

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
CLASSIFIED PUBLIC EMPLOYEES	)	
ASSOCIATION / WEA	)	CASE 9017-E-91-1492
	)	
Involving certain employees of:	)	DECISION 3911 - PECB
	)	
PATEROS SCHOOL DISTRICT	)	DIRECTION OF ELECTION
	)	
	)	

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Faith Hanna, Attorney at Law, Washington Education Association, appeared for the petitioner.

James Hobbs, Labor Relations Consultant, appeared on behalf of employer.

On February 12, 1991, the Classified Public Employees Association (CPEA), an affiliate of Washington Education Association, filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission. The CPEA sought to replace Pateros School District Classified Employees (PSDCE) as the exclusive bargaining representative of classified employees of the Pateros School District.

A pre-hearing conference was held on March 11, 1991, where the parties framed issues concerning the eligibility of 7 of the 19 potential voters. The parties agreed that it was necessary to determine the eligibility questions prior to conducting a representation election.

A hearing was held at Pateros, Washington, on March 28, 1991, before Hearing Officer J. Martin Smith. The CPEA and the employer filed written arguments in the matter. On May 16, 1991, the PSDCE filed a written disclaimer of its bargaining rights for the unit involved.

BACKGROUND

Located in southern Okanogan County, the Pateros School District provides educational services for approximately 270 students in Kindergarten through the 12th grade. The employer operates one campus, with several buildings clustered within a radius of one city block. Gary Patterson has been the superintendent at Pateros since 1987. The employer has approximately 20 certificated employees, including the principal/athletic director/librarian at the high school.<sup>1</sup> The employer has 17 classified employees, whose work time accumulates to 7.0 "full-time equivalent" employees for funding purposes.<sup>2</sup>

The PSDCE historically represented the employer's classroom aides, office-clerical employees, bus drivers, food service workers, and custodians. The latest contract between the employer and the PSDCE expired on August 31, 1990.

POSITIONS OF THE PARTIES

The employer argues that Mike Sadowsky and Tom Ruddy are "supervisors" who are properly excluded from the bargaining unit, because of their duties directing the work of other bus drivers and maintenance employees. The employer urges that clerical employees Kathy Barlow and Jane Hiltz should be excluded as "confidential" employees. The employer also urges the Commission to rule that certificated employees should be allowed to participate in a

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<sup>1</sup> The employer's non-supervisory certificated employees are represented by an affiliate of the Washington Education Association for the purposes of collective bargaining pursuant to Chapter 41.59 RCW.

<sup>2</sup> The total of 17 includes "substitute" employees. The employer indicates it is "overstaffed" by .75 FTE, as compared to the state's funding formula.

classified employee bargaining unit only if they perform 30 or more shifts of classified bargaining unit work for which they are paid classified wages. Such a rule would exclude work performed during the course of a school activity by a certificated employee, but would include extracurricular events before and after school.

The CPEA acknowledges that Ruddy and Sadowsky are "senior" or "lead" employees at Pateros, but contends they are not supervisors who ought to be excluded from the bargaining unit. The CPEA argues that Hiltz and Barlow perform administrative clerical work, but not "confidential" work which would warrant their exclusion from a bargaining unit of classified employees. The CPEA contends that all persons who have driven buses on 30 or more occasions in the last year should be considered to be regular part-time employees eligible to vote in this representation case, without regard to whether they are also employed as certificated employees. Finally, the CPEA contends that a substitute who has worked less than 30 days in a one-year period, but who has been paid the full wages of a bus driver for the work performed, should be included in the bargaining unit.

## DISCUSSION

### The "Confidential" Claims

As described above, issues have been framed in this case as to whether Kathy Barlow and/or Jane Hiltz are "confidential employees" that should be excluded from the definition of "public employee":

**RCW 41.56.030 DEFINITIONS.** As used in this chapter:

...

(2) "Public employee" means any employee of a public employer except any person ... (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confi-

dential relationship to the executive head or body of the applicable bargaining unit ....

That exclusion was given a narrow interpretation by the Supreme Court in International Association of Fire Fighters v. City of Yakima, 91 Wn.2d 101 (1978), as follows:

When the phrase confidential relationship is used in the collective bargaining act, we believe it is clear that the legislature was concerned with an employees' potential misuse of confidential employer labor relations policy and a conflict of interest.

