

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of)	
)	
PUBLIC SCHOOL EMPLOYEES OF)	CASE NO. 1532-C-78-73
WASHINGTON)	
)	DECISION NO. 788 PECB
For clarification of an existing)	
bargaining unit of employees of)	
)	ORDER CLARIFYING
WAPATO SCHOOL DISTRICT NO. 207)	BARGAINING UNIT
)	

G. P. Sessions, attorney at law, appeared on behalf of the union.

Robert D. Schwerdtfeger, consultant, appeared on behalf of the employer.

On June 16, 1978, Public School Employees of Washington made a request, by letter, for clarification of an existing bargaining unit of employees of Wapato School District with respect to the newly created position of "administrative bookkeeper/secretary". A formal petition was filed on March 14, 1979. A hearing was held on May 24, 1979 before James N. Leibold, Hearing Officer. Both parties filed post-hearing briefs.

POSITIONS OF THE PARTIES

The employer contends that the disputed employee is a "confidential" employee within the meaning of RCW 41.56.020(2)(c), and should be excluded from the bargaining unit. It relies particularly on its own characterization of the position as "confidential", the involvement of the disputed employee with materials including payroll records and bid correspondence which the employer characterizes as "confidential", and its intention to use the employee in its preparation for collective bargaining negotiations.

The union contends that the disputed employee is not within the "confidential" exclusion as interpreted by the Supreme Court in IAFF v. City of Yakima, 91 Wn.2d 101 (1978), that the district already has other employees who are excluded from the bargaining unit as "confidential", and that much of the information handled by the disputed individual is either public record or is not of a type protected by the "confidential" exclusion of RCW 41.56.

BACKGROUND

The union was certified by the Public Employment Relations Commission on July 16, 1976 as the exclusive bargaining representative of all classified employees

in secretarial-clerical classifications, excluding the secretary to the Superintendent of Schools, the payroll clerk and a voucher clerk. The unit description was agreed to by the parties in a consent cross-check agreement. It appears from this record that all three of the previously-excluded positions continue to exist.

During the summer of 1977, Educational Service District 105 formed a new data processing cooperative. The Wapato School District was one of the original members of that cooperative, and it instituted a new data processing system through that cooperative in September, 1977. The new data processing system included a change of computer input/output from a central processing point to a terminal installation in the employer's office. During October, 1977, the employer advertised for a "terminal operator administrative bookkeeper kind of person". The present incumbent commenced work in the disputed position on December 1, 1977 and was excluded from the bargaining unit at that time by unilateral determination of the employer. A recently-developed job description for the disputed position lists the following as "specific responsibilities":

1. Maintain up to date student accounting records including test scores, grades, enrollment data and class schedules.
2. Maintain a complete set of accounting records for Associated Student Body.
3. Operate the terminal hooked to the ESD #105 computer/printer. Maintain all systems and accounting for the ASB, General, Bond and Building Funds.
4. Prepare all required journal entries for applicable funds.
5. Prepare all quarterly reports such as FICA, Industrial Insurance, Unemployment and CETA reimbursements.
6. Prepare all vouchers for the ASB and Building Fund and disburse funds for payment of vouchers.
7. Transcribe all data relating to negotiations for the School District and the bargaining unit. Keep minutes on the above data.
8. Act as a backup of preparation for payroll for the entire district work force including both certificated and classified salaries.
9. File all computer output for each fund as applicable. Distribute computer output to proper subject matter areas.
10. Assist personnel in filing of personnel records and their maintenance.
11. Prepare all correspondences for the Business Manager as required.
12. Prepare the School Board packet information, collate, and proofread the data and prepare for mailing to the Board members.
13. Prepare and input the data for all encumbrances of vouchers for the ASB and General Fund.
14. Maintain all revenues accounts for the ASB Fund; including transmittals and recording of deposits.

15. Post all bus requests to the request log by date and type of trip. Maintain control over bus schedules for field trips and extra curricular.
16. Prepare all budget input data through the terminal and physically prepare a budget based on data from the Business Manager.
17. Answer phones in the Central Office.
18. Act as a liaison between the ASB school buildings on accounting functions. Maintain correct balances of funds between central office and the ASB school accounts.
19. Prepare graphs on budget-related data for the Business Manager
20. Prepare Special Computer reports on fund accounting for each school and other special requests by the Business Manager.
21. Maintains a strict confidentiality of the School District's business except that which is public information.
22. Any other assigned duties as deemed necessary to fulfill normal duties.

The District hired a new business manager during or about August, 1978. His experience credentials indicate particular expertise in computerized data processing. While it is anticipated that he will be involved in collective bargaining in the future, the parties had a two-year collective bargaining agreement in effect at the time of his hire and neither the business manager nor the disputed employee were involved in the limited negotiations in 1978 on a "wage opener".

DISCUSSION

The disputed position is a new position which did not exist at the time of the consent agreement and the resulting certification establishing the existing bargaining unit description. The employer's classification of the position as a "confidential" position is clearly not binding on the Public Employment Relations Commission, and unit clarification proceedings are the appropriate vehicle for determining this dispute concerning the unit placement of the disputed individual. City of Richland, Decision 279-A (PECB, 1978), aff. Benton County Superior Court, 1979.

