

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
TACOMA ASSOCIATION OF PUBLIC	)	CASE NO. 260-CLW-172
SCHOOL ADMINISTRATORS	)	
Involving certain supervisors	)	DECISION NO. 652-A EDUC
employed by:	)	
TACOMA SCHOOL DISTRICT NO. 10.	)	DECISION OF OBJECTIONS
	)	AND CERTIFICATION

APPEARANCES:

Jerome B. McCarthy, Attorney at Law, for the petitioner.

Elvin J. Vandenberg, Attorney at Law, for the employer.

Symone B. Scales, Attorney at Law, for intervenor Tacoma Association of Classroom Teachers.

Petitioner has filed objections to the rulings of the Executive Director that certain individuals holding specific positions are not supervisors under RCW 41.59.020(4)(d).

In its amended petition, petitioner sought certification as bargaining representative of a unit described as follows:

Included: All managerial and supervisory certificated personnel employed by the employer.

Excluded: Superintendent, principals and assistant principals and all others.

The Executive Director found that the employees involved in this appeal were neither confidential employees nor supervisors within the meaning of RCW 41.59.020(4).

The objections raise no issues of confidentiality, but contend that twenty-one employees, holding 17 job titles should have been held to be supervisors. No briefs in support of or in opposition to the objections have been filed. Accordingly, we have reviewed the briefs filed with the Executive Director prior to his direction of election and have read the entire testimony of each individual named in the objections and discussed in petitioner's brief.

RCW 41.58.020(4)(d) reads as follows:

(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, disci-

pline, 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.

We invite attention particularly to the last sentence of subsection (3) which distinguishes the definition sharply from that in section 2 (11) of the National Labor Relations Act.

The legislative intent of section 2 (3) and (11) of the National Labor Relations Act was to exclude supervisors from collective bargaining units. 1 Legis Hist. of the Labor Management Relations Act, 1947 pp 409-410, 539. The obvious intent of RCW 41.59.020(d), when read with RCW 41.59.080, is to include certificated personnel in single bargaining units, excluding only very high ranking supervisory personnel.

Under the National Labor Relations Act, most of the persons holding these job titles clearly would be supervisors.

Petitioner's brief conceded that the Community Coordinator, Early Childhood Education, Ruth Jeffries, does not directly supervise any certificated employees. There is no suggestion that she performs any other functions which would bring her within the definition of "supervisor." The Executive Director is affirmed with respect to this employee and the objection is overruled.

Petitioner's brief makes no reference to Coordinator, Stanley Project, URRD, Charlotte Carr; to Assistant Supervisor of Secondary Office Occupations and Distributive Education, Tom Wagner; to Coordinator, Paraprofessional Training, Esther Wilfong; to Coordinator, Stewart-McIlvaigh, Karen Hanson; to Director of Athletics, Dan Inveen; or to Assistant in Curriculum Elementary Music, Lois Best. Accordingly, the objections with respect to them are overruled.

All of the positions discussed in the brief to which objections are urged are important, responsible administrative posts staffed by experts whose advice on hiring, assigning personnel to buildings and transferring personnel from one building to another is sought, respected and generally followed.

The Coordinator, Community Involvement Program, Urban Rural Racial Disadvantaged - CIP is largely a "staff," rather than a "line" positions. Charles

Harkins "supervises" one full time, forty part-time certified, and twenty part-time non-certified employees. The full time certified employee is a helping teacher in a program known as MAMBO, Mathematics Managed by Objectives. This teacher was hired after Mr. Harkins was in this position, but he had no part in hiring him. He let it be known that he needed a full time person in the program and Personnel recommended the employee. Mr. Harkins was to evaluate him in 1978 but did not know whether he or the principal of the school in which the employee was based would be the "evaluator of record." Certificated personnel for this program are usually recommended to him by someone in their school buildings and he selects them. They are already school employees. He drops in unannounced at the various buildings to see that the programs are being properly carried out. He has little actual authority, but appears to rely on suggestion, discussion and persuasion to implement his programs.

Much the same can be said with respect to Title I Coordinator, Early Childhood Education. Robert Reynolds has little, if any, authority with respect to hiring, although he is consulted on transfers.

Assistants, Special Education, Mary Christensen and Richard King appear to be part of the staff of Ralph Baird, Administrative Assistant, Special Education. They assist him in interviewing and recommending transfers from one building to another. They are not supervisors under the statute. Gwen Johnson, John Peterson and Sharon Schauss did not testify. There is nothing before us from which we can infer that their responsibility or authority differ from that of Ms. Christensen and Mr. King.