...

We hold that in order for an employee to come within the exception of RCW 41.56.030(2), the duties which imply the confidential relationship must flow from an official intimate fiduciary relationship with the executive head of the bargaining unit or public official. The nature of this close association must concern the official and policy responsibilities of the public officer or executive head of the bargaining unit, including formulation of labor relations policy. General supervisory responsibility is insufficient to place an employee within the exclusion.

IAFF v. City of Yakima [emphasis supplied].

The Commission has applied that "labor nexus" interpretation in numerous subsequent cases.

The Superintendent's Secretary -

Kathy Barlow acts as secretary to Superintendent Patterson, as well as performing office-clerical functions for the employer's elementary school. In her six years at Pateros, Barlow has normally worked all 12 months of the year. She generally spends her working day in the employer's central office facility, where her work station is located between the superintendent's office and the elementary classrooms.

Barlow's duties as secretary to the superintendent include preparation of Patterson's correspondence for signature, typing purchase orders for materials used in the employer's schools, and answering incoming telephone calls. Barlow testified that she has done much more typing since Patterson arrived in 1987, and that she prepared the employer's bargaining proposals for the classified negotiations in 1990. She also prepared two or three letters on labor relations matters, and prepared extensive materials regarding grievances and litigation filed by a certificated employee.<sup>3</sup> Barlow testified that she has used a computer to prepare a "salary matrix" for use in collective bargaining negotiations in the past.

As recording secretary to the school board, Barlow attends all school board meetings where the public may be present. Although Barlow is not invited to sit in on the "executive sessions" of the school board, she is privy to its policy decisions. She also indicated total access to personnel records and financial data of the school district. The employer's organization chart shows a direct link between the superintendent's secretary, the superintendent and the school board.

As elementary school secretary, Barlow enrolls students new to the district, provides general clerical support for the elementary school staff, and acts as the nominal "medical officer" to deal with pupil sickness, first aid and phoning of parents.

Barlow sat at the bargaining table as a representative of the independent organization of classified employees in both 1989 and 1990. Further, she signed the 1990 contract addendum one behalf of the PSDCE.

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Notice is taken of the docket records of the Commission, which reveal two unfair labor practice cases, which resulted in Pateros School District, Decision 3744, 3745 (EDUC, 1991).

The Commission has generally excluded at least one clerical employee in each school district as "confidential". Such a person typically reports directly to the superintendent, and performs the same types of duties as are performed by Kathy Barlow within the Pateros School District. See, North Mason School District, Decision 3155 (PECB, 1989); North Kitsap School District, Decision 3405 (PECB, 1990); and Oak Harbor School District, Decision 3581 (PECB, 1990). Taken as a whole, the close association between Ms. Barlow and the superintendent creates a clear potential for conflicts of interest. This is true even if her "community of interest" otherwise lies with the other classified employees of the employer. Her past association with, and leadership role in, the independent association point out the difficult situation which would be encountered in future bargaining. In the eyes of the public and the superintendent, Barlow is seen as a member of the "management team". Her continuous and necessary exposure to negotiations materials leads to a conclusion that Barlow is a "confidential" employee excluded from bargaining by RCW 41.56.030-(2).

The Accountant/Bookkeeper -

Jane Hiltz is the bookkeeper/business manager for the employer. She has held her position since 1975, and is a "12 month" employee. Like Barlow, Hiltz works at the employer's central office. Her work shift is from 7:00 a.m. to noon and 1:00 p.m. to 4:00 p.m.

Hiltz handles all of the employer's financial matters, except for funds held by the Associated Student Body (ASB). She is responsible for payroll, and administration of the employer's budget. She receives warrants which constitute revenue, and makes appropriate bank arrangements. She also pays out the district's money for accounts payable and payroll.<sup>4</sup> It is her job to know the fund

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Hiltz is custodian of the "hours-worked" ledger for the classified employees, and testified in this proceeding concerning the work hours for other disputed individuals.

balances for various school district accounts, so that she can quickly keep the superintendent and school board informed of such information. She prepares year-end financial and personnel reports for submission to the Superintendent of Public Instruction (SPI). Certain claims and general grant information is processed through her desk. When Hiltz is not available to perform these tasks, an office aide substitutes for her. Hiltz has done some typing in the absence of Kathy Barlow.

