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HELENA SCHOOL DISTRICT NO. 1

P. O. BOX 555
HELENA, MONTANA 59601
442-2590

October 27, 1975

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442-5773

19-75
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OCT 27 1975

BOARD OF PERSONNEL APPEALS

Mr. Ray Saeman, Hearing Examiner
Board of Personnel Appeals
1417 Helena Avenue
Helena, Montana 59601

Dear Mr. Saeman:

Post-hearing briefs were invited at the October 1, 1975 Board of Personnel Appeals hearing on the matter of unit determination for the Helena Vocational Technical Center teachers (U.D. Case No. U.D. #17, 1975). Please consider this letter to be such a brief.

The central point of the petitioner is an alleged difference of the community of interest. There is no difference nor should there be any difference in the community of interest between the teachers at the Helena Vocational Technical Center and the remainder of the Helena School District teaching staff. There are several common courses of instruction in the curriculum of the Helena Vocational Technical Center, Helena High School, and Capital High School. Courses such as secretarial science, auto mechanics, electronics, drafting, building trades, accounting, and welding are taught at the three schools mentioned above. While the degree of complexity of the instruction varies between the schools, the instructional objectives and concepts are the same. The degree of teacher proficiency for the instruction of these courses is possibly not as great as in the instruction of mathematics, English, and science from the primary grades to the intermediate grades to the junior high school grades to the high school grades.

The community of interest in other areas of the school district operation are common among the schools of the district, including the Vocational Technical Center. The Helena High School District Board of Trustees is charged with the governance of the Center under Section 75-7710, R.C.M., 1947. Under this legal responsibility, the policies adopted by the Board of Trustees apply equally to all schools in the district. The Superintendent of the district, as executive officer of the Board of Trustees, is charged with the common supervision of all schools of the district. Therefore, the administrative staff of the district is involved in the common application of law and policy among all schools of the district. The Director of Instruction coordinates the kindergarten through post-secondary instructional program. The business office handles the employee salary

Mr. Ray Saeman, Hearing Examiner
October 27, 1975
Page two

payments, vendor payments, and the issuing of purchase orders with no segregation of work as to what school the transaction is in support of. The Assistant Superintendent considers all inquiries by employees under the same policies and master agreement.

In the August 15 letter briefing the situation prior to the hearing, several points were made relative to the employment of the teachers at the Helena Vocational Technical Center. We wish to recall your attention to the points made in this letter; especially the fact that the present contract expiring on June 30, 1977, covers the Helena Vocational Technical Center teachers. The adoption of this contract involved the Center teachers through the regularly established governance procedure of the Helena Education Association and the Center teachers had as much opportunity to participate in its adoption as any other teachers in the school district.

In summary, the community of interest of the teachers at the Helena Vocational Technical Center is no different nor should there be any different community of interest among any teachers of the school district.

Sincerely,

Penny Bullock

Penny Bullock, Chairperson
Board of Trustees
School District No. 1
Helena, Montana

PB/sr

cc: Maynard Olson
James Weir
William Korizek
John Campbell
Emilie Loring
James McGarvey
James Phillips

Att. # C.

STATE OF MONTANA
BOARD OF PERSONNEL APPEALS

MONTANA FEDERATION OF TEACHERS, AFT,)
AFL-CIO,)
) Petitioner,)
))
) and)
))
SCHOOL DISTRICT #1, Helena, Montana,)
))
) Employer)
))
) and)
))
HELENA EDUCATION ASSOCIATION, affiliated)
with Montana Education Association,)
))
) Applicant for Intervention)

UD 75-19

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AUG 25 1975

BOARD OF PERSONNEL APPEALS

PETITION FOR INTERVENTION

Helena Education Association, affiliated with Montana Education Association, hereby applies for intervention in the above entitled case, as provided in Sub-Chapter 10 of the Rules of the Board.

1. Name and address of petitioner:

Helena Education Association, affiliated with Montana Education Association, 1232 East 6th Ave., Helena, MT 59601

2. Unit Description:

Petitioner has not received the petition for unit determination in this case, so does not know the description of the unit petitioned for.

