

State of Kansas
Before The Public Employee Relations Board

Feb. 15, 1974
Commerce Clearing House

IN THE MATTER OF UNIT DETERMINATION
AND CERTIFICATION FOR REPRESENTATION
OF MAINTENANCE & SERVICE EMPLOYEES
EMPLOYED AT WICHITA STATE UNIVERSITY,
WICHITA, KANSAS

CASE NO. UE 20-1973

Findings Of Fact And Conclusions
Of Law - Order

On the 12th day of October, 1973, a hearing was held at the Campus Activity Center of Wichita State University, regarding objections to an election which were filed by the Service Employees Union Local 513, AFL-CIO, under letter dated June 7, 1973, and addressed to Mr. Eldon Dapenhauer, Chairman, Public Employee Relations Board. Mr. Matthew J. Dowd, the duly appointed and acting Hearing Officer for the Board, conducted a full formal hearing which was officially recorded by a certified shorthand reporter of the State of Kansas and a transcript of the hearing was made.

The Kansas Association of Public Employees (KAPE) appeared by Mr. William G. Haynes, Attorney, and Mr. Gary Reser, Director. The Service Employees Union Local 513, AFL-CIO appeared by Mr. Russell Cranmer, Attorney; Mr. Robert E. David, President; and Mr. Douglas Brady, member. Wichita State University appeared by Mr. David Howell, Director of Personnel; Mr. Roger D. Lowe, Assistant to the President for Finance; and Mr. Armin Brandhorst, Director of Physical Plant.

The sworn testimony of Mr. Robert E. David and Mr. Douglas Brady was presented on behalf of the objections filed by Service Employees Union Local 513, AFL-CIO and numerous exhibits were introduced on behalf of that union's objections. Sworn testimony of Mr. Gary Reser was introduced on behalf of the Kansas Association of Public Employees. Argument of counsel for Kansas Association of Public Employees was heard and the Service Employees Union Local 513, AFL-CIO submitted a written brief.

The Public Employee Relations Board makes the following findings in this matter:

1. The first reason stated for the objection to the election was that the election was set for May 29 and later changed at random by the Kansas Association of Public Employees. The evidence is to the contrary. It would appear that the Kansas Association of Public Employees did have a part to play in the changing of the date of the election since action for injunction was filed by that employee organization with the Shawnee County District Court. The Board was temporarily enjoined by the Court from holding the election on the 29th and it was therefore necessary to arrive at another date, and it would appear that this date was chosen with a certain amount of input from the Kansas Association of Public Employees, but was primarily selected at the suggestion of the Assistant Attorney General, Mr. Donald Hoffman, who was assigned to the Public Employee Relations Board who indicated that the earliest feasible

date would be the one most acceptable to the Public Employee Relations Board. It therefore is the finding that the date was not changed at random nor was it changed by the exclusive action of the Kansas Association of Public Employees.

2. The second objection is to the effect that Service Employees Union Local 513, AFL-CIO was not officially notified of the cancellation of the election for May 29 and rescheduling for June 1, 1973. Assuming for the sake of argument that official notice was not given, the Service Employees Union Local 513 did have actual notice of the change of the date and was not prejudiced in any manner by lack of official notice if indeed they did not have official notice. The findings here are that this objection was not sustained, and if it was, there is no sufficient showing that this objection would have prejudiced the election in any degree.

3. The third objection seems to be that the Service Employees Union Local 513 was unofficially informed by Mr. Howell that the election had been canceled at a meeting which was supposed to be the pre-election conference. This objection is a further indication that the Service Employees Union Local 513 did have actual notice that the election was not to be held on May 29 and the findings here are that actual notice was received and that the form of the notice is not controlling and again that no substantial prejudice resulted if the objection is true.

4. The fourth objection is to the effect that the Public Employee Relations Board did not set the new election date, and this objection has been adequately covered in the finding regarding objection number one.

5. The objection stated in number five is to the effect that the notice of election modification was mailed on Wichita State University letterhead and seems to infer some improper action or influence on the part of the employer. The custom insofar as notices in these proceedings, seems to have been that the notices were mailed out, when time was short, by the University. This does not change the fact that the notice was the notice given by the Public Employee Relations Board and in this instance, if as a matter of convenience was mailed out on the University stationery, would not seem to be so prejudicial as to warrant the overturning of the election. It is the finding that this objection be overruled.