Hiltz has prepared computations of employee salaries and possible salary and benefit increases, but her testimony about this activity cast some doubt on the "confidential" nature of the function:

Q. (Ms. Hanna) Do you have any connection with ... bargaining for the teachers?

A. Yes, I do get information for Mr. Patterson.

Q. What kinds of information?

A. ... what they receive now and possibly what an increase would be and work out medical.

Q. And about how many times have you done that?

A. Well, each year.

Q. And about how long does that take you?

A. ... Probably a couple of hours.

Transcript, pages 88-89.

Q. (Mr. Hobbs) Do you help formulate financial information relative to labor relations if requested by the Superintendent?

A. Yes, I help. I do what Mr. Patterson asks me.

Transcript, pages 94-95.

Q. (Mr. Hobbs) Information that's not available for public consumption. That it's important to you to know and important for the superintendent to know are important for the Board to know.

A. Yes. Although I understand that if I am asked by someone in the community that it's available to them.

Transcript, page 96.

All of the foregoing testimony was prefaced by testimony establishing that Hiltz had served as a bargainer for the classified employees in the past. The employer's attempt to rehabilitate its theory by a subsequent leading question was not entirely successful, and left the impression that the information was generally available to the public.

Not all mathematical computations are "confidential". The budget and salary reporting for all Washington school districts are standardized under procedures prescribed by SPI. Most school districts and the unions that represent school district employees are equally competent to compute the cost of wage and benefit increases allocated by the Legislature.<sup>5</sup> While Barlow has done salary computations and has a close association with the school board and superintendent, there was no indication in the record that Hiltz attends strategy meetings where the employer's labor relations policies or possible bargaining proposals were discussed.

The situation described by the evidence concerning Hiltz must be distinguished from the situation of the payroll secretary in

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If a school district reports to SPI that it paid a particular amount in straight-time wages for one school year, and the state provides funds for a percentage wage increase from the SPI figures for the next school year, the computations to apply the percentage increase to individuals are relatively simple.



Richland School District, Decision 3626 (PECB, 1991), whose job description was altered and pay was increased to reflect changed duties. In Richland, the employee excluded from bargaining rights was required to make confidential cost evaluations concerning the financial impact of union wage proposals, medical benefit proposals and sick leave accumulation proposals, among others. A pattern of fiduciary duties was established over the course of one-and-a-half years since the change of the job description. See, also, Wapato School District, Decision 2227 (PECB, 1984). Here, Jane Hiltz is paid at the standard rate of pay for a "secretary", there is no job description which requires her to be involved in labor relations strategy sessions, and the information she handles is available to the public and not a "secret". Taking the record as a whole, the potential for a conflict of interest with the bargaining unit has not been demonstrated. Given the fact that the union knows, or has a right to know, the information handled by Hiltz, the employer has not met its heavy burden to establish the necessity for exclusion of Hiltz from all collective bargaining rights. See, City of Seattle, Decision 1797-A (PECB, 1985).

#### The "Supervisor" Issues

The law on "supervisors" is also clear. They are employees within the meaning of Chapter 41.56 RCW, who have a right to organize for the purposes of collective bargaining. Municipality of Metropolitan Seattle (METRO) v. Department of Labor and Industries, 88 Wn.2d 925 (1977). At the same time, the Commission has exercised its "unit determination" authority under RCW 41.56.060 to exclude supervisors from the bargaining unit containing their rank-and-file subordinates, where a potential exists for conflicts of interest within the bargaining unit. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981).

The indicia of supervisory status found in Section 2(11) of the National Labor Relations Act suggest the types of authority that are of concern in assessing the existence of a potential conflict of interest. The Commission looks for evidence of actual authority to hire, assign, promote, transfer, lay off, recall, suspend, discipline, or discharge other employees, or to effectively recommend such actions, or authority to adjust grievances on behalf of the employer. See, Spokane International Airport, Decision 2000 (PECB, 1984). The Commission is reluctant to make determinations based upon categories or labels. Even a "working foreman" can be determined to be a supervisor, where such a person can participate in hiring decisions and is paid a wage higher than subordinate employees. City of Mukilteo, Decision 2202-A (PECB 1986); City of Royal City, Decision 2490 (PECB, 1986); Inchelium School District, Decision 2395-A (PECB, 1987).

