

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
PUBLIC SCHOOL EMPLOYEES OF)	CASE 8861-C-90-506
BETHEL)	
)	
For clarification of an existing)	DECISION 3913 - PECB
bargaining unit of employees of:)	
)	
BETHEL SCHOOL DISTRICT 403.)	ORDER CLARIFYING
)	BARGAINING UNIT
)	

Hanson and Dionne, by Craig Hanson, Attorney at Law, appeared on behalf of the employer.

Caroline Lacy, Attorney at Law, appeared on behalf of the union.

On April 29, 1991, Public School Employees of Bethel, an affiliate of Public School Employees of Washington (union), filed a petition for clarification of an existing bargaining unit with the Public Employment Relations Commission. The union initially sought a ruling on whether Bethel School District positions entitled "transportation manager", "manager of publications", "print shop manager", and "secretary to the deputy superintendent" were properly excluded from a bargaining unit represented by the union.

A hearing was held at Spanaway, Washington, on June 11, 1991, before Hearing Officer Walter M. Stuteville. The parties advised the Hearing Officer that they had resolved their differences on the positions other than the "print shop manager", and the hearing was confined to that position. The parties filed post-hearing briefs.

Authority to decide this "eligibility" dispute has been delegated to the Hearing Officer pursuant to WAC 391-35-190.

BACKGROUND

The Bethel School District is located in suburban south Pierce County, and encompasses approximately 220 square miles in land area. The superintendent of the district is Dr. Don Berger. The employer currently has 11,000 students, but its student population is growing by between three and five percent each year. The employer currently has 25 school buildings including two high schools, three junior high schools, a number of elementary schools, alternative schools at the elementary, junior high and senior high levels, special education facilities, and early childhood education facilities. Additional buildings are in the planning or construction stages.

The parties have had a series of collective bargaining agreements, the latest of which was signed on December 18, 1990. The bargaining unit is described in that agreement, as follows:

The bargaining unit to which this agreement is applicable shall include all classified employees except administrators and secretaries who satisfy PERC requirements for exempt status.

The previous collective bargaining agreement between the employer and PSE expired on August 31, 1990. The union filed the petition in this case on October 24, 1990, prior to signing the current contract.

Beginning in August of 1989, Superintendent Berger and the employer's Board of Directors developed a plan for decentralized administration of the employer's operations. After a comprehensive analysis of all administrative functions, they developed a chart directed toward improved communication and shared decision-making between district management, district employees and community

members. The "print shop manager" at issue in this proceeding was created as a part of the new organization chart.

The disputed position is currently held by Diana Karl. Prior to the reorganization, the position had been entitled "reprographic technical manager", and had been included in the bargaining unit. Superintendent Berger testified that the print shop had changed considerably in the last couple of years: Karl worked alone in the print shop in the 1982-1983 school year, when it had a budget of \$17,763; the print shop had a staff of three persons in the 1990-1991 school year, and a budget of \$70,796. He testified that the employer had decided to emphasize both external and internal communications, as a part of the reorganization, and that the print shop function was now more closely related to the superintendent's office, to accomplish that objective. A position of "administrative assistant for communications" was developed at the same time, and coordinates the overall functions of the print shop and publications. Dr. Jay Reifel, who previously was a school principal in the district, was appointed to that administrative assistant position, and is Karl's immediate supervisor.¹

The new position description for the disputed position is as follows:

Title: PRINTSHOP MANAGER

Qualification:

1. High School graduation or equivalent and college or vocational training in the reprographics field, and considerable experience in reprographics. Supervisory experience preferred.
2. Skill in: supervising staff; effective communications; establishing and maintaining effective working relationships

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Prior to the reorganization, Karl reported to the superintendent's secretary, and there was no certificated administrator in charge of communications.

with a variety of others; problem resolution; building teams; customer service; safety procedures in the operation of equipment and the use of chemicals; print shop operations and procedures, including typesetting, darkroom, bindery, finishing, and printing design and layout, stock, ink, and other materials.