The definition of "confidential" and the exclusion of employees from bargaining rights on the basis of "confidential" status has been discussed in numerous cases in addition to IAFF v. City of Yakima, supra, including: Edmonds School District, Decision 231 (PECB, 1977); City of Tukwila, Decision 451-A (PECB, 1978); City of Lacey, Decision 396 (PECB, 1978); City of Anacortes, Decision 452 (PECB, 1978); City of Spokane, Decision 514 (PECB, 1978); Tacoma - Pierce County Law Enforcement Support Agency, Decision 537 (PECB, 1978); Cowlitz County, Decision 564, 564-A (PECB, 1979); City of Bellingham, Decision 565 (PECB, 1979); White Pass School District, Decision 573 (PECB, 1979); Tacoma School District, Decision 652 (EDUC, 1979); Lower Snoqualmie School District,

Decision 658 (PECB, 1979) and City of Seattle, Decision 689, 689-A (PECB, 1979). The principles involved are by now well established. The exclusion is limited to those necessarily having access to confidential information concerning the formulation of the employer's labor relations policies.

General computer input/output activities, general accounting, payroll accounting, budget preparation and access to information such as garnishments are not within the protected classes of information. City of Lacey, supra, and Cowlitz County, supra. None of the items in the job description except nos. 7, 11 and 12 even remotely qualify as grounds for exclusion.

Items 11 and 12 of the job description for the disputed position could indicate occasional access to protected classes of confidential information. However, the legislature's use of the word "necessarily" in RCW 41.56.030(2)(c) cannot be ignored. The employer has three other excluded positions in its central office, including two positions in the business office. The employer's own brief indicates a desire to transfer some of the duties of the excluded "payroll clerk" to the disputed position; but there has been no showing why the correspondence and packet preparation functions identified in items 11 and 12 of the job description cannot be performed by one of the other excluded positions.

The disputed individual has not had a historical involvement in preparations for collective bargaining. Speculation as to a future involvement with or access to confidential information on collective bargaining is not a sufficient basis for the present exclusion of a position from the coverage of the Public Employees Collective Bargaining Act. See: City of Seattle, Decision 689, 689-A (PECB, 1979) as distinguished from Lower Snoqualmie School District, Decision 658 (PECB, 1979). Furthermore, in the instant case, the business manager is a computer expert in his own right who is involved in the development of expanding uses of the computer into the collective bargaining field, and who appears to be capable of undertaking the "computer" aspects of the function ascribed to the disputed individual.

There is an inference to be drawn from the record that the "payroll clerk" would no longer have "confidential" responsibilities if functions are transferred to the disputed position. There is no evidence concerning the basis for the exclusion of the "voucher clerk" as confidential. In view of the existence of those excluded positions, it is concluded that there has not been sufficient showing of necessity for the exclusion of another clerical position in the school district.

FINDINGS OF FACT

1. Wapato School District No. 207 is a public employer within the meaning of RCW 41.56.030(1) and RCW 41.56.020.

2. Public School Employees of Washington is a labor organization within the meaning of RCW 41.56.010 and a bargaining representative within the meaning of RCW 41.56.030(3).

3. Public School Employees of Washington is the certified exclusive bargaining representative of all secretarial/clerical employees of Wapato School District No. 207. Excluded from the bargaining unit are the business manager, the secretary to the Superintendent of Schools, the payroll clerk and the voucher clerk. A dispute has arisen as to whether the "administrative bookkeeper/secretary" is an additional confidential employee who is excluded by RCW 41.56.020(2)(c) from the coverage of the Act and from the bargaining unit.

4. The administrative bookkeeper/secretary has specific job description responsibilities covering a wide range of general accounting and record-keeping functions, payroll, budget preparation and computer input/output. To the extent that any such information is privileged from public disclosure, it is not of a type such that disclosure would be detrimental to the collective bargaining relationship between the parties by the unauthorized disclosure of the labor relations policies of the employer.

5. By a job description developed during the processing of this case, the employer has purported to assign specific responsibility to the administrative bookkeeper/secretary concerning the evaluation of economic packages and the preparation of materials for collective bargaining. The administrative bookkeeper/secretary did not function in that capacity in the negotiations for the 1978-79 agreement between the parties, and such computations have been prepared, if at all, in the past by the payroll clerk excluded from the bargaining unit as a confidential employee.

6. In addition to the three clerical employees already excluded from the bargaining unit as "confidential" employees, the employer has a business manager who is knowledgeable on the operation of the computer system operated by the administrative bookkeeper/secretary.

CONCLUSIONS OF LAW

1. No question concerning representation presently exists in the bargaining unit described in paragraph 3 of the foregoing findings of fact, and the Public Employment Relations Commission has jurisdiction in this matter to issue an order clarifying an existing bargaining unit as to the status of a newly-created position.

2. The administrative bookkeeper/secretary is not a deputy, administrative assistant or secretary whose duties necessarily imply a confidential

relationship to the Superintendent of Schools of the employer, and is not a confidential employee within the meaning of RCW 41.56.030(2)(c).

ORDER

The position of administrative bookkeeper/secretary is included in the bargaining unit consisting of secretarial/clerical employees of Wapato School District No. 207, excluding confidential employees.

DATED at Olympia, Washington this 13th day of December, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director