In this case, the record establishes, at a minimum, that Tom Ruddy and Mike Sadowsky are "lead" employees with seniority over other maintenance and transportation employees of the school district. The question of whether they should be excluded as "supervisors" requires a more detailed review of their situations.

#### The Maintenance Supervisor -

Mike Sadowsky has worked for the Pateros School District for 11 years. His title was "head custodian" for most of that time, until the designation of "maintenance supervisor" was written into the collective bargaining agreement between the employer and the PSDCE, at the request of the former superintendent. No increase of pay or authority came with the change of title.

Sadowsky works as the day-shift custodian on the school campus, and he is responsible for daily cleaning of the downstairs areas of the three buildings on the campus. After completing those tasks, he is responsible for maintenance work on the buildings and grounds.

Sadowsky has certain responsibilities with regard to less-senior custodians, but there is no indication that the employer expects Sadowsky to represent the employer in collective bargaining with the classified employees. Sadowsky testified that he is invited to "sit in" on interviews of job applicants, but he indicated that he acts as a resource person to answer the interviewee's questions about the type of work to be encountered. His ability to influence hiring decisions has been severely limited by the fact that there was only one applicant in the last two years. Although he was familiar with the discipline of one former employee, Sadowsky had nothing to do with the written discipline or termination, except to be informed of it in his capacity as agent of the former exclusive bargaining representative. This makes it difficult to believe that his written evaluations of David Rains, the other custodian, in 1989 and 1991, were anything but occasional and sporadic events. They do not appear to have implemented a consistent policy of the employer. Sadowsky testified that he would have to check first with the superintendent before making a change of duties in the custodial area. The superintendent also approves leave requests, especially vacation leave.

In the past, Sadowsky has aligned with the classified employees, and he was active as a negotiator on behalf of the former exclusive bargaining representative of the classified employees. No case was filed with the Commission to seek exclusion of Sadowsky from the bargaining unit at the time of the change of his title.

Given the record as the whole, it is clear that Sadowsky has only limited authority, and that his exercise of authority has been sporadic and perfunctory. He is entitled to remain in the classified bargaining unit.

The Transportation Supervisor -

Tom Ruddy has worked for the Pateros School District for 10 years. He formerly worked as a custodian, but recently has worked as a

mechanic and bus driver. The employer now uses the title "transportation supervisor-bus driver".

Ruddy works 6:30 a.m. to 5:00 p.m., with a noon break of two hours. He works all 12 months of the year. Ruddy has driven a regular bus run since 1987, and now drives for 3.5 hours per day in the autumn and 5.5 hours the remainder of the school year. His bus run is the longest operated by the employer, and he transports more than one half of the students who are bussed to Pateros. For two hours per day, Ruddy fuels, services and repairs the buses. For the balance of his time, he performs "extra" custodial work such as cleaning the bathrooms of the elementary school and maintaining the athletic fields in the spring and summer.

Ruddy has certain responsibilities concerning the bus operation, including coordination of bus routes and assignments of the other bus drivers. This task took two hours per day when he became the "transportation supervisor" in 1985, but the record suggests that the coordination activity is now down to one hour per day. This involves altering route maps and discussing problems with drivers. Buses are provided for field trips and other special events via "trip request" forms which are first approved by the high school principal and the superintendent. Ruddy must then match an available bus and an available driver to the requested time. Substitute bus drivers may be called. Ruddy is responsible for a three-hour in-service training program every year, and he trains new drivers so that they can obtain or keep the state licenses needed to drive school buses.

The superintendent testified that Ruddy has full authority to organize and conduct the department, and that he expects Ruddy to evaluate employees, approve overtime and handle employee discipline and grievances. Ruddy testified that he had "input" into the hiring of Dwayne York, Nancy Zahn and David Rains. The record remains somewhat inconsistent as to Ruddy's authority, however:

Ruddy does not remember making a recommendation as to the hiring of Nancy Zahn, but merely remembers "being involved" in the decision along with Sadowsky.