3. Knowledge of: current reprographics trends, resource location and allocation; laws, rules, regulations, and guidelines governing printshop operation; computer operation for desk top publishing.
4. Ability to: organize priorities; manage time effectively; motivate staff; supervise, coach, and train others; evaluate performance; develop and monitor budgets; schedule and prioritize work.

Personnel Relationships:

The printshop manager is responsible to the administrative assistant for communications; supervises reprographics technician assistant, printshop assistant, and student help as assigned.

General Functions:

Included are the operation, supervision, and maintenance of the district printshop; maintaining an up-to-date and accurate accounting/billing system for all jobs performed; supervising and evaluating the performance of printshop staff; recommending employment and assignment of printshop staff; designing and typesetting all types of material; maintaining all equipment in good operating condition; maintaining a stock of necessary supplies/materials; maintaining and completing the work schedule by identified timelines; and maintaining statistics on time, production, and cost.

Specific Duties and Responsibilities:

1. Operate and maintain district printshop equipment; troubleshoot problems and perform minor equipment repairs.
2. Maintain adequate supplies for efficient operation; researches and purchases stock, ink, and other supplies based upon their features, uses, and cost.
3. Assesses needs and recommends budget designed to implement long-range print-

- shop plans and goals. Develops and administers printshop budget.
4. Supervises printshop staff by assigning and reviewing work; monitoring, correcting, hiring, and evaluating, coaches, motivates, guides, and trains assigned staff.
 5. Plans, organizes, prioritizes, and instructs work performed by printshop staff.
 6. Interprets and implements contractual agreements and administrative policy related to printshop operation.
 7. Maintains a variety of records and prepares reports as requested.
 8. Coordinates with district personnel in developing materials.
 9. Assures the completion of job requests according to established priorities; negotiates priorities with printshop users; advises users of changes in timelines or priorities.
 10. Coordinates printing to be contracted out. Maintains liaisons with outside printers.
 11. Maintains current files of master plates for printed forms.
 12. Performs desk top publishing, typesetting, and other printshop duties.
 13. Maintains current knowledge of industry safety standards and regulation; instructs staff in safe operation of equipment.
 14. Maintains current knowledge of new developments in equipment and supplies to improve and upgrade services performed in the printshop. Researches equipment for purchase; makes recommendation.
 15. Performs the services of photographer in the district as needed.
 16. Protects the confidentiality of entrusted information, including that from staff, school board, patrons, administration, and collective bargaining.
 17. Performs related duties as assigned by the administrative assistant or the superintendent.

As a part of her current duties, Karl supervises the daily activities of two full-time print shop assistants. Under the new

organizational plan Karl has responsibility concerning the hiring and evaluating of print shop employees, and managing the print shop budget.² Both the superintendent and Reifel testified that she now has the authority to effectively recommend the hiring, discipline and discharge of the personnel working in the print shop. Reifel stated the opinion of the print shop manager would carry more weight than his own in most personnel recommendations involving the print shop, because Karl has daily contact with the print shop employees and is their primary evaluator. In describing the "chain of command" in relation to personnel decisions, the superintendent also indicated that the print shop manager would be in the best position to make effective recommendations which would, in turn, be recognized by higher levels of management.

With regard to the processing of grievances, the superintendent indicated that all grievances must be processed through the employer's personnel and legal departments. Supervisors, at whatever level they operate, do not have the sole authority to resolve grievances. Again, however, he indicated that the print shop manager has the authority to make effective recommendations regarding grievances.

The superintendent testified that among her new duties as a supervisor and manager, the print shop manager is meeting monthly with other district administrators to coordinate their respective programs. Karl testified that her additional duties as a manager have also required her to work longer and more flexible hours than previously had been the case.

Karl continued to be paid at the rate of pay identified in the parties' collective bargaining agreement for her former position as

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The superintendent indicated that Karl had been "unofficially" involved prior to the reorganization in the hiring and evaluating of print shop employees and managing the print shop budget.

reprographic technical manager. The employer has identified the position as one which it would otherwise compensate according to a district document entitled "Salary and Benefits for Unrepresented Administrators". The decision to not change her salary was made on the advice of counsel, pending the decision in this case.