6. The sixth objection seems to pertain to certain improper acts of electioneering on the part of the Kansas Association of Public Employees, but the evidence is to the effect that as soon as the representative of the Kansas Association of Public Employees was apprised of the University ruling, he took what steps were reasonable and necessary to comply with the University's rules. Additionally, no substantial prejudice would seem to have arisen from such electioneering as was done. It is the finding that this objection be overruled.

7. The objection stated in number seven seems to be to the effect that proper intervention procedures were not followed by the Kansas Association of Public Employees. The specific improper procedures followed by the Kansas Association of Public Employees are not alleged nor was there any specific evidence of improper intervention procedures. A petition to intervene was filed on or about May 21, 1973, by the Kansas Association of Public Employees with the Public Employee Relations Board, but it seems that the actual challenge to the election being held on the 29th was the injunction suit brought by KAPE in the Shawnee County District Court. The Public Employee Relations Board had no control over the judge's decision in this suit. It would appear that this objection is not well founded and it is the finding that this objection be overruled.

In conclusion, the objections which were raised by the Service Employees Union Local 513 were either not proven by a preponderance of the evidence; if they were proven, they would not have materially affected the outcome of the election and therefore were not prejudicial.

Accordingly, IT IS ORDERED that the election held on June 1, 1973 be certified and that Kansas Association of Public Employees (KAPE) be the proper employee organization to represent the Maintenance and Service employees of Wichita State University.

IT IS SO ORDERED BY THE PUBLIC EMPLOYEE RELATIONS BOARD


Eldon V. Danenhauer, Chairman

February 15, 1974
Findings of Fact, etc.
Case UE 20-1973

MAILED TO:

Mr. Robert E. David, President, Local 513
Mr. Russell Cranmer, Atty. for Local 513
Mr. Gary Reser, Director, KAPE
Mr. William G. Haynes, Atty. for KAPE
Dr. Clark Ahlberg, President, WSU
Mr. Roger Lowe, Asst. to Pres. for Finance, WSU
Mr. Wilbur Fear, Dir. of Employee Relations, WSU
Mr. Armin Brandhorst, Dir. of Physical Plant, WSU
Mr. Lowell Long, Dir. of Personnel, State
Mr. Darrell Hoffman, Labor Relations Administrator, State
Mr. Franklin Theis, Chief Atty., Dept. of Admin., State
Mr. Matthew J. Dowd, Atty. & Hearing Officer for PERB

STATE OF KANSAS

Public Employee Relations Board



STATE CAPITOL BUILDING
TOPEKA, KANSAS 66612

ROBERT B. DOCKING
GOVERNOR

ELDON DANENHAUER, Chairman
ALAN NEELLY
MERLE STAATS
NATHAN W. THATCHER
ARTHUR J. VEACH

May 29, 1973
Sample

Dr. Clark D. Ahlberg
President
Wichita State University
Wichita, Kansas

RE: Case No. UE 20-1973

ORDER

It having been determined that the appropriate unit in the above case is as follows:

INCLUDE: All eligible service and maintenance employees at Wichita State University as listed below.

EXCLUDE: Officials, managers, professional employees, office, clerical, security guards, confidential supervisors as defined in the Act under Section 75-4322(b).

List of Positions in Appropriate Unit

- | | |
|--------------------------------|-----------------------------|
| Automotive Mechanic I | Laborer II |
| Cook II | Lab. Equipment Repairman |
| Custodial Supervisor I | Laboratory Technician I |
| Custodial Worker | Laboratory Technician II |
| Domestic Worker | Maintenance Carpenter |
| Electronic Communication Tech. | Maintenance Electrician |
| Electronic Technician I | Maintenance Painter |
| Electronic Technician II | Maintenance Plumber |
| Food Service Worker I | Maintenance Repairman |
| Food Service Worker II | Refrig & Air Cond. Mechanic |
| Glassblower | Sheetmetal Worker |
| Instrument Maker | Stationary Fireman |
| Laborer I | Storekeeper II |

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Dr. Clark D. Ahlberg

May 29, 1973

and a showing of interest of 30 percent has been received from Service Employees Union Local 513 and from Kansas Association of Public Employees, this Board orders that an election be held on June 1, 1973 from 2:00 p.m. to 5:00 p.m. in Room 249 of the Campus Activity Center (CAC) building, for the purpose of determining whether the aforesaid employees want to be represented by:
(1) Service Employees Union Local 513, (2) Kansas Association of Public Employees, or (3) No Representation.

The Public Employee Relations Board rule 84-2-12 allows for observers. The Board allows the public employer one observer and the public employees two observers, one representative in behalf of each employee organization.

