

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	CASE NO. 3076-C-80-143
CENTRAL VALLEY EDUCATION ASSOCIATION)	DECISION NO. 1368 - EDUC
)	
For clarification of an existing bargaining unit of employees of:)	
)	
CENTRAL VALLEY SCHOOL DISTRICT NO. 356)	ORDER CLARIFYING BARGAINING UNIT

Faith Hanna, Attorney at Law, appeared on behalf of the petitioner.

Randy Bohannon, Chief Negotiator, appeared on behalf of the employer.

The Central Valley Education Association (CVEA) filed a petition with the Public Employment Relations Commission on October 3, 1980, seeking a ruling as to whether two individuals employed as part-time athletic directors are properly excluded from the non-supervisory educational employee bargaining unit represented by CVEA. A hearing was held on February 10, 1981 before George G. Miller, Hearing Officer. The Employer and the CVEA filed post-hearing briefs on April 3, 1981.

BACKGROUND:

The 1979-82 collective bargaining agreement between the Employer and the CVEA sets forth in Article 1, Section A - Exclusive Recognition, the following:

"The District recognizes that the Association is the exclusive bargaining representative for all certificated personnel employed by the District except the superintendent, assistant superintendents, personnel director, supervisor of secondary education, supervisor of elementary education, supervisor of pupil services, special education coordinator, language arts coordinator, manager of business services, all principals, all assistant principals, certified substitutes and teachers aides."

Until the 1980-81 school year, the "athletic director" functions in the District's two high schools were performed by teachers who were designated as

department heads in the physical education departments. Both such employees were included in the bargaining unit of non-supervisory educational employees.

After receiving complaints that the teachers serving as department head/athletic director were given insufficient time to fulfill all of their duties, the CVEA negotiated with the District in 1978 and 1979 concerning the time requirements for these jobs. The collective bargaining agreement between the parties which became effective on September 1, 1979 contained the following negotiated provision:

"The Personnel Department will conduct an administrative study regarding the Physical Education Athletic Director separation of job responsibility. Board recommendation by January 23, 1980."

In the Autumn of 1979, the District convened a committee of administrators, athletic directors and coaches to investigate the responsibilities of the physical education/athletics personnel. The committee concluded that the position of athletic director should be separated from the position of physical education department head, and recommended to the School Board that an athletic director position be filled in each of the high schools. The District then hired Joe Trembly and Jay Rydell to fill the athletic director positions, beginning with the 1980-81 school year. In addition to the salary called for by the salary schedule in the CVEA-District collective bargaining agreement, each is paid a stipend "negotiated" by the employee directly with the employer.

Trembly had served as department head in the physical education department at University High School for five years prior to his appointment as Athletic Director. In his former capacity, he taught classes for four periods daily, had one preparation period and had one administrative period. As Athletic Director in the 1980-81 school year, he taught history and civics for three periods each day and spent the balance of his time in athletic director duties.

At Central Valley High School, the individual who previously performed the combined physical education/athletics function remained the department head of the physical education department. Jay Rydell, who had previously been a coach at the school, became Athletic Director effective with the 1980-81 school year. Rydell is a woodshop instructor for three periods during the school day and spends the balance of his time in athletic director duties.

The job description for the athletic directors is:

"RESPONSIBLE TO: The building principal on all matters pertaining to the athletic program.

DUTIES:

1. Coordinate the budget for all interscholastic sports activities.
2. Collect a roster of all participants from each coach at the beginning of each sport season.
3. Coordinate the inventorying of equipment and supplies for all interscholastic sports.
4. Develop and maintain the athletic calendar for the school.
5. Recommend appropriate workshops and clinics for coaches.
6. Represent the school at meetings of the Athletic League and District 8.
7. Coordinate specific league sport schedules as directed by the athletic league.
8. Coordinate use of the athletic training room during each sport season with the head coach.
9. Assist the principal in selection, placement, and evaluation of the coaching staff.
10. Establish and implement an athletic code consistent with the District policy for all sports.
11. Coordinate with each coach on any post-season play.
12. Supervise the cleaning, maintenance, and set-up of athletic facilities with the coach and custodial/maintenance personnel.
13. Act as the official spokesman for the school's athletic program in cooperation with each coach and building principal.
14. Perform related duties and other special assignments as required by the building principal.

5/8/80"

POSITIONS OF THE PARTIES:

The Employer contends that the athletic directors at University High School and Central Valley High School occupy themselves a preponderance of the time with duties which establish these positions as supervisors within the meaning of RCW 41.59.020(4)(d). Further, the Employer contends their duties, skills and working conditions are sufficiently different from other certificated employees to warrant their exclusion from the non-supervisory bargaining unit.

