

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
CLASSIFIED PUBLIC EMPLOYEES)	CASE NO. 7438-E-88-1274
ASSOCIATION/WEA)	
Involving certain employees of:)	DECISION 3121 - PECB
RENTON SCHOOL DISTRICT)	
_____)	DIRECTION OF ELECTION
In the matter of the petition of:)	
WASHINGTON FEDERATION OF TEACHERS,)	CASE NO. 7458-E-88-1278
AFT, AFL-CIO)	
Involving certain employees of:)	DECISION 3122 - PECB
RENTON SCHOOL DISTRICT)	
_____)	ORDER OF DISMISSAL

Faith Hanna, Staff Attorney, and Maria Sun, Legal Intern, appeared on behalf of the Classified Public Employees Association.

Barbara Otterson, Assistant to the President, appeared on behalf of the Washington Federation of Teachers.

Karen DeBruen, Representative, appeared on behalf of the Renton Association of Educational Office Personnel.

Roberta Walker, Director of Employee Relations, appeared on behalf of the Renton School District.

On June 7, 1988, the Classified Public Employees Association, an affiliate of the Washington Education Association (CPEA), filed a petition with the Public Employment Relations Commission, seeking certification as exclusive bargaining representa-

tive of full-time, part-time, and hourly secretaries, clerks and aides employed by the Renton School District, excluding supervisors and confidential employees.

On June 24, 1988, the Washington Federation of Teachers, AFT, AFL-CIO, (WFT), filed a petition with the Commission, seeking to represent full-time, part-time and hourly secretaries, clerks, aides, and technicians employed by the Renton School District at its Renton Vocational-Technical Institute.

The full-time and regular part-time office-clerical and aide employees involved in both petitions have heretofore been represented for the purposes of collective bargaining by the Renton Association of Educational Office Personnel (RAEOP),¹ and that organization was granted intervention in both proceedings based on its status as the incumbent exclusive bargaining representative of employees involved.²

A pre-hearing conference on the consolidated petitions was held on July 15, 1988, at which time issues were framed concerning the description of the appropriate bargaining unit(s), the list of eligible voters, and the inclusion of hourly employees at the Renton Vocational-Technical Institute in any unit.

A hearing was conducted at Renton, Washington, on September 13, 1988, before Hearing Officer Walter M. Stuteville. The parties resolved the issues concerning voter eligibility and hourly employees prior to the commencement of the hearing. Testimony

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- 1 The AFT's petition seeks severance of the petitioned-for unit from the historical bargaining unit.
 - 2 The "hourly" employees affected by both petitions have heretofore not been represented.

was then taken on the remaining "severance" issue.³ The CPEA and WFT filed post-hearing briefs.

MOTION FOR SUMMARY JUDGMENT

At the close of the hearing, the WFT moved for summary judgment, citing concern about the timeliness of a decision and the impact of delay upon the medical benefits of the employees involved. Summary judgment is available only as described in the Commission's rules:

WAC 391-08-230 SUMMARY JUDGMENT. A summary judgment may be issued if the pleadings and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that one of the parties is entitled to a judgment as a matter of law. ...

A summary judgment accelerates the decisionmaking process by dispensing with a hearing where none is needed.

Review of the positions of the parties and the applicable statutes indicates that summary judgment is not, and never was, available in this case. The "severance" issue raised by the WFT petition calls for a unit determination. The statute provides:

RCW 41.56.060 DETERMINATION OF BARGAINING UNIT -- BARGAINING REPRESENTATIVE. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an

³ At the hearing, the AFT also agreed that the term "technicians" was not necessary in the description of the unit it was seeking.

exclusive bargaining representative, 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 public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees.

A hearing has been held and evidence has been taken on material issues of fact concerning the duties, skills and working conditions of the employees, the history of collective bargaining, and the extent of organization among the employees.

WAC 391-25-390 vests the authority to decide unit determination issues in the Executive Director. The Hearing Officer properly reserved ruling on the motion for the Executive Director. The motion is denied.