Ruddy is not assigned to write evaluations of any of the bus driving personnel, but remembers discussions with Patterson regarding one accident involving a bus driver.

Ruddy is part of the Monday morning "cabinet" meeting, along with Sadowsky, but he also related that the food service director (who is stipulated to be a member of the bargaining unit) is also included in those meetings.

Patterson discussed bargaining proposals with Ruddy knowing full well that Ruddy spoke for the classified employees in contract negotiations, rather than for the school district.

The title assigned to a position is relatively meaningless as an indicator of supervisory status. Evidence of authority is the key. As has been commented regarding private sector supervisors:

... [T]he exercise of authority to assign or direct work, when exercised in a merely routine, clerical, perfunctory, or sporadic manner does not confer supervisory status on an employee; and employees who are merely conduits for relaying management information to other employees are not true supervisors.

Delta Mills and Clothing Workers, 287 NLRB No. 38, 127 LRRM 1170 (1987), citing George F. Foss, 270 NLRB 232, 116 LRRM 1075 (1984); Hydro Conduit Corp., 254 NLRB 433, 106 LRRM 1123 (1981); Munford Inc., 266 NLRB 1156, 113 LRRM 1114 (1983); Bowne of Houston Inc., 280 NLRB No. 132, 122 LRRM 1347 (1986).

As in Cascade School District, Decision 1961-A (PECB, 1983), Ruddy is being paid the same hourly wage as are the remainder of the transportation employees. In Cascade, however, there were eight bus drivers, the supervisor was given the option of having compensatory time rather than overtime paid to him, and was expected by the superintendent to be a member of the management bargaining team during negotiations with the union. Those elements

are missing here. Ruddy has the largest share of the bargaining unit work among the three full-time drivers employed by the Pateros School District. Taken as a whole, the record indicates that Tom Ruddy is an important person, but primarily as a "conduit" between the employees and the superintendent. His supervisory efforts are perfunctory and sporadic, at most. His situation fits the definition of a "lead" position who is entitled to be in the bargaining unit.

### The "Substitute" Issue

The Public Employment Relations Commission has dealt with the unit inclusion of part-time and "substitute" bus drivers in a number of cases. See, Sedro Woolley School District 101, Decision 1351-C (PECB, 1982); Mead School District, Decision 2410 (PECB, 1986); and Mount Vernon School District, Decision 2273-A (PECB, 1986). It has been pointed out in those cases that school districts have an ongoing need for a cadre of "on-call" personnel to maintain their transportation schedules in the face of routine illnesses and leaves, and that certain individuals have tended to develop long-term relationships with school district employers as "substitute" employees. The inclusion of at least some such employees in bargaining units is based upon this theory:

1. That employees who have worked for a particular employer as a "substitute" for more than 30 days in a one-year period have acquired an ongoing interest in the employment relationship, and have ceased to be "casual" employees, and

2. Given an expectation of continued employment, such employees are "regular part-time employees" who should be placed in the same bargaining unit with other employees performing the same type of work.

More precisely stated, the test for conversion from "casual" employment to "regular part-time" employment has been marked by having been employed for more than 30 days within any 12-month

period ending during the current or immediately preceding school year, so long as the individual continues to be available for employment on the same basis. The Executive Director is not persuaded by the union's argument in this case that, in effect, would abolish the "30 days" test and the entire distinction between "casual" and "regular part-time" employment in the name of making an adjustment for a very small school district.

Inclusion of Certificated Employees in Unit

While "certificated" employees of a school district are generally covered by the Educational Employment Relations Act, Chapter 41.59 RCW, for the purposes of collective bargaining with their employer, two specific variations must be considered:

First, a person who happens to hold a teaching certificate will still be considered a "public employee" under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, while employed by a school district in a position that does not require a teaching certificate. See, Olympia School District, Decision 799 (PECB, 1980).

Second, it is entirely possible for an individual to be a "dual status" employee with bargaining rights in each of the two or more bargaining units in which that individual is employed. See, Longview School District, Decision 2551-A (PECB, 1987) and Longview School District, Decision 3109 (PECB, 1989).

