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PERB

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF: STATE OF IOWA, Public Employer, and AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, IOWA PUBLIC EMPLOYEES COUNCIL 61, Certified Employee Organization/ Petitioner.	CASE NO. 100789

RULING ON OBJECTIONS TO PROPOSED DECISION

On December 7, 2016, the American Federation of State, County and Municipal Employees, Iowa Public Employees Council 61 (AFSCME) filed a petition for amendment of a bargaining unit of employees of the State of Iowa which AFSCME has been certified to represent. The State agreed that an amendment of the composition and description of the unit was appropriate within the meaning of Iowa Code section 20.13. Accordingly, the parties filed a stipulation of bargaining unit as amended as provided for by PERB rules, which was tentatively approved by PERB on December 9, 2016.

In addition to reflecting a number of "cleanup" and "update" changes to the unit's description which have no substantive effect on the status of current employees, the parties' agreement and PERB's proposed decision to amend the unit in the manner agreed by the parties would bring employees in the previously excluded Regents merit system job classification of Library Assistant IV (LAIV) into the AFSCME-represented unit.

On December 9, 2016, PERB issued a Public Notice of its tentative approval of the stipulation and of its proposed decision, the notice including a description of the tentatively-approved bargaining unit and indicating that it would be amended in the manner described unless objections were filed not later than December 23, 2016.

AFSCME's petition and PERB's Public Notice were served upon the State by certified mail, and were received on December 13. The State was directed to post the petition and Public Notice in places customarily used for the posting of information to its employees, and to also post and make available copies of the Public Notice in a prominent place in its main office which is accessible to the general public. Additionally, in order to ensure that all employees directly affected received actual notice, the PERB case processor emailed a copy of the Public Notice directly to each of the 19 potentially affected LAIVs on December 13, 2016.

Timely objections to the proposed decision were filed on December 21 and 23, 2016, by LAIVs M. Leanne Alexander, Sarah Andrews and Debbie Miller. Pursuant to PERB rule 621—4.2(6)(c), AFSCME and the State were advised of the objections and we directed the case processor, a PERB administrative law judge (ALJ), to review them and make any investigation deemed appropriate. The ALJ has completed his review and investigation, which included conversations with Miller and the director of the Regents' merit employment system, and has reported his findings to the Board. Based upon the objections filed and the

information gathered by the ALJ, the Board has determined that the objections will be overruled and dismissed, for the reasons discussed below.

Relevant facts

In 1978 PERB defined a bargaining unit of State of Iowa employees, commonly referred to as the "clerical unit," which included employees in specified job classifications in both the State and Regents merit employment systems. Included within that unit were employees in the Regents merit classifications of Library Assistant I, II and III, and excluded employees in the Library Assistant IV classification due to their possession of supervisory authority within the meaning of Iowa Code section 20.4(2). The unit was not represented for purposes of collective bargaining until 1984, when AFSCME was certified as its exclusive bargaining representative.

Since its initial determination, the unit has been amended twice as a result of stipulations which were approved by the Board. Neither amendment altered the bargaining unit status of employees in the Library Assistant series—those in the LAIV classification continued to be excluded from the unit.

Although LAIVs formerly exercised supervisory authority over bargaining-eligible employees, over time that situation has changed. Many of the employees formerly supervised by many of the LAIVs have left such employment and not been replaced, with the result that most LAIVs no longer possess or exercise supervisory authority. Two of the three objections filed in this matter specifically refer to the objector's past supervision of other Regents merit employees but acknowledge that their current responsibilities do not include the supervision of

such others. None of the objectors assert that they are supervisory employees within the meaning of section 20.4(2).

Recognizing that this evolution in the responsibilities of many LAIVs had occurred, Regents officials reviewed the duties of the individuals in the classification and determined that while a majority of the LAIVs no longer possessed supervisory authority, some still did. Accordingly, a new classification of Library Assistant IV (Supervisory) was created within the Regents merit system, applicable to those employees which retained supervisory authority. The 19 LAIVs identified as no longer possessing that authority are the subject of AFSCME's petition and the only employees substantively affected by the parties' stipulation and the Board's tentative decision to amend the bargaining unit.

The relevant statutes

Iowa Code section 20.4 enumerates a number of types of public employees who are excluded from chapter 20's coverage. They are thus not eligible to participate in collective bargaining and accordingly cannot be properly included within a bargaining unit of public employees.

Iowa Code section 20.13 applies specifically to PERB's determination (including the amendment) of appropriate bargaining units, and provides that in defining a unit the Board "shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the existence of a community of interest among public employees, the history and extent of public employee organization, geographical location, and the recommendations of the parties involved."

