. The parties have no dispute as to the general composition of the bargaining unit, and agree that a question concerning representation presently exists in that bargaining unit. The parties agree that the proper method of resolving the question concerning representation is by an election.
5. The parties disagree only as to the eligibility of classified employees working as "substitutes" to be included in the bargaining unit.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to RCW 41.56, and a question concerning representation presently exists.
2. No issue of material fact exists, warranting the summary conclusion that the bargaining unit described as:

"Transportation, Garage Mechanics, Building Maintenance, Audio Visual Maintenance, Food Service, Truck Drivers and Warehousepersons, Swimming Pool Maintenance, and Print Shop Personnel: Excluding Secretaries and the Supervisors of Transportation, Maintenance, Audio Visual, Food Service, Purchasing Department, Swimming Pool, and Print Shop; and one (1) group leader Warehouse, one (1) group leader Supply and one (1) group leader Print Shop,"

is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060.

DIRECTION OF ELECTION

1. An election by secret ballot shall be conducted under the direction of the Public Employment Relations Commission among employees of Renton School District No. 403 in the bargaining unit described as:

"Transportation, Garage Mechanics, Building Maintenance, Audio Visual Maintenance, Food Service, Truck Drivers and Warehousepersons, Swimming Pool Maintenance, and Print Shop Personnel: Excluding Secretaries and the Supervisors of Transportation, Maintenance, Audio Visual, Food Service, Purchasing Department, Swimming Pool, and Print Shop; and one (1) group leader Warehouse, one (1) group leader Supply and one (1) group leader Print Shop,"

to determine whether a majority of said employees desire to be represented for the purposes of collective bargaining by Public School Employees or by United Classified Workers of Washington or by no representative.

2. The eligibility issues relating to the status of "substitute" employees are reserved for hearing in proceedings to be conducted after the election.

DATED at Olympia, Washington, this 8th day of November, 1982.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director