In this case, certain of the employer's certificated employees have obtained the training and licenses necessary to drive a school bus, and the employer has permitted or assigned them to drive buses under certain circumstances. Questions arise here under both the Olympia and Longview precedents.

Wally Scroggie is employed by the Pateros School District as a classroom teacher. He teaches botany courses, and takes his

students on field trips from time to time. Tom Ruddy explained the local practice in the following terms:

What would happen is with Wally [Scroggie] on a botany field trip usually there will be a note on the request saying "I'll drive." And because its a short bus run it doesn't make sense to bring somebody in. A lot of time [other substitutes are] not going to want to do it, so its convenient all the way around. Had I brought someone else in they would get paid for it, whereas Wally wouldn't.

Jane Hiltz testified that it was the employer's policy not to pay teachers extra for driving the bus for a field trip which takes place during regular classroom hours, the theory being that this would be a "double" payment. Scroggie has driven school buses on other occasions for extracurricular trips not associated with his classroom duties, and has been paid an hourly wage as a bus driver for those assignments.

Lyle Blackburn is also employed by the Pateros School District as a teacher. Like Scroggie, he has driven the school bus for a number of field trips involving his classes. Blackburn has also driven school buses on other occasions for extracurricular trips not associated with his classroom duties, and has been paid an hourly wage as a bus driver for those assignments.

The CPEA claims all bus driving work as "classified employee" work, and it would have Scroggie and Blackburn credited for a day worked as a bus driver for each occasion when they drove a bus, regardless of whether they were compensated at the hourly rate of pay for the bus driving work. The CPEA would then apply the above-cited precedents on inclusion of regular part-time employees, leading to a conclusion that both Scroggie and Blackburn qualify as "dual status" employees with eligibility to vote in the bargaining unit of classified employees. The employer argues, on the other hand, that bus driving performed as part of a certificated employee's



teaching function should not be considered in evaluating their eligibility as "classified" employees.

In processing a representation case, the Commission takes the parties where it finds them. If a union receives certification as exclusive bargaining representative as a result of the representation case, its bargaining rights will commence from the status quo which exists at the time of the certification. The record in this case evidences a local practice in which at least some of the employer's certificated employees have driven school buses as part of their teaching duties, without any additional compensation. The fact that such a practice may be uncommon among Washington school districts does not constitute a basis for saying that it must be discontinued. Rather, that practice will be a part of the status quo under which the CPEA would commence bargaining if it is successful in the election directed herein.

The incidental bus driving done by the employer's certificated employees in connection with their teaching functions is not a basis for a claim of "dual status", or of voter eligibility in the classified bargaining unit. On the other hand, the same individuals clearly become competitors with other regular and casual classified employees for the "extracurricular" bus driving assignments for which they have been compensated at an hourly rate. They could become "dual status" employees under Longview, supra, on the basis of such work, if the assignments are sufficient in number to meet the qualification for "regular part-time" status, as described above.

#### FINDINGS OF FACT

1. Pateros School District is a school district of the state of Washington, and is a "public employer" within the meaning of RCW 41.56.030.

2. Classified Public Employees Association, an affiliate of the Washington Education Association, has filed a timely and properly supported petition for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of all classified employees of the Pateros School District.
3. The classified employees of the Pateros School District were formerly represented for the purposes of collective bargaining by an independent organization, Pateros School District Classified Employees, which has since disclaimed all rights as exclusive bargaining representative of the bargaining unit.
4. As the secretary to the superintendent of schools of the Pateros School District, Kathy Barlow has regular and necessary access to confidential labor relations materials and bargaining strategies of the employer. She assists in the analysis and preparation of proposals for the employer's use in collective bargaining. She acts as recording secretary for the school board, attends all of its public meetings, and is privy to the employer's labor relations policies.
5. As the accountant/bookkeeper for the Pateros School District, Jane Hiltz is responsible for processing receipts and payments for the employer, preparation of reports for filing with the Superintendent of Public Instruction, and answering inquiries by the superintendent and school board concerning the financial affairs of the employer. She has, from time to time, been asked to prepare salary and benefits computations, but has been instructed to release such materials to the public, upon request.
7. Mike Sadowsky acts as head custodian for the Pateros School District. Apart from being responsible for cleaning the main school buildings during the day shift, he interprets and

conveys the requirements of the superintendent and principal to the other custodial/maintenance employees. He does not have or exercise independent authority, in the name of the employer, as supervisor of other employees. His recommendations are subject to independent review and decision by the principal and superintendent.