BACKGROUND

The Renton School District, situated on the southern shore of Lake Washington, serves approximately 11,600 students in its kindergarten through 12th grade (K-12) program, as well as approximately 29,000 students at its Renton Vocational Technical Institute (RVTI). While the K-12 and RVTI programs are the products of separate and distinct funding and statutory arrangements,⁴ an elected Board of Directors and the Superintendent of Schools, Dr. Gary Kohlwes, have overall direction of

⁴ RVTI is funded in a manner similar to state-owned community colleges, and competes for state monies with them.

* Non-supervisory custodians and groundskeepers, bargaining under Chapter 41.56 RCW;

* Non-supervisory food service workers, bus drivers and maintenance workers, bargaining under Chapter 41.56 RCW; and

* The unit in question, which is composed of non-supervisory office-clerical employees and aides.

All of the classified employee bargaining units are district-wide in nature, and include employees at RVTI.⁵

All of the employees involved here have duties and skills within the "office-clerical" and "aide" generic occupational types. Job descriptions for some positions are location-specific to the RVTI or K-12 program, such as: "RVTI Day Care", "RVTI Learning Center", "High School Registration / Library", "Elementary School Office / Clinic" or "Middle School Attendance / ASB". The RVTI and the K-12 programs have separate hiring offices, and employees assigned to one program normally would not work in the other program unless they applied for and been given a separate position in that program.

RVTI employees are paid on the same pay scale as employees in the K-12 program, and they enjoy the same fringe benefits.

With some exceptions, administrative personnel below the Assistant Superintendent work only in the K-12 program or in the RVTI program, so classified employees working at RVTI are generally supervised only by RVTI employees.

The incumbent union has been organized since 1965. It has represented the existing bargaining unit formally for about ten

⁵ Among the classified employees, approximately 75 work at RVTI.

years, and represented those employees informally for many years prior to that. Its negotiating team, termed its Salary and Welfare Committee, has been made up of eight members of the bargaining unit representing schools and services within the district. RVTI employees have always had a representative on the negotiations team, and the wages, hours, benefits and working conditions for RVTI employees have been covered in the collective bargaining agreements between the employer and the incumbent.

POSITIONS OF THE PARTIES

The CPEA takes the position that the appropriate bargaining unit should be the historical bargaining unit with the addition of hourly employees performing similar work. It argues that historical unit should be disturbed by severance only if it has become inappropriate. CPEA further argues that, since the duties, skills and working conditions of the secretaries, clerks and aides at RVTI are similar to those of secretaries, clerks and aides in the rest of the school district, and since there has been a history of stable bargaining for over ten years, there is no justification for severance. It points out that a pattern of district-wide classified employee bargaining units exists in the Renton School District.

The WFT urges that the classified employees at RVTI, including full-time, part-time and hourly employees, constitute an appropriate bargaining unit separate and apart from the K-12 classified employees. It argues that the RVTI is relatively self-contained, that it is funded differently from the K-12 system, that it serves a different student population, that it conducts its own hiring, supervision and evaluation of employees, and that RVTI positions require job skills that are

different from those required of the K-12 classified employees. Finally, because hourly employees were not included in the historical bargaining unit, the WFT argues that there has been no history of bargaining for the unit that it seeks here.

The incumbent exclusive bargaining representative participated in the hearing, but did not submit a brief.

The employer participated in the hearing, but did not submit a brief.

DISCUSSION

Unit Determination Criteria

Criteria for determining an appropriate bargaining unit are found in RCW 41.56.060, as set forth above. Those criteria were further refined in Yelm School District, Decision 704-A (PECB, 1980) where, as here, an attempt was made to split a historical bargaining unit into two or more units. The inquiries to be made in a "severance" case include whether the proposed unit consists of a distinct and homogeneous group of skilled journeymen craftsmen, whether the history and pattern of bargaining in the industry involved support maintenance of a separate bargaining unit for the petitioned-for craft, whether the historical unit configuration has produced stable labor relations, and the extent to which the employees in the proposed separate unit have maintained their separate identity while included in a larger unit. Numerous cases have applied those criteria, among the most recent being Grays Harbor County, Decision 3067 (PECB, 1988). It can be observed, generally, that fragmentation of unit structures is not favored by the Commission.