The Association contends that the athletic director positions have traditionally been part of the bargaining unit, that they share a community of interest with other jobs in the unit and that they do not meet the statutory tests for a supervisory exclusion.

STATUTORY AUTHORITY:

The statutory basis for determining supervisor status is found in RCW 41.59.020 among the exclusions from the definition of educational employee:

* * *

"(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:

There is no question that the athletic directors at issue here bear quasi-administrative titles. However, numerous cases interpreting RCW 41.59.020(4)(d) have ignored "administrative" titles or have placed persons traditionally paid on an "administrative salary schedule" in the non-supervisory educational employee bargaining unit. Kelso School District, Decision 303, 303-A (EDUC, 1977); Clover Park School District, Decision 376 (EDUC, 1978); Tacoma School District, Decision 652, 652-A (EDUC, 1979). It is important to bear in mind that the non-supervisory unit is composed of professional employees, and to recognize that the mere performance of professional skills is not a basis for unit exclusion. The statutory test focuses on authority over other employees.

The duties of the athletic directors in the Central Valley School District are similar to the duties of a similarly-titled individual who was found to be a non-supervisory educational employee in Kelso School District, supra. If anything, the Kelso situation would seem to have presented a stronger case for exclusion, as the athletic director in Kelso was responsible for a district-wide program and spent less time in the classroom than the individuals in dispute in the instant case.

While individuals at issue "assist the building principal" in the selection process for coaches, the evidence falls short of establishing that the athletic directors can make effective recommendations on hiring. The building principals have not relinquished their independent review, and either or both the head coach of the sport and the assistant principal of the school may also have "input" on hiring decisions. Similarly, although the athletic directors attempt to handle problems encountered by coaches with

respect to routine matters, such as training rules or bus management, more serious problems which could involve discharge are referred to the building principals. The athletic directors do not carry out any written evaluations of coaches, rather any "evaluation" role is merely through informal discussions with the building principals, who are the evaluators of record. The athletic directors do not have any authority to adjust grievances under the collective bargaining agreement. Detailed provisions of the collective bargaining agreement covering assignment, transfer, promotion, layoff and recall also effectively remove such matters from the scope of authority of the Athletic Directors.

The evidence establishes that much of the time spent by these individuals on athletic director functions is devoted to ministerial functions similar to those noted in the Kelso situation. These include coordination of athletic programs and scheduling, budgetary procedures, general management of athletic events and facilities upkeep. These are not indicia of "supervisory" authority, nor do these individuals qualify for classification as "chief administrative officers" of the school district under RCW 41.59.020(4)(a) or (b).

FINDINGS OF FACT

1. Central Valley School District is, and has been at all times material herein, an employer within the meaning of RCW 41.59.
2. Central Valley Education Association is, and has been at all times material herein, the exclusive bargaining representative for all non-supervisory educational employees of the Employer.
3. Until the 1980-81 school year, the certificated employees performing the duties of athletic directors were included in the non-supervisory educational employee bargaining unit represented by CVEA.
4. In the fall of 1979, the Employer convened a committee of administrators, physical education department heads, and coaches to investigate the responsibilities of the athletic director. The committee concluded that the position of athletic director should be separated from the position of physical education department head, and recommended to the school board that an athletic director position be filled in each of the high schools. The Employer then designated Joe Trembly and Jay Rydell as Athletic Directors.
5. Trembly and Rydell spend half of each school day in the classroom pursuing normal teaching functions. As Athletic Director, each performs ministerial duties in connection with the coordinating of athletic programs, budgets for athletics, events management and facilities management.

6. The Athletic Directors do not adjust grievances under the collective bargaining agreement nor are they involved in transfer, promotion, layoff or recall of teachers in the Central Valley School District. Their recommendations on hiring, suspension, discharge and evaluation are all made to and are subject to rejection by their respective building principals, who make independent judgements on such matters. They do not spend a preponderance of their time performing supervisory acts as enumerated in RCW 41.59.020(4)(d).

CONCLUSIONS OF LAW

1. No question concerning representation presently exists and the Public Employment Relations Commission has jurisdiction in the matter to issue an order clarifying the bargaining unit.
2. The Athletic Directors are non-supervisory educational employes within the meaning of RCW 41.59.020(8).

ORDER CLARIFYING BARGAINING UNIT

The positions of Athletic Director shall be, and hereby are, included in the bargaining unit consisting of all non-supervisory educational employees of Central Valley School District No. 356 as described in the 1979 - 1982 Collective Bargaining Agreement between the Central Valley Education Association and Central Valley School District No. 356.

DATED at Olympia, Washington this 9th day of February, 1982.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director