

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
PUBLIC SCHOOL EMPLOYEES	)	CASE NO. 3325-C-81-157
OF WASHINGTON	)	
For clarification of an existing	)	DECISION NO. 1351-B - PECB
bargaining unit of employees of:	)	
SEDRO WOOLLEY SCHOOL	)	ORDER GRANTING MOTION
DISTRICT NO. 101	)	TO SUPPLEMENT RECORD

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Edward A. Hemphill, Attorney at Law, appeared on behalf of the union.

John T. Slater, Attorney at Law, appeared on behalf of the employer.

On March 30, 1982, an Order Clarifying Bargaining Unit was issued in the above entitled matter (Decision 1351 - PECB) wherein, it was concluded that the bargaining unit status of substitute classified employees in dispute in the proceedings should remain unchanged at this time. Prior to the expiration of the time for filing of a petition for review, on April 13, 1982, Public School Employees of Washington filed a motion to reopen the hearing, with supporting affidavit, proposing to supplement the record to reflect that in September, 1981, after the close of the hearing in this matter, the parties negotiated a one year extension of their existing collective bargaining agreement. A document purporting to be a conformed copy of the parties' September 15, 1981 letter of agreement was appended to the motion. Said letter of agreement contains the following:

- "1. The District and the Association agree to abide by the decision to be issued by the Public Employment Relations Commission in Case No. 3325-C-81-157."

The employer was afforded an opportunity to respond to the motion, and filed a written statement and supporting affidavit on May 11, 1982. In its statement, the employer indicates:

- "1. The respondent admits that the parties had agreed during negotiations in September of 1981 to abide by the decision to be issued by the Public Employees (sic) Relations Commission in the above entitled matter..."

The affidavit makes reference to "the Letter of Agreement of September 15, 1981".

Beyond the matters stated above, the submissions of the parties concerning the motion to reopen launch off into debate about their intent at the bargaining table, and whether they contemplated only a decision "on the merits". All such allegations and argument are deemed to be irrelevant to the case at hand. The point of the rule enunciated in Toppenish School District, Decision 1143-A (PECB, 1982) is that parties on notice of the pursuit of unit clarification proceedings when they sign a collective bargaining agreement will not be able to rely on that agreement as a bar to the unit clarification proceedings. It matters not what else the parties discussed or agreed to in relation to the unit determination dispute, if the existence of notice is established by filing of the unit clarification petition with the Commission prior to execution of the new collective bargaining agreement.

NOW, THEREFORE, it is

ORDERED

1. The motion of Public School Employees of Washington to reopen the record in the above entitled matter is granted. Based on the admissions of record contained in the statement and affidavit filed by Sedro Woolley School District No. 101 in response to the instant motion, the record in the proceeding is amended to reflect:
  - a. The parties engaged in collective bargaining during September, 1981, resulting in a letter of agreement dated September 15, 1981.
  - b. Both parties had notice of the pendency of the instant proceedings when they entered into the letter of agreement dated September 15, 1981.
2. The matter will be re-considered on the basis of the foregoing additional facts.

DATED at Olympia, Washington this 14th day of May, 1982.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, EXECUTIVE DIRECTOR