

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	)	
Kelso Education Association	)	
	)	
and	)	CASE NO. 554-C-76-14
	)	
Kelso School District No. 453	)	DECISION ON REVIEW
for Clarification of a Bargaining	)	
Unit of Employees of	)	DECISION NO. 303-A-EDUC
Kelso School District No. 453	)	
	)	

Kelso School District No. 43 and Kelso Education Association petitioned the Commission for clarification of a bargaining unit with respect to three positions, namely, music director, vocational director and athletic director. The Executive Director found the music director to be a supervisor and the vocational and athletic directors to be non-supervisory employees.

The District petitioned for review with respect to the vocational and athletic directors.

Among its grounds for review, the District urges the desire of the employees involved. This factor is pertinent to inclusion or exclusion of employees from a bargaining unit with non-supervisory employees, RCW 41.59.080(5), but not to a determination of supervisory status, RCW 41.59.020(d).

The District refers to RCW 41.5⁹1.110(2) which requires the Commission to "consider" the rules, precedents and practices of the national labor relations board, provided they are consistent with RCW 41.59, and prior to adoption of any commission rules and regulations. The point of the Executive Director and Kelso Education Association is that the definition of supervisor is different in the federal and state acts, and so it is.

The definition of "supervisor" in section 2(11) of the National Labor Relations Acts is:

The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The definition of "supervisor" in RCW 41.59.020(d) is:

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.

Moreover, the Commission is required to "consider", but not necessarily to follow, federal precedents.

Neither is the Commission bound by the job descriptions, even though they may have been unrefuted. On page 8 of its brief, the District admits that the vocational and athletic directors, who desire to be held to be supervisors, "testified at length as to their involvement in the preparations of the job descriptions and the fact that the descriptions accurately portrayed their supervisory duties." Thus, the job descriptions are clearly self-serving.

The testimony of the vocational director indicates that he does a great amount of administrative and ministerial work in addition to his teaching and teaching preparation; but there is no evidence that he supervises anyone. Even his recommendations are seconded by department chairpersons or the principal, assistant principal, or administrative assistant. Despite the sophistication and complexity of his planning and coordinating, he is by no means a supervisor within the meaning of RCW 41.59.020(d).

A closer case seems to be made for the athletic director who observes and makes evaluations of 18 coaches of whom he, himself, is one. He teaches algebra for two periods per day and has no preparation period. The other seventeen coaches teach various subjects five periods per day.

Again, the ministerial and administrative duties of the athletic director are extensive and important, but, even adding to his observations and evaluations of other coaches his recommendations in hiring which are given great weight by the principal, these supervisory duties fall short of comprising a preponderance of his work. None of the three has the authority to settle grievances.

The findings, conclusions and decision of the Executive Director should be, and they hereby are, affirmed.

Dated this 10th day of March, 1978

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Mary Ellen Krug

MARY ELLEN KRUG, CHAIRMAN

Michael H. Beck

MICHAEL H. BECK, COMMISSIONER

Paul A. Roberts

PAUL A. ROBERTS, COMMISSIONER