Because the "eligibility" and "appropriateness" considerations posed by sections 20.4 and 20.13 control bargaining unit determinations of all kinds, they are the sole focus of decisions in the various types of bargaining unit petitions and of the evaluation of objections to parties' agreements upon bargaining unit composition issues which, as here, have been reviewed and tentatively approved by PERB. *Ringgold County and PPME Local 2003,* 14 PERB 100052.

The objections

None of the three objections filed in this matter raise genuine section 20.4 or section 20.13 issues. Consequently, even assuming their factual accuracy, none provide a basis for a rejection of the parties' stipulation or the PERB proposed decision to amend the bargaining unit.

None of the objections assert that the LAIV classification is excluded from the coverage of Iowa Code ch. 20 on supervisory or other grounds (or even a claim that the individual objector, rather than the classification as a whole, is within the scope of one of the statutory exclusions) and thus none raise a section 20.4 issue.

Therefore, in order to be deemed of substance within the meaning of rule 621—4.2(6)(c), an objection must be based upon a claim that the bargaining unit determination criteria specified in section 20.13 somehow weigh more heavily in favor of the classification's continued exclusion from the unit. However, none of the objections assert such a claim.

In her objection, M. Leanne Alexander points out that the elimination of the position over which (until recently) she exercised supervisory authority was

not her choice and has increased her workload; that she is happy with the health insurance which covers her and her retired spouse, and that "[h]aving to change my insurance would adversely affect our health care and ability to pay for medications." Sara Andrews filed her objection "due to a lack of information provided regarding seniority," indicating that "[w]e have asked about our seniority, but have been told it is not yet determined or still has to be negotiated." Andrews expresses her disagreement with what she has been told and quotes extensive language from what she describes as "the current collective bargaining agreement" in support of her view.

Neither of these objections raises matters relevant to a section 20.13 bargaining unit determination. Reduced to their essence, both are expressions of concern that the amendment of the unit to include their job classification will have an uncertain or adverse effect of some term or condition of their employment—insurance benefits in Alexander's case and the calculation of seniority in Andrews'. We understand and appreciate that employees not previously represented for purposes of collective bargaining would logically be concerned about employer-initiated changes to their duties and the effects of becoming a part of a represented bargaining unit. But the employer's purpose in making those changes, what the effects of bargaining unit inclusion on the terms and conditions of employment are, and whether those effects are viewed as positive or negative, are not relevant factors in our application of section 20.13.

The objection of Debbie Miller raises a concern different than those of the other objectors but, like the others, is based upon matters over which PERB has

no control and which are not relevant to a section 20.13 unit determination. Miller notes that additional duties have been imposed on some LAIVs as a result of the elimination of employees many of them formerly supervised, and that not all LAIVs are required to have the same degree of knowledge or professionalism required of others. Some of the LAIVs who have retained supervisory authority, she asserts, have fewer responsibilities than those without such authority, and suggests that "instead of degrading all LAIV's that do not supervise merit staff, each position should be looked at individually and determined what classification they should be in."

The essence of Miller's objection is her concern that not all LAIVs are properly classified. As is the case with the other objectors' concerns about the employer's elimination of subordinate positions and the possible effects on certain terms and conditions of their employment resulting from inclusion in a collective bargaining unit, the issue of whether all LAIVs are properly classified or not is simply not relevant to the consideration of the section 20.13 factors which frame our analysis in amendment of unit cases such as this.

Ruling

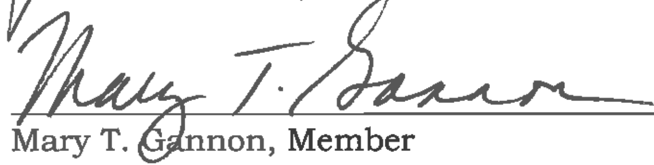
Having considered all of what we perceive to be the bases of the objections, whether specifically discussed herein or not, we conclude that none raise a genuine Iowa Code section 20.4 or section 20.13 issue and thus are not objections of substance within the meaning of rule 621—4.2(6)(c). The objections of M. Leanne Alexander, Sarah Andrews and Debbie Miller are accordingly overruled and dismissed.

DATED at Des Moines, Iowa, this 30th day of December, 2016.

PUBLIC EMPLOYMENT RELATIONS BOARD

Michael G. Cormack, Chair

Jamie Van Fossen, Member



Mary T. Gannon, Member