Duties, Skills and Working Conditions

The office-clerical and aide employees working at RVTI use the same basic job skills (e.g., answering the telephone, typing, filing and operating office machines), as do the employees in existing bargaining unit who work in the employer's K-12 program. While the WFT argues that those skills are used differently by RVTI employees, because of the differences in funding and in student population between the two educational programs, those differences are not found to compel creation of a separate bargaining unit. Certainly, the employees at RVTI may perform different specific tasks than do the employees in the K-12 program. Such differences are, however, well within the generic description of all such employees as "office-clerical" and/or "aide". Clearly, the distinctions are not significant enough to justify calling the RVTI employees a "distinct and homogeneous group of journeymen craftsmen", as referred to in Yelm, supra. An examination of the job descriptions for parallel K-12 and RVTI positions reveals no significant differences in how the specified tasks are to be accomplished.

The WFT argues that there is significance in the fact that RVTI is a self-contained operation, with the facilities physically separated from those of the K-12 program. To some extent, the argument overlooks or ignores the fact that the school district has a number of separate buildings where office-clerical and aide employees are employed in the K-12 program. Given the nature of a school district and the size of this employer, such that employees are scattered in many different buildings, programs and departments, the "geographical" distinctions between the K-12 and RVTI employees are not compelling.

History of Bargaining

The WFT's reliance on its inclusion of "hourly" employees in the unit it seeks is unfounded. Commission precedent dating back to at least City of Seattle, Decision 781 (PECB, 1979) indicates the propriety of including non-casual part-time employees in the same unit with full-time employees performing similar work. The hourly employees at issue here function in much the same job assignments as do the full-time and part-time employees who have been included in the historical bargaining unit. It is difficult to imagine that a separate unit limited to the "hourly" employees could be found appropriate, so an alternative view of the situation is that the present petition merely cures an omission which likely would have been cured in unit clarification proceedings initiated by the employer or the incumbent exclusive bargaining representative. The evidence does not support the proposition that the inclusion of the hourly employees in the bargaining unit would have significantly changed the history of bargaining in the unit.

Further, hourly employees are found in both the K-12 and RVTI programs, so that any new issues raised by their inclusion in the bargaining unit will be raised regardless of whether the petitioned-for severance is granted. It is doubtful that such issues would be "unduly disruptive of the existing patterns of representation". Yelm, supra. The alternative, which is a separate bargaining unit of "hourly" employees, would almost certainly produce border skirmishes of the type found to be unacceptable in South Kitsap School District, Decision 1541 (PECB, 1983).

The CPEA properly relies upon the ten-year history of the present bargaining unit as a basis for maintaining the status quo. In regards to other bargaining units within the school

district, there appears to be no one pattern that is more stable than the others. The separation of the certificated employees into separate units is pursuant to specific provisions of RCW 41.59.080 and Commission decision. Renton School District, Decision 379-A, 379-B (EDUC, 1979), aff. 101 Wn.2d 435 (1984). It is particularly noteworthy that the classified bargaining units are district-wide in nature.

There was no evidence showing that RVTI employees had ever created a separate organization, or had ever attempted to bargain separately with the employer in the past. There was, on the contrary, testimony establishing that RVTI employees have been included in the incumbent's bargaining team, and have been covered by the labor agreements between the employer and the incumbent exclusive bargaining representative.

Extent of Organization

The inclusion of "hourly" employees in either of the bargaining units petitioned-for in these proceedings will eliminate the potential for fragmentation due to separate organizational efforts among other employees performing similar work.