POSITIONS OF THE PARTIES

The union argues that the employer failed to prove that the print shop manager has the authority to hire, discipline or discharge print shop employees, because she can only make recommendations to the personnel office and her supervisor. The union urges that the final authority actually resides in the superintendent or the school board. The union questions whether her immediate supervisor's stated deference to her opinion concerning her subordinates was real, given that Dr. Reifel is a trained top-level administrator who works directly with the superintendent while Karl is at the bottom level of managerial employees. Finally, the union asserts that Karl does not have the authority to adjust grievances, that responsibility having been delegated to the personnel department with the immediate supervisor's role being limited to making recommendations.

The employer argues that a conflict of interest is created by maintaining the print shop manager position in the union's bargaining unit, because of the position's authority to hire, supervise, discipline and discharge subordinates. It contends that Karl has the undisputed authority to engage in the daily supervision and evaluation of print shop employees. Furthermore, she can effectually recommend their hiring, disciplining or termination. The employer also emphasizes the increased responsibility, independent authority and extended hours of the new position held by Karl; in contrast to the assigned duties and regularly scheduled shifts in her previous position of reprographics technician manager.

DISCUSSION

The history of "supervisor" exclusions in Washington public employment was reviewed in City of Winslow, Decision 3520 (PECB, 1990), as follows:

Supervisors have collective bargaining rights under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. Municipality of Metropolitan Seattle (METRO) v. Department of Labor and Industries, 88 Wn.2d 925 (1977). Generally, supervisory employees will not be included in the same bargaining unit as the employees they supervise. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn. App. 599 (Division III, 1981), rev. denied 96 Wn.2d 1004 (1981). Employees are not excluded from bargaining units in each and every case where the employee exercises some supervisory authority, however. The policy enunciated in Richland is based on the potential for conflict of interest within a bargaining unit that includes both supervisors and their subordinates. See, King County Fire District No. 16, Decision 2279 (PECB, 1986). Working foremen, who merely oversee and assist other employees, are not excluded supervisors. City of Bellingham, Decision 2823 (PECB, 1987). In City of Royal, Decision 2490 (PECB, 1986), an employee who "initiates a monthly schedule and gives direction to the maintenance employee about three times per week" was not found to be a supervisor. Nor is one a supervisor merely because of having limited responsibility to evaluate the work of other employees. In City of Chewelah, Decision 3103-B (PECB, 1989), an employee was not found to be a supervisor even though her responsibilities included reviewing and commenting on the work of other employees.

As was noted in Morton General Hospital, Decision 3521-B (PECB, 1991), Chapter 41.56 RCW does not contain a definition of "supervisor", so the Commission has used the definition found in RCW 41.59.020(4)(d) when analyzing such cases:

[S]upervisor ... 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 ...

In Morton, the Commission went on to observe:

A distinction has been drawn between individuals with sufficient authority to qualify as "supervisors" and those with authority akin to working foremen. The latter have authority to direct subordinates in their job assignments, without possessing authority to make meaningful changes in the employment relationship.
...

And it was noted in City of Toppenish, Decision 1973-A (PECB, 1985):

... [S]uch employees are not always allowed to exercise a degree of independent judgment in important areas that compels their exclusion from the bargaining unit. The question in each case is whether a position enjoys substantial independent responsibility of a kind that requires exclusion from the rank-and-file unit.

Thus, the case at hand is one for applying established precedent, rather than for testing any leading edge of the law.

Karl is a first line supervisor who spends approximately 25 to 30 percent of her time performing graphics or reproduction work of the same type performed by bargaining unit employees. According to undisputed testimony, the remainder of her time is spent in supervision of print shop employees, managing the budget, purchasing, and

overseeing and coordinating the work of the printshop. The issue becomes, then, whether those responsibilities qualify her as a supervisor under Commission precedent.

