

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of)	
)	
PUBLIC SCHOOL EMPLOYEES OF)	CASE NO. 1524-C-78-70
WASHINGTON)	
)	DECISION NO. 793 PECB
)	
For clarification of an existing)	
)	ORDER CLARIFYING
)	BARGAINING UNIT
EATONVILLE SCHOOL DISTRICT NO. 404)	
)	

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

Randy Bohannon, WSSDA Labor Relations Consultant, appeared on behalf of the employer.

On June 9, 1978, Public School Employees of Washington filed a petition for clarification of an existing bargaining unit of employees of Eatonville School District No. 404 with respect to the newly created position of "plant facilities engineer". A hearing was held on January 2, 1979 before Win E. Key, 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 41.56.030(2)(c) or a "supervisor" who should be excluded from the bargaining unit on unit determination principles and by analogy to a transportation supervisor position already excluded from the bargaining unit.

The union contends that the disputed position is principally a successor to a "head custodian" position historically included in the bargaining unit; that the disputed employee is not within the "confidential" exclusion as interpreted by the Supreme Court in IAFF v. City of Yakima, 91 Wn2d 101 (1978); and that the disputed employee is no more than a working foreman who is properly included in the bargaining unit.

BACKGROUND

The union is the voluntarily recognized exclusive bargaining representative of classified employees of the employer. Section 1.3 of the 1977 - 1979

collective bargaining agreement between the parties described the bargaining unit as:

"Transportation, Food Service, Custodial/Maintenance, Teacher Aides, Library Aides, Noontime Supervisors, Secretaries, except two (2) Secretaries to the Superintendent, and the Transportation Supervisor."

The classification of "Head Custodian - Eatonville" was listed specifically in the wage appendix to the collective bargaining agreement.

The "Head Custodian - Eatonville" position was vacated on or about June 30, 1978 by resignation of the incumbent. The employer had previously developed a job description for a new position of "Head of Maintenance and Custodians". The same position is referred to in a table of organization developed by the employer as a "maintenance person", and elsewhere in this record as the "plant facilities engineer". Robert Voss assumed the duties of the new position during or about May, 1978, when he transferred from a custodian position within the bargaining unit. The employer has not treated Voss as a bargaining unit employee in his current position.

The employer's administrative structure includes its Superintendent of Schools, the transportation supervisor, a food service "cook" position to which other food service employees report, and principals. The principals are described in the organizational chart of the school district as "a direct arm of the Board of School Directors. The custodial staff is directly responsible to the building principals for "minor repairs" and for operations while school is in session. All major repairs must be routed through the Superintendent's office. The record indicates that, in anticipation of a transition in the organization of custodial and maintenance services, one of the building principals was given the additional title of "Director of Maintenance". It was the testimony of the Superintendent that the "Director of Maintenance" designation was a temporary arrangement scheduled to terminate within a one year period, and that the principal holding that title had overall responsibilities rather than day-to-day involvement with assignment of work and evaluation of employees.

DISCUSSION

The union acknowledges in its brief that the disputed position is distinguished from the predecessor position by having the express authority to "plan the organization of the personnel to be used in the field of maintenance", "the responsibility to evaluate the personnel" and "budgetary responsibilities". The record indicates that the disputed individual has made recommendations on the hiring of new employees, and that those recommendations have been effective. The disputed employee testified that he has the authority to recommend the discharge or an employee.

There is no question that a substantial portion, although not a majority of Voss' work time is spent in the performance of custodial and maintenance work of a type performed by the former "head custodian". Were this merely a re-arrangement of work assignments within the bargaining unit, the situation would be similar to that encountered in Castle Rock School District, Decision 540 (PECB, 1978). However, the addition of supervisory responsibilities in the areas of assignment, transfer, hiring, evaluation and discharge of 6 to 7 subordinate employees requires comparison with the numerous cases dealing with supervisory exclusions. The revision of management structure, the transfer of responsibility away from certificated administrators to non-educators, and the conferring of traditionally supervisory responsibilities indicates that this case is controlled by White Pass School District, Decision 573-A (PECB, 1979).

FINDINGS OF FACT

1. Eatonville School District No. 404 is a public employer within the meaning of RCW 41.56.020 and RCW 41.56.030(1).
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 exclusive collective bargaining representative of classified employees of Eatonville School District No. 404, including custodial and maintenance employees.
4. The employer has re-organized its administration and, in connection with a transition from certificated to non-certificated administrators has created and filled the position of "plant facilities engineer". The plant facilities engineer has district-wide supervisory responsibilities on matters of assignment, transfer, hiring, evaluation and discipline of custodial/maintenance employees.
5. The plant facilities engineer does not have an official intimate fiduciary relationship with the Superintendent or Board of Directors of the district on matters of labor relations policy.

CONCLUSIONS OF LAW

1. No question concerning representation 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 the bargaining unit.
2. The plant facilities engineer is a public employee within the meaning of RCW 41.56.030(2).
3. The plant facilities engineer possesses distinct duties, skills and working conditions which warrant his exclusion for the bargaining unit of non-supervisory classified employees of the employer.

ORDER

The plant facilities engineer is excluded from the bargaining unit consisting of transportation, food service, custodial/maintenance, teacher aide, library aide, noontime supervisory and secretarial employees of Eatonville School District No. 404.

DATED at Olympia, Washington this 17th day of December, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in dark ink, appearing to read "Marvin L. Schurke", is written over the printed name below.

MARVIN L. SCHURKE, Executive Director