The evidence establishes that the "industrial pattern" for the office-clerical employees of vocational schools in Washington is for them to be included in district-wide bargaining units. Vocational-technical institutes in the Bellingham, Clover Park, Tacoma and Lake Washington school districts have secretary-aide employees that are of district-wide bargaining units. Further, the evidence indicates that, in Washington school districts in general, there is a pattern of maintaining district-wide bargaining units. Because of the basic nature of school district organizations, which commonly include elementary schools and two levels of secondary schools, as well as

centralized departments and services, there are almost an infinite number of divisions which could be possible - and ultimately be disruptive of collective bargaining - if they were deemed to be controlling in severance cases.

The evidence shows that the RVTI is an integral part of the school district. The student population is different, funding sources are different, and some personnel functions are handled separately, but most administrative functions are integrated or mutually dependent. Payroll, accounting, labor relations, and purchasing are all done by district administrators. The RVTI administrator is a member of the superintendent's executive committee, along with the deputy superintendent for instruction and the district business manager. At the operational level, RVTI and K-12 employees do work in integrated functions as in purchasing and payroll functions.

It is concluded that the severance proposed in this case would unduly fragment the employer's office-clerical workforce.

Qualifications of the Intervenor

The WFT does not argue that it has particular qualifications to represent a separate bargaining unit of classified employees at RVTI. Nationally, the WFT's affiliate is recognized as a bargaining agent for teachers. In this state, the WFT is principally known as the exclusive bargaining representative of academic employees of community colleges, as well as of certificated employees of vocational-technical institutes and occupational skill centers. Such experience does not specifically qualify the intervenor to represent office-clerical employees and aides of a vocational-technical institute. See, Shelton School District, Decision 2084 (PECB, 1984).

Desires of the Public Employees

The WFT claims that a vast majority of the RVTI employees have signed authorization cards favoring the WFT. The "desires of the employees" criteria of the statute is implemented, however, by procedures designed to avoid coercive impacts upon the employees. Where other unit determination criteria indicate that either of two or more unit configurations could be appropriate, a secret-ballot unit determination election is conducted by the Commission to ascertain the desires of the employees. Clark County, Decision 290-A (PECB, 1977). The authorization cards signed by employees as showing of interest in support of a petition are confidential, and cannot be used in the manner proposed by the WFT. WAC 391-25-210.

The disclosure by counsel of the number and/or identity of employees who have supported a showing of interest infringes on the statutory right of those employees freely to select their representatives, and is not relevant or material evidence in this proceeding.

Grays Harbor County, Decision 3067 (PECB, 1988).

There is no need to conduct a unit determination election in this case, as examination of the other unit determination criteria indicate that severance of a separate unit at RVTI would not be appropriate.

FINDINGS OF FACT

1. Renton School District is a school district operated pursuant to Title 28A RCW, and is a public employer within the meaning of RCW 41.56.030(1).

2. The Classified Public Employees Association / WEA, a bargaining representative within the meaning of 41.56-.030(3), timely filed a petition with the Commission for investigation of a question concerning representation of certain office-clerical and aide employees of the Renton School District, including hourly employees.
3. The Washington Federation of Teachers / AFT, a bargaining representative within the meaning of RCW 41.56.030(3), timely filed a petition with the Commission for investigation of a question concerning representation of certain office-clerical and aide employees of the Renton School District, including hourly employees, working at the Renton Vocational-Technical Institute.
4. The Renton Association of Educational Personnel, a bargaining representative within the meaning of RCW 41.56.030(3), is recognized as the exclusive bargaining representative of all full-time and regular part-time secretaries, aides and clerks employed by the Renton School District. The office-clerical and aide employees at the Renton Vocational-Technical Institute have historically been included in that bargaining unit and have been represented by the incumbent since 1965. Hourly employees were not included in that bargaining unit.
5. The employees in the petitioned-for separate unit at the Renton Vocational-Technical Institute have job duties and responsibilities which are similar in scope and nature to those of employees in the existing bargaining unit who work in positions in the employer's K-12 program, and all such employees fall within the generic description of "office-clerical and aide".