6. Tom Ruddy acts as the head of the transportation function for the Pateros School District. Apart from driving the longest of the employer's bus runs and performing mechanic duties which together occupy the substantial majority of his work time, he adjusts bus routes and acts as the conduit for information between the superintendent and the other transportation employees. He does not have or exercise independent authority, in the name of the employer, as supervisor of other employees. His recommendations are subject to independent review and decision by the principal and superintendent.
7. Betty Wagoner has worked for the Pateros School District from time to time as a substitute bus driver. She works on-call, when a full-time or regular part-time employee of the Pateros School District is unable to perform their assignment.
8. Wally Scroggie and Lyle Blackburn are each employed by the Pateros School District as a classroom teacher. Each of them has the licenses and certifications required to drive a school bus, and each of them has driven the employer's school buses for field trips which are an extension of their classroom teaching activities. They have received no extra compensation for such bus driving duties.
9. Wally Scroggie and Lyle Blackburn have each worked for the Pateros School District from time to time as a bus driver for extracurricular runs. When so employed, they have been paid the hourly rate of pay applicable to school bus drivers.

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 bargaining unit consisting of all full-time and regular part-time classified employees of the Pateros School District, excluding elected officials, the superintendent, certificated employees, confidential employees, and supervisors, is an appropriate unit for purposes of collective bargaining under RCW 41.56.060.
3. As the secretary to the superintendent, Kathy Barlow is a confidential employee, and is not a "public employee" within the meaning of RCW 41.56.030.
4. As the accountant/bookkeeper, Jane Hiltz is a public employee, and is not a "confidential" employee within the meaning of RCW 41.56.030(2)(c).
5. As the lead employee in the custodial-maintenance function of the Pateros School District, Mike Sadowsky does not have or exercise sufficient supervisory authority to warrant his exclusion, pursuant to RCW 41.56.060, from the bargaining unit described in paragraph 2 of these conclusions of law.
6. As the lead employee in the transportation function of the Pateros School District, Tom Ruddy does not have or exercise sufficient supervisory authority to warrant his exclusion, pursuant to RCW 41.56.060, from the bargaining unit described in paragraph 2 of these conclusions of law.

7. Bus driving work performed, under local practice, by certificated employees of the Pateros School District as part of their teaching function, as described in paragraph eight of the foregoing findings of fact, is not a basis for a claim of eligibility to be included in a bargaining unit of classified employees of the Pateros School District.
8. Individuals who have not worked for this employer for at least 30 days of work within a qualifying 12-month period are casual employees who do not have a reasonable expectation of continuing employment, and are properly excluded from the bargaining unit under RCW 41.56.060.
9. Individuals who have been employed by this employer for more than 30 days of work within a 12-month period, including work as described in paragraph nine of the foregoing findings of fact, and who continue to be available for such assignments, have a reasonable expectancy of continued employment by the school district during the remainder of that school year and during the succeeding school year, except where the employment relationship has been expressly terminated. Such employees are properly included in the bargaining unit under RCW 41.56.060.

#### DIRECTION OF ELECTION

1. A representation election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission, in the appropriate bargaining unit described in paragraph 2 of the foregoing conclusions of law, for the purpose of determining whether a majority of the employees in that unit desire to be represented for the purposes of collective bargaining by Classified Public Employees Association / WEA.

2. The eligibility cut-off date for the election directed herein shall be the date of this order.
3. The eligibility of Wally Scroggie, Lyle Blackburn and any other similarly situated certificated employee of the Pateros School District to vote in the election directed herein shall be limited to work of the type described in paragraph 9 of the foregoing findings of fact, applied to the standards set forth in paragraphs 8 and 9 of the foregoing conclusions of law as of the date of this order.
4. The eligibility of Betty Wagoner and any other similarly situated employee of the Pateros School District shall be determined on the basis of paragraphs 8 and 9 of the foregoing conclusions of law, as of the date of this order.

Issued at Olympia, Washington, the 12th day of November, 1991.

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.