

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of:	)	
PE ELL SCHOOL DISTRICT NO. 301	)	CASE NO. 2308-C-79-103
For clarification of an existing bargaining unit of employees represented by	)	DECISION NO. 1068 PECB
PUBLIC SCHOOL EMPLOYEES OF WASHINGTON	)	ORDER CLARIFYING BARGAINING UNIT

Olson, Pietig, and Althausen, by Charles Aulthausen, attorney at law, appeared on behalf of the employer.

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

On September 10, 1979, Pe Ell School District No. 301 (hereinafter "employer") filed a petition, in the form of a letter, requesting the Public Employment Relations Commission to clarify an existing bargaining unit of employees represented by Public School Employees of Washington (hereinafter "union") with respect to a secretarial position in the superintendent's office. A formal hearing was conducted on September 16, 1980, before Kenneth J. Latsch, Hearing Officer. The parties submitted post-hearing briefs.

POSITIONS OF THE PARTIES

The employer argues that the disputed secretarial position should be excluded from the existing bargaining unit because the position is confidential within the meaning of RCW 41.56.030(2)(c). The employer contends that the employee holding the disputed position has access to district personnel files and receives school board communications pertaining to collective bargaining. The employer further contends that the secretary types district negotiating proposals and prepares salary schedules.

The union contends that the secretarial position at issue should not be excluded from the existing bargaining unit. The union argues that the employee holding the disputed position does not perform confidential duties as a necessary part of her work, and she spends a majority of time in non-confidential bookkeeping and secretarial assignments.

BACKGROUND

Pe Ell School District No. 301 operates a consolidated school facility containing elementary, junior high, and high schools in a single complex. The district employs 23 certificated staff, including the superintendent and ten classified personnel. Public School Employees of Washington is the exclusive bargaining representative of a bargaining unit of classified employees composed of secretaries, aides, custodians, maintenance personnel, transportation personnel and food service workers. The collective bargaining agreement in effect from September 1, 1978 through August 1, 1980 specifies that employees holding confidential positions within the meaning of RCW 41.56.030(2) are excluded from the bargaining unit. The district has three office/clerical employees. One works in the high school/grade school office, and is not in dispute in this case.

The superintendent of schools is the district's chief spokesman for collective bargaining. Receiving direction from the members of the Pe Ell School Board, the superintendent is responsible for the preparation of collective bargaining proposals, including salary schedules. Negotiations usually take place during the course of the school year.

Two office/clerical employees work in the superintendent's office. Ruth Taylor is already excluded from the bargaining unit as a confidential employee. In addition to secretarial duties performed for the superintendent, Taylor serves as the district's business manager and spends a majority of her time in billing and budget preparation. Taylor works 12 months a year. Sandra Gudyka, who holds the position at issue, also works in the superintendent's office. At the date of hearing, Gudyka was a bargaining unit member.

DISCUSSION

Sandra Gudyka was originally hired as a teacher's aide in 1978. Shortly after she was hired, Gudyka was assigned secretarial duties in the superintendent's office to relieve increased work loads associated with the district's payroll procedure. Gudyka is responsible for certain aspects of the district's hot lunch program. She sells tickets one hour a week and spends approximately one hour a day monitoring hot lunch sales at the grade school cafeteria. Gudyka discusses food service policy with the superintendent, but she does not supervise food service employees or make evaluations of food service employees. Gudyka is employed during the regular school year. However, she is subject to call during summer months, and averages approximately 200 days of employment a year.

Gudyka is primarily responsible for preparing accounts payable. Supervised by Ruth Taylor, Gudyka checks vouchers and invoices to insure proper payment. She also prepares daily and monthly bus reports which contain expenditures made in the district's transportation program. As part of her regular duties, Gudyka types correspondence from the superintendent to school board members concerning collective bargaining negotiations, receives telephone calls from school board members concerning negotiations, and transmits such messages directly to the superintendent. She prepares salary schedules used by the district during negotiations.

Gudyka and Taylor share a work area attached to the superintendent's office. Personnel files are stored in the secretaries' office, and only Gudyka, Taylor and the superintendent have access to the files. School board members regularly visit the superintendent's office, holding discussions concerning personnel matters in Gudyka's presence. The secretaries' work area is very small, and conversations in the superintendent's office are easily overheard.

Numerous cases have reiterated the rule stated by the Supreme Court in IAFF v. City of Yakima, 91 Wn.2d 101 (1978):

. . . 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.

Although Gudyka does not come in contact with confidential collective bargaining materials on a daily basis, the evidence establishes that she comes in contact with such materials on a regular basis. Confidential questions are not determined on a "majority of time" test. On the contrary, it is the regularity of contact with confidential information which is determinative. See: Tacoma-Pierce County Law Enforcement Support Agency, Decision 84-A (PECB, 1977) as compared with Tacoma-Pierce County Law Enforcement Support Agency, Decision 537 (PECB, 1978), which arose following a change of assignments which deprived some of those involved of their regular contact with confidential labor relations information.

Mere access to personnel files and payroll data is not sufficient to exclude an employee on the basis of confidentiality. See: West Valley School District, Decision 798 (PECB, 1979). However, Gudyka's duties involve more than access to the personnel files. It appears from the record that Taylor's duties have gravitated over the years more towards apt characterization as "business manager". The district does not have a

certificated administrator holding a "business manager" title, and if such a person did exist he or she would clearly be excluded from collective bargaining rights by RCW 41.59.020(4)(b). The evidence does establish that, as a regular part of her assignment, Gudyka has advance knowledge of the district's labor relations policies and collective bargaining proposals before they are put forth in negotiations. It is precisely that type of information which the "confidential" exclusion protects.

#### FINDINGS OF FACT

1. Pe E11 School District No. 301 is a public employer within the meaning of RCW 41.56.030(1). The district employs 23 certificated staff and ten classified employees.
2. Public School Employees of Washington is a bargaining representative within the meaning of RCW 41.56. At the date of hearing, the union reepresented a bargaining unit composed of secretaries, teacher aides, custodians, maintenance personnel, transportation employees and food service workers employed by Pe E11 School District No. 301.
3. The district employs two clerical employees in the superintendent's office. Ruth Taylor serves as secretary and business manager. Sandra Gudyka spends a majority of the work day in the superintendent's office, but also has assignments with the district hot lunch program which require her to work outside the office approximately five hours per week.
4. Sandra Gudyka has access to district personnel files. As a regular part of her duties, Gudyka types correspondence between the superintendent and the Pe E11 School Board relating to district collective bargaining positions. Gudyka receives telephone calls from school board members concerning collective bargaining negotiations and tranmits messages directly to the superintendent.
5. Gudyka and Taylor share a small common work area adjacent to the superintendent's private office. Gudyka is in a position to overhear conversations between the superintendent and others concerning collective bargaining policies of the employer.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to RCW 41.56, and no question concerning representation presently exists in the bargaining unit described in paragraph 2 above.
2. Sandra Gudyka is a confidential employee within the meaning of RCW 41.56.030(2)(c).

ORDER

The position occupied by Sandra Gudyka is excluded from the existing bargaining unit.

DATED at Olympia, Washington this 7<sup>th</sup> day of January, 1981.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director