Pauline Yamashita is Director of the Emergency School Aid Act. Her immediate supervisor is the Assistant Administrator in charge of Elementary Education and Grants Manager. She refers to herself as a project director. The project is a federally funded project to assist the school district in desegregation. The certificated and non-certificated staff working in her project also have duties outside the project. She selects for the project employees referred to her by John Sharp, Personnel Administrator. Her selections are usually reviewed with the school principals. She makes informal evaluations. She is not within the statutory definition of a supervisor.

William Lenth is Assistant in Pupil Personnel in charge of Hearing Impaired. He has a Master's Degree in special education for the hearing impaired. He has broad independent authority to recommend effectively with respect to hiring and assigning teachers specially trained to teach pupils with impaired hearing. He evaluated only one teacher, an itinerant. The others are evaluated by their principals. He plans and directs the teaching programs, but does not quite satisfy the statutory definition of a supervisor.

We agree that Emma Walker, Coordinator, Desegregation and Integration, Title IV lacks community of interest with classroom teachers and is a resource of management. However, the only question before us is whether or not she is a supervisor, and she is not.

Fannie Smith is Coordinator, Project Developmental Continuity. She consults with assistant principals on hiring paraprofessionals. The assistant principals report to Central Administration. She clearly is not a supervisor under the statute.

Stanley Johnson is Assistant in Curriculum for Elementary Physical Education. He is in charge of the elementary physical education program for Tacoma schools with a staff of twenty-six physical education specialists. Some of these specialists have responsibilities in more than one building. He reports to the Director of Elementary Education. He participates in hiring, assigning and evaluating physical education specialists and his recommendations are usually followed. He falls just short of meeting the statutory definition of a supervisor.

Our conclusion with respect to these administrative employees is consistent with Clover Park School District, Decision 376 (EDUC, 1978), and Kelso School District, Decision 303-A (EDUC, 1978). The findings of fact and conclusions of law made by the Executive Director are adopted as the findings of fact and conclusions of law of the Commission. The objections filed by Tacoma Association of Public School Administrators are overruled. The tally of ballots, a copy of which is attached hereto, indicates that the petitioner is entitled to certification.

NOW, THEREFORE, it is

CERTIFIED


The majority of the supervisors employed by Tacoma School District No. 10 in the appropriate collective bargaining unit described as:


"All supervisors employed by Tacoma School District No. 10, excluding the Superintendent of Schools, administrative officers of the district, confidential employees, non-supervisory educational employees and non-certificated employees"

have chosen TACOMA ASSOCIATION OF PUBLIC SCHOOL ADMINISTRATORS as their exclusive representative for the purposes of collective bargaining with employer with respect to compensation, hours of work, and the number of days of work in the annual employment contracts.

DATED this 27<sup>th</sup> day of November, 1979

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
\_\_\_\_\_  
MARY ELLEN KRUG, Chairman

  
\_\_\_\_\_  
DON E. OLSON, JR., Commissioner

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TALLY SHEET

NAME OF EMPLOYER TACOMA SCHOOL DISTRICT NO. 10

CASE NUMBER 260-CLW-172

PART 1 - CROSS-CHECK OF RECORDS

The undersigned agent of the Public Employment Relations Commission certifies that he/she has conducted a cross-check of records in the above case, and that the results were as follows:

Number of Employees in Bargaining Unit.....  
Number of Employee Records Examined.....  
Number of Employee Records Counted as Valid Evidence of Representation...

PART 2 - SECRET BALLOT ELECTION

The undersigned agent of the Public Employment Relations Commission certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated below, were as follows:

- 1. Approximate number of eligible voters.....
- 2. Void Ballots.....
- 3. Votes Cast For: Inclusion In Bargaining Unit Of Supervisors ... 21
- 4. Votes Cast For: No Inclusion in Bargaining Unit of Supervisors ... 4
- 5. Votes Cast For: \_\_\_\_\_ ...
- 6. Votes Cast For: ~~XXXX REPRESENTATION~~ .....
- 7. Valid Ballots Counted.(total of 3, 4, 5, and 6)..... 25
- 8. Challenged Ballots..... 15
- 9. Valid Ballots Counted plus Challenged Ballots (total of 7 and 8)..... 40
- 10. Number of Valid Ballots Needed to Determine Election..... 21

Challenges  are sufficient in number to affect the results of the election.  
 are not sufficient in number to affect the results of the election.  
The results of the election appear to be  inconclusive.  
 conclusive favoring choice on line 3

PUBLIC EMPLOYMENT RELATIONS COMMISSION

DATE ISSUED 6/20/79

By Wm Key

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For Tacoma Assn. of Classroom Teachers

For Tacoma Assoc. of Public School Administrators

Diana J. Landahl

Vernon Nicklaus

For Tacoma School Dist. No. 10

For \_\_\_\_\_

Neil O. Hansen  
Dir, Employee Relations