

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
CLOVER PARK SCHOOL DISTRICT)	CASE NO. 3462-C-81-164
NO. 400)	
For clarification of an existing)	DECISION NO. 1397 - EDUC
bargaining unit of its employees)	
represented by:)	
CLOVER PARK EDUCATION ASSOCIATION)	ORDER CLARIFYING
)	BARGAINING UNIT

Charles Alexander, Administrator of Personnel and Employee Relations, appeared on behalf of Clover Park School District.

Symone Scales, Attorney at Law, appeared on behalf of the Clover Park Education Association, WEA.

On May 26, 1981, Clover Park School District No. 400 filed a petition with the Public Employment Relations Commission (PERC) seeking clarification of an existing bargaining unit wherein they requested a ruling with respect to whether the Supervisor of Art Education, the Coordinator of Title I and the Court Liaison Officer are supervisors as defined in RCW 41.59. A hearing was held on July 22, 1981 in Tacoma, Washington before Ronald L. Meeker, Hearing Officer. The close of the hearing was delayed to permit the parties an opportunity to adduce evidence from an employee who was ill on July 22, 1981, and the hearing was closed upon filing, on December 1, 1981, of a stipulated statement of facts. The association did not file a brief on this record, but supplied a copy of a brief which it filed in a previous unit determination proceeding involving the same parties.

POSITIONS OF THE PARTIES:

The Clover Park School District (district) contends the Commission's ruling on certain "supervisor" exclusions in Clover Park School District, Decision 376-EDUC which was based on the identification (job description) of the positions stated at the June 23-24, 1977 Commission hearing, and that the job descriptions of the contested positions have been changed to such a degree since September 1, 1977 that they are now supervisory within the meaning of RCW 41.59.

The Association contends the positions of Supervisor of Art Education, Coordinator of Title I and the Court Liaison Officer are not supervisory

positions and are in fact holding the same positions and performing the same work assignments as they did when the Commission ruled in Decision No. 376 EDUC that they should be included in the non-supervisory educational employee unit.

STATUTORY AUTHORITY:

"41.59.020 Definitions. As used in this chapter:

* * *

(4) The terms 'employee' and 'educational employee' means any certificated employee of a school district except:

(d) Unless included within a bargaining unit pursuant to RCW 41.59.080, any supervisor, which means any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment, and shall not include any persons solely by reason of their membership on a faculty tenure or other governance committee or body. The term 'supervisor' shall include only those employees who perform a preponderance of the above-specified acts of authority."

DISCUSSION:

Review of Decision No. 376-EDUC discloses that the following classifications were found to be non-supervisory educational employees within the meaning of RCW 41.59:

- A. Supervisor of Art
- B. Coordinator of State Child Find Program
- C. Court Liaison Officer
- D. Coordinator of Title I
- E. Elementary Specialist
- F. Audio-Visual Coordinator

Those positions identified as B, E and F have been eliminated, and the employees who were holding the positions have either been reassigned or are no longer a part of the district's workforce. The district now contends that, due to a change in work assignments, the positions identified as A, C and D are now supervisory and should be permitted to affiliate with the Clover Park Association of Mid-Management Personnel, the organization certified as exclusive bargaining representative of the district's certificated supervisors.

Coordinator of Title I

In April of 1981 this position was combined with other administrative assignments and retitled "Coordinator of Special Programs". Sharonne Reher was the Coordinator of Title I and is the Coordinator of Special Programs. She has an office in the district administration building and reports to the Director of Elementary and Compensatory Education. Reher was responsible for the implementation of Gifted Education and Title I programs and was not scheduled to assume this new position until September of 1981. Reher was not called to testify by either party. Charles Alexander, Administrator of Personnel, testified he did not know the job description of Reher on a day to day basis but that, from a personnel perspective, she would be expected to evaluate employees who work in the programs she is charged with administering. In the job description there is only one item which indicated Reher may have supervisory authority: "(C-3) - Supervise the ESL/Bilingual Program Coordinator)". The evidence falls short of establishing that Reher is a supervisor within the meaning of RCW 41.59.020(4)(d).

Coordinator of Community Services

Harry Lang was not available to testify at the hearing. The agreed statement of facts made a part of this record shows that Lang has duties as follows:

"10% of his time preparing demographic data for the district.

5% as liaison between the district and community service agencies in order to provide students with referrals to such agencies.

60% of his time in attendance at juvenile courts testifying from district records regarding students.

35% of his time overseeing the OakRidge Group Home.

Lang supervises two secretaries and one part-time teacher who are assigned to the home. He is responsible for the evaluation of the part-time teacher."

Only the last two items even suggest authority of the type involved in RCW 41.59.020(4)(d) and it is concluded that this evidence is not sufficient to meet the "preponderance" test required by RCW 41.59.020(4)(d).

Supervisor of Art

Up to August of 1979, the job description for the Supervisor of Art Education was divided between teaching and administration. Effective August of 1979, according to the district, this position became totally administrative. For the past two years the Supervisor of Art Education has had the additional responsibilities not listed in the job description, namely:

1. Supervises one full-time certificated and one half-time classified employee who are assigned to his office in the administration building.
2. Is responsible for the evaluation of both employees subject to the approval by the Assistant Superintendent of Instruction.
3. Is the processor of step one of the grievance procedure of the labor agreement.
4. Interviews and recommends to the personnel department the hiring for the two positions.

With the addition of the authority over other personnel, the position now has substantial supervisory authority and is comparable to the Director of Music in Clover Park School District, Decision 376-EDUC, who was determined to be a supervisor.

FINDINGS OF FACT

1. Clover Park School District No. 400 is an employer within the meaning of RCW 41.59.
2. Clover Park Education Association is an employee organization recognized as the exclusive bargaining representative of non-supervisory certificated employees of the district.
3. The hiring of employees of the district is accomplished by action of the Board of Directors, upon recommendation of the Superintendent. The Supervisor of Art Education has made recommendations for hiring classified and certificated employees, which were effective.
4. Evaluation, discipline and suspension of employees of the district are matters controlled by state statutes and/or collective bargaining agreements but the Supervisor of Art Education is authorized to make recommendations on adverse actions against employees within the confines of those contractual agreements or statutes.
5. The Coordinator of Special Programs and Coordinator of Community Services are recognized for special expertise in their field and are primarily support personnel to the education program of the district.

CONCLUSIONS OF LAW

1. The Supervisor of Art Education is a "supervisor" within the meaning of RCW 41.59.020(4)(d).

2. The Coordinator of Special Programs and the Coordinator of Community Services are non-supervisory educational employees within the meaning of RCW 41.59.020(8).

ORDER

1. The position of Supervisor of Art Education shall be, and hereby is, excluded from the bargaining unit consisting of all non-supervisory educational employees of Clover Park School District as described in the current labor agreement between Clover Park School District No. 400 and the Clover Park Education Association.
2. The positions of Coordinator of Special Programs and Coordinator of Community Services shall be, and hereby are, included in the bargaining unit of all non-supervisory educational employees of Clover Park School District as described in the current labor agreement between Clover Park School District No. 400 and the Clover Park Education Association.

DATED at Olympia, Washington this 7th day of April, 1982.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director