2. The Classified Public Employees Association / WEA, a bargaining representative within the meaning of 41.56-.030(3), timely filed a petition with the Commission for investigation of a question concerning representation of certain office-clerical and aide employees of the Renton School District, including hourly employees.
3. The Washington Federation of Teachers / AFT, a bargaining representative within the meaning of RCW 41.56.030(3), timely filed a petition with the Commission for investigation of a question concerning representation of certain office-clerical and aide employees of the Renton School District, including hourly employees, working at the Renton Vocational-Technical Institute.
4. The Renton Association of Educational Personnel, a bargaining representative within the meaning of RCW 41.56.030(3), is recognized as the exclusive bargaining representative of all full-time and regular part-time secretaries, aides and clerks employed by the Renton School District. The office-clerical and aide employees at the Renton Vocational-Technical Institute have historically been included in that bargaining unit and have been represented by the incumbent since 1965. Hourly employees were not included in that bargaining unit.
5. The employees in the petitioned-for separate unit at the Renton Vocational-Technical Institute have job duties and responsibilities which are similar in scope and nature to those of employees in the existing bargaining unit who work in positions in the employer's K-12 program, and all such employees fall within the generic description of "office-clerical and aide".

6. The employees in the petitioned-for separate unit at the Renton Vocational-Technical Institute have not maintained a separate identity within the historical bargaining unit or in the context of special contract provisions.
7. The addition of hourly employees who perform the similar job functions to the bargaining unit containing full-time and regular part-time personnel does not alter the district-wide unit in a manner that justifies severance of a separate bargaining unit of employees at the Renton Vocational-Technical Institute.
8. The separate sources of funding, and differences of pupil and program characteristics, physical separation of the job site, and separate personnel operations at the Renton Vocational-Technical Institute must be taken in context of the overall authority exercised by the Board of Directors and Superintendent of Schools of the Renton School District, and of the finance, labor relations, custodial and maintenance operations which are administered in common for all programs in the school district.
9. The creation of a separate bargaining unit of office-clerical and aide employees at the Renton Vocational-Technical Institute would fragment the employer's workforce and disrupt historically stable patterns of collective bargaining in district-wide units of classified employees within the employer's work force.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-25 WAC.

2. A district-wide unit of classified office-clerical and aide employees of Renton School District, including hourly employees performing similar work on a recurrent basis, is, and continues to be, an appropriate unit for the purposes of collective bargaining under RCW 41.56.060.
3. The severance of a unit of classified office-clerical and aide employees at Renton Vocational-Technical Institute from the historical district-wide unit of like employees, as sought by the petition of the Washington Federation of Teachers, would not be an appropriate unit for the purposes of collective bargaining under RCW 41.56.060.
3. A question concerning representation currently exists in these proceedings under RCW 41.56.050, 41.56.060 and 41.56.070 in an appropriate bargaining unit as described in paragraph 2 of these conclusions of law.

NOW, THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed by the Washington Federation of Teachers / AFT in Case No. 7458-E-88-1278 is DISMISSED.

and it is

DIRECTED

An election by secret ballot shall be held under the direction of the Public Employment Relations Commission in the bargaining unit consisting of:

All full-time, regular part-time and hourly office-clerical and aide employees of the Renton School District, excluding confidential employees, supervisors, casual employees, students, and all other employees of the employer,

to determine whether such employees desire to be represented for the purpose of collective bargaining by the Renton Association of Educational Office Personnel, by the Classified Public Employees Association / WEA, by the Washington Federation of Teachers / AFT, or by no representative.

DATED at Olympia, Washington, this 17th day of February, 1989.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This Order may be appealed
by filing timely objections
with the Commission pursuant
to WAC 391-25-590.