3. Approximate number of employees in the proposed unit:

Petitioner does not know the number of employees in the proposed unit, as it has not received the petition for unit determination.

4. Whether there is any known disagreement between the employer and petitioner as to nature and scope of the proposed unit and the reasons for the disagreement.

Petitioner has not received employer's answer to the petition for unit determination, so does not know whether there is any disagreement.

5. Names of all labor organizations known to the petitioner who claim to represent employees in the proposed unit.

Montana Federation of Teachers

6. Expiration dates and brief description of any contracts covering any employees in the proposed unit.

There is an existing contract covering employees in the proposed unit which expires June 30, 1977.

7. Any other relevant facts.

The above contract constitutes a bar to the petition for unit determination filed in this case.

8. Authorization cards are unnecessary since petitioner is the recognized bargaining agent for the petitioned-for employees and seeks intervention on that basis.

9. Petitioner is governed by the constitution of the Montana Education Association, copies of which have previously been filed with the Board of Personnel Appeals.

Dated this 22nd day of August, 1975.

HILLEY & LORING
1713 Tenth Avenue South
Great Falls, Montana 59405

By: Emilie Loring
Attorneys for Petitioner

CERTIFICATE OF SERVICE BY MAIL

THIS IS TO CERTIFY that on the 22nd day of August, 1975, a true and correct copy of the foregoing Petition for Intervention was mailed, postage prepaid, to:

Montana Federation of Teachers, AFT, AFL-CIO
515 North Sanders
Helena, MT 59601

School District #1
#7 Allen Street
Helena, MT 59601

Emilie Loring

Att. B.

BOARD OF TRUSTEES

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August 15, 1975

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AUG 18 1975

BOARD OF PERSONNEL APPEALS

Mr. Robert R. Jensen
Board of Personnel Appeals
1434 Roberts Street
Helena, MT 59601

Dear Mr. Jensen:

The Board of Trustees, School District No. 1, Helena, Montana was apprised of the contents of your letter of August 11 at the regular Board meeting on Tuesday, August 12. This letter indicates that the Board of Personnel Appeals had received a Petition for Unit Determination and Election from the Montana Federation of Teachers for employees at the Helena Vocational Technical Center.

In accordance with the Rules and Regulations of the Board of Personnel Appeals the following counterpetition is hereby filed at the request of the Board of Trustees. The Board disagrees with the appropriateness of the proposed unit as described in the petition for the following reasons:

1. The teachers at the Helena Vocational Technical Center have been represented in the formal negotiations process for many years by the Helena Education Association.
2. The teachers at the Helena Vocational Technical Center are represented in the formal negotiations process at the present time by the Helena Education Association. This agreement between the Helena Education Association and the Board of Trustees, School District No. 1, Lewis and Clark County, Montana took effect on July 1, 1975 and continues in effect until June 30, 1977.

This contract between the two parties indicated above covers approximately 449 professional staff members, exclusive of supervisory and administrative personnel, kindergarten through post-secondary education in Helena School District No. 1.

Mr. Robert R. Jensen

August 15, 1975

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3. A Petition for new unit determination, according to the Rules and Regulations of the Board of Personnel Appeals, must include all employees presently covered by the existing negotiated agreement (contract) between the Board of Trustees and the Helena Education Association which in this case does not expire until June 30, 1977.
4. Certified staff at the Helena Vocational Technical Center participated in negotiations through Helena Education Association building representatives and had the opportunity to vote on the negotiated agreement.
5. In accordance with Chapter 77 of Title 75, RCM, 1947 all employees at the Helena Vocational Technical Center are, and have been for many years under the direct administration and jurisdiction of the Board of Trustees, Helena School District No. 1, Helena, Montana. The Center is not a separate unit and is covered by the negotiated agreement that the Board of Trustees has with the Helena Education Association. Also, the Center is governed by the Board's policies.
6. All employees of the Helena Vocational Technical Center are paid on the negotiated salary schedule adopted for district-wide application and are placed on the schedule based on experience and educational attainment.
7. Under the petition it appears that the custodians as well as the teachers are intended to be included in the unit. In the spring of 1974, you conducted an election that resulted in the recognition of the AFSCM as the negotiating unit for all the custodians of Helena School District No. 1, including those at the Vocational Technical Center. It would appear that the petition is inconsistent with state law and the Rules and Regulations established by the Board of Personnel Appeals.
8. In accordance with Sub-Chapter 14, Petitions for Decertification, page 12 of the Rules and Regulations of the Board of Personnel Appeals, it appears that the petitioner is requesting decertification rather than petitioning for New Unit Determination.

