

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of:)	
)	
SERVICE EMPLOYEES INTERNATIONAL)	CASE NO. 2384-E-79-435
UNION NO. 92)	
)	DECISION NO. 873-PECB
Involving certain employees of:)	
)	
KALAMA SCHOOL DISTRICT NO. 402)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
)	AND ORDER

Les Hayes, Business Representative, appeared on behalf of the union.

Mal Swanson, Superintendent of Schools, appeared on behalf of the employer.

Service Employees International Union No. 92 filed a petition with the Public Employment Relations Commission on October 12, 1979 seeking a representation election among certain classified employees employed by the district. A hearing was held in Kalama, Washington on March 21, 1980 before Rex L. Lacy, Hearing Officer.

The petitioned-for employees have heretofore been represented by the Kalama Classified Employees.

POSITIONS OF THE PARTIES:

The employer contends that the district has entered into a valid collective bargaining agreement with the recognized bargaining representative of the petitioned-for employees and that the collective bargaining agreement is a "contract bar" to a representation election.

The union contends that the agreement between the district and the "classified employees" is not a valid collective bargaining agreement; that the agreement was not ratified by a vote of the membership; that the "classified employees" organization has no constitution or by-laws and is therefore not a bargaining representative within the meaning of RCW 41.56; and that the agreement cannot and does not bar a representation election.

The classified employees took no position at the hearing regarding this matter, however the employees who served as negotiators did testify as to the manner whereby employees were elected to serve as negotiators and the ratification of the results of the negotiations.

BACKGROUND:

Kalama School District No. 402 has historically entered into collective bargaining agreements for the petitioned-for employees with Classified Employees. The results of bargaining have been reduced to written memoranda which have been followed by the district in its relationship with the employees covered.

DISCUSSION:

RCW 41.56.030(3) defines a bargaining representative as follows:

"(3) 'Bargaining representative' means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers."

The Classified Employees organization exists only for the purpose of collective bargaining. The organization does not have by-laws or dues structures. The organization is generally dormant between the ratification of an agreement and April of the following year, when negotiators are elected by the employees. Those negotiators then meet with representatives of the district and negotiate a successor agreement which is presented to the membership for ratification.

The negotiations conducted for 1979-80 were typical of the process noted above, and resulted in the agreement signed by the parties on July 18, 1979. The agreement, which contains a grievance procedure, wages, benefits, vacations, holidays, and conditions of employment, appears to meet the requirements of RCW 41.56.030(4) that the results of bargaining be reduced to a written agreement and executed.

The "contract bar" rule is set forth in RCW 41.56.070, as follows:

"41.56.070 Election to ascertain bargaining representative. In the event the commission elects to conduct an election to ascertain the exclusive bargaining representative, and upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the public employees within the unit, the commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of such bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning

representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be valid if it provides for a term of existence for more than three years. [1975 1st ex.s. c 296 § 18; 1967 ex.s. c 108 § 7.]

Effective date--1975 2nd ex.s. c 5: See RCW 41.58. 910." [Emphasis supplied]

Thus, the petition filed with the Commission on October 12, 1979 is not timely.

FINDINGS OF FACT

1. Kalama School District No. 402 is a public school district organized and operated under the laws of the State of Washington.
2. Classified employees of Kalama School District No. 402 have organized themselves into a lawful, informal organization for the purpose of conducting collective bargaining of their wages, hours and working conditions with Kalama School District No. 402 through representatives elected by and from among their number.
3. Kalama School District No. 402 and the organization described in paragraph 2 of these findings of fact are signatory to a document executed July 18, 1979 setting wages, hours and working conditions of classified employees of the employer for the period September 1, 1979 to and including August 31, 1980.
4. The petition for investigation of a question concerning representation filed to initiate the instant case was not filed until October 12, 1979.

CONCLUSIONS OF LAW

1. The petition filed by Service Employees International Union No. 92 is untimely filed.

ORDER

The petition filed in the above entitled matter is dismissed.

DATED at Olympia, Washington, this 1st day of May, 1980.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director