The union sought to put a "ludicrous" label on testimony of both Administrative Assistant Reifel and Superintendent Berger that they would likely take the print shop manager's opinions over their own. The Hearing Officer disagrees with the union's characterization of that testimony. In a reasonable system of administrative checks and balances, it is logical for upper-level administrators to insure that subordinates are using fair and defensible standards when making personnel decisions. But it is also reasonable to defer, when dealing with questions of judgment and personnel evaluation, to the opinions of the supervisor who works in the most immediate and daily contact with the employees and the positions in question. Regardless of how much education and training an upper-level administrator may have, it would be the working supervisor who is probably going to have the most credible, close and direct experience from which to judge the performance of rank-and-file employees. Logically then, moving further up the hierarchal ladder, the administrative assistant and superintendent are less likely to have any actual personal experience from which to make personnel evaluations of the employees in question. The scope of authority of both of those positions makes it apparent that their responsibility is one of coordination of the functions of the print shop, rather than direct supervision of the print shop staff.

The union's focus on the fact that Karl cannot adjust grievances is also misplaced. While it is undisputed that Karl can only make recommendations to the personnel department, it is clear from the superintendent's testimony that ALL grievances are processed through the personnel and legal departments, and that no supervisor at any level has the authority to independently decide the outcome of grievances. Again, while it appears that although Karl does not

have the final authority to adjust grievances, she does indeed have the authority to make effective recommendations.

Karl now operates at a level comparable to that of other first-line supervisors, including attendance at monthly administrative team meetings. Rank-and-file bargaining unit employees are not called upon to participate in such meetings.

Karl's new position has been assigned a salary \$10,000 per year higher than that designated under the collective bargaining agreement for her former position. Although a pay raise is not, in itself, conclusive proof of "supervisor" status, the fact of that increase and of its computation in relation to other administrative salaries certainly reinforces the distinction between being a member of the rank-and-file employees and a managerial/supervisor.

The print shop manager at the Bethel School District does possess the independent authority to direct work activity and exercises independent judgment in personnel matters and therefore she is a supervisor within the meaning of the applicable precedents. The position is therefore excluded from the bargaining unit represented by the exclusive bargaining agent.

FINDINGS OF FACT

1. Bethel School District 403 is a "public employer" within the meaning of RCW 41.56.030(1).
2. Public School Employees of Bethel, an affiliate of Public School Employees of Washington, is a "bargaining representative" within the meaning of RCW 41.56.030(3).

3. The Bethel School District and Public School Employees of Bethel have a bargaining relationship covering a "wall-to-wall" unit of classified employees described as:

The bargaining unit to which this agreement is applicable shall include all classified employees except administrators and secretaries who satisfy PERC requirements for exempt status.

4. In 1990, the employer revised the duties and responsibilities of the position entitled "reprographic technician manager". The position was retitled "print shop manager" and a new job description and new job responsibilities were attached to the position.
5. The print shop manager directly supervises employees working in the print shop. She has the authority to evaluate those employees on a regular basis, and to make effective recommendations concerning their hiring, discipline or discharge. The print shop manager has authority to make recommendations on grievances, and such recommendations are effective on the same basis as recommendations made by other supervisors in the Bethel School District.
6. The print shop manager attends meetings and is compensated on the same basis as other supervisors in the Bethel School District.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-35 WAC.

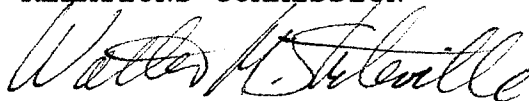
2. The print shop manager for the Bethel School District is a supervisor, whose duties and authority concerning the hiring, evaluation, discipline, and discharge of subordinate classified employees, and the adjustment of their grievances, present a potential for a conflict of interest warranting exclusion from the existing bargaining unit under RCW 41.56-.060 and established precedent.

ORDER

The bargaining unit described in paragraph 3 of the foregoing findings of fact is clarified to exclude the position of print shop manager.

DATED at Olympia, Washington, this 15th of November, 1991.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION



WALTER M. STUTEVILLE
Hearing Officer

This order may be appealed by filing a petition for review with the Commission pursuant to 391-35-210.