Notices of Election are to be posted in places conspicuous to all employees in their respective units. Enclosed are sample Ballot sheets to be posted with the Notice of Election sheets.

Observers for the election should be at the polling area by 1:00 p.m. on June 1, 1973 for further instructions.

IT IS SO ORDERED BY THE PUBLIC EMPLOYEE
RELATIONS BOARD


Carol J. Wampler, Secretary

cc: Mr. David Howell, Personnel Director - Wichita State Univ.
Mr. Roger Lowe, Business Manager - Wichita State Univ.
Mr. Robert David, President - Service Employees Local 513
Mr. Gary Reser, Acting Director - KAPE
Mr. Lowell Long, State Director of Personnel

Public Employee Relations Board

STATE CAPITOL BUILDING
TOPEKA, KANSAS 66612ROBERT B. DOCKING
GOVERNORELDON DANENHAUER, *Chairman*
ALAN NEELLY
MERLE STAATS
NATHAN W. THATCHER
ARTHUR J. VEACH

May 1, 1973

Dr. Clark D. Ahlberg
President
Wichita State University
Wichita, KansasIN THE MATTER OF CASE NO. UE 20-1973 - PETITION OF SERVICE
EMPLOYEES UNION LOCAL 513 FOR UNIT DETERMINATION & CERTIFI-
CATION OF CERTAIN MAINTENANCE & SERVICE EMPLOYEES AT WICHITA
STATE UNIVERSITYORDER

On April 26, 1973 the above matter came before the Public Employee Relations Board for determination of the appropriate unit. The Board finds that on February 8, 1973 the Service Employees Union Local 513 filed a petition for Unit Determination & Certification of certain maintenance and service employees at Wichita State University; that on February 14, 1973 an objection to the appropriateness of the unit was filed by the University; that on April 24, 1973 an amendment to the original petition was filed by the University, upon agreement by both parties as to the appropriate unit. The Board finds that no further objections have been filed and that the unit herein should be determined as set forth in the amended petition filed by Wichita State University on April 24, 1973.

It is therefore ordered that the appropriate unit in this matter before this Board should be as follows:

INCLUDE: All eligible service and maintenance employees at Wichita State University as listed on page 2.

EXCLUDE: Officials, managers, professional employees, office, clerical, security guards, confidential supervisors as defined in the Act under Section 75-4322(b).


May 1, 1973

List of Positions in Appropriate Unit

Automotive Mechanic I	Laborer II
Cook II	Lab. Equipment Repairman
Custodial Supervisor I	Laboratory Technician I
Custodial Worker	Laboratory Technician II
Domestic Worker	Maintenance Carpenter
Electronic Communication Tech.	Maintenance Electrician
Electronic Technician I	Maintenance Painter
Electronic Technician II	Maintenance Plumber
Food Service Worker I	Maintenance Repairman
Food Service Worker II	Refrig & Air Cond. Mechanic
Glassblower	Sheetmetal Worker
Instrument Maker	Stationary Fireman
Laborer I	Storekeeper II

Prior to the election, the Board requests a list of all eligible employees of the appropriate unit who were employed on the date the petition was filed, April 24, 1973.

IT IS SO ORDERED BY THE PUBLIC EMPLOYEE RELATIONS BOARD


Carol J. Wampler, Secretary

cc: Mr. Roger Lowe, Busi. Manager - Wichita State Univ.
Mr. David Howell, Personnel Director - Wichita State Univ.
Mr. Max Bickford, Exec. Officer - St. Bd. of Regents
Mr. Robert David, President - Service Employees Local 513
Mr. Harry Helser, Rep. - Service Employees Local 513
Mr. Lowell Long, State Director of Personnel
Mr. Frank Theis, Chief Atty. - Dept. of Administration
Board Members

Attachment
Notice of Election
Wichita State University

List of Positions in Appropriate Unit

Automotive Mechanic I	Laborer II
Cook II	Lab. Equipment Repairman
Custodial Supervisor I	Laboratory Technician I
Custodial Worker	Laboratory Technician II
Domestic Worker	Maintenance Carpenter
Electronic Communication Tech.	Maintenance Electrician
Electronic Technician I	Maintenance Painter
Electronic Technician II	Maintenance Plumber
Food Service Worker I	Maintenance Repairman
Food Service Worker II	Refrig & Air Cond. Mechanic
Glassblower	Sheetmetal Worker
Instrument Maker	Stationary Fireman
Laborer I	Storekeeper II

* *Storekeeper I*

* *Welder*

* *Amended in Bd meeting of Sept 30, 1974*