Mr. Robert R. Jensen
August 15, 1975
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However, if such is the case the petition based on the Rules and Regulations must be filed not more than ninety (90) days before and not less than sixty (60) days before the termination date of the previous collective bargaining agreement.

Therefore, a petitioner is not to initiate such a petition until ninety (90) days before June 30, 1977 when the present contract terminates.

If further information is needed please contact me.

Sincerely,



Penny Bullock, Chairman
Board of Trustees
Helena School District No. 1

PB/rs

cc: James J. McGarvey
William A. Korizek
James R. Phillips
Maynard A. Olson
John P. Campbell
James L. Weir



State of Montana

Board of Personnel Appeals

1405 ~~Catharine Avenue~~, Helena, Montana 59601
1434 Roberts

PATRICK F. HOOKS, CHAIRMAN
ROBERT R. JENSEN, EXECUTIVE SECRETARY

LABOR REPRESENTATIVES
DUANE JOHNSON
WARREN HARPER

MANAGEMENT REPRESENTATIVES
JOSEPH B. REBER
FRANCIS J. RAUCCI

August 11, 1975

Maynard Olson, Superintendent
Helena Public Schools
7th and Allen
Helena, MT 59601

Dear Mr. Olson:

The Board of Personnel Appeals has received a Petition for Unit Determination and Election from the Montana Federation of Teachers for employees at the Helena Vocational Technical Center, a copy of which is enclosed. The Rules and Regulations of the Board of Personnel Appeals provide that an employer counterpetition as follows:

"MAC 24-3.8(10)-S8030(4)(a) The employer shall have five (5) working days from receipt of the petition in which to file a counterpetition with the Board.

(b) The employer shall counterpetition when the employer disagrees with the appropriateness of the proposed unit as described in the petition."

MAC 24-3.8(10)-S8040 further provides that:

"(a) The Board shall require the employer to post in a conspicuous manner a Notice of Unit Determination Proceedings. Such notice shall be provided by the Board and shall remain posted for a period of twenty (20) days.

(b) The employer shall confirm in writing that it has received, posted, and shall continue posting of the notice for the required twenty (20) days."

The Board requests that you immediately post the enclosed notice at work locations where notices are normally posted for the benefit of those employees in the proposed unit.

Also, please provide this office with a listing of names of employees in the proposed unit. This will insure the authenticity of the signed authorization cards as well as provide information for election purposes.

Sincerely,

Robert R. Jensen

Robert R. Jensen
Executive Secretary

RRJ:gk
cc: Jim McGarvey

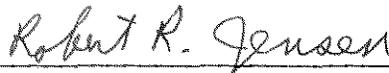
BOARD OF PERSONNEL APPEALS

NOTICE OF UNIT DETERMINATION PROCEEDINGS

A Petition has been filed by the Montana Federation of Teachers to be recognized as the exclusive representative for purposes of collective bargaining by submitting in excess of thirty percent (30%), individually signed authorization cards for employees of the Helena Vocational Technical Center.

Interested organizations may intervene by submitting ten percent (10%) or more individually signed authorization cards to the Board of Personnel Appeals.

Intervenor's petitions must be submitted to our office by September 1, 1975 to be recognized.



Robert R. Jensen
Executive Secretary
Board of Personnel Appeals
1434 Roberts
Helena, MT 59601

DATED: August 11, 1975.