[Labor Relations Agency Stationery]

PRELIMINARY ORDER AND DECISION NO. 65

Re: Petition for Certification of Public Employee Representative and for Determination of the Question of Affiliation with the Labor Organization
Petition 81-1

BACKGROUND

On November 23, 1979 the Correspondence Teachers organized. an association known as the Centralized Correspondence study Association. (CCSEA) submitted a Petition seeking recognition of a bargaining unit. In Order and Decision No. 56b the Labor Relations Agency granted the Petition. CCSEA was Ordered to contact the Labor Relations Agency within 30 days of receipt of the Order and Decision and notify the Agency as to whether a question of representation exists and whether the election is necessary to determine their exclusive representative. When the November 23, 1979 Petition was filed CCSEA was affiliated with AFT. Subsequent to that date CCSEA disaffiliated with AFT.

In Petition 81-1 CCSEA requested the Agency to conduct two elections. The first election was to concern whether CCSEA was to be the exclusive

representative of the members, or, pursuant to Alaskan law there would be no representation. The second request was to conduct a vote as to whether members of CCSEA, if they did in fact vote for CCSEA in the secret ballot election, desire to affiliate with either APEA or NEA. Petition 81-1 was signed by members of the proposed unit and stipulated that a consent election pursuant to 2AAC 10.120 could be held by representatives of APEA and NEA.

Petition 81-1 was the result of many contacts in writing and by telephone to the Agency. The basic position of the parties concerned the affiliation vote as stated in paragraph 2.7 on Pages 4 and 5 of the Petition. The petitioners request the Agency to conduct an election concerning affiliation by secret ballot. The request is not to be construed as an acknowledgment by the teachers or the organization that the Agency has jurisdiction over the question of affiliation for collective bargaining purposes. The Petition
takes pains to point out that it is "understood" that the Agency's consent to conduct the election is not to be construed as

an assertion by the Agency that it has jurisdiction over the question of affiliation with the Labor Organization. The petitioners are requesting the Agency to conduct a "mock" election. Then at some future date the members may decide to affiliate with CCSEA-NEA or some other labor organization or person.

The desires expressed in Petition 81-1 fly in the face of the statutory and regulatory scheme of the Labor Relations Agency. Alaska Statute 23.40.100 (a)(l)(A) as well as §(b) and (d) specifically address the issue of representation as the "exclusive representative of the employees in the bargaining unit. Alaska Statute 23.40.110 (b)(2), as well as Alaska Statute 23.40.200, and 23.40.240 refer to the exclusive bargaining representative of the employees. It is clear that the purpose of the secret ballot election is to allow the employees to select their exclusive bargaining representatives. It is also crystal clear that 2AAC 10.440 (b) gives great eight in any determination under the Alaskan law whenever relevant National Labor Relations Board and Federal Court decisions are involved. This Board has looked at the NLRB

decisions and the law, and found that §9a of the Act states, "representatives designated or selected for the purposes of collective bargaining by the majority of the employees and a unit appropriate for such purposes, shall be the exclusive representatives of all the employees for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment...".

In cases involving union successorship, as distinguished from a true change in representation, the Board imposes upon the successor all the obligations and rights of the predecessor's union. When a change in a bargaining representative is little more than a change in name, the employer must continue to recognize the successor bargaining rep-resentative. New England Foundry Corp. 192 NLRB 785 (1971). In cases involving merger or change of affiliation, the Board will also examine the procedural safeguards accompanying the union merger or affiliation vote. When the Board finds the procedures adequate, it can find a violation based on the refusal of the employer to recognize and bargain with the successor union. Bernard Gloeckler North East Company LRRM 1112

(1975) Amoco Products Company 9 LLRM 1434 (1975). When there is the certification of an independent union to reflect affiliation with international union and the resultant change in name, the full Board has granted the Petitions to amend the certification finding no essential change in the identity of the bargaining representative. New Orleans Public Service 237 NLRB 134 (1978). The Board noted under that existing labor agreement that the employees covered by the agreement and the local union officers were the same before and after affiliation. The local union was still free to negotiate its own labor agreement and process its grievances through the same elected leaders. The current labor agreement provided it was binding upon successors of the respective parties and all contractual commitments made by the independent union to the employer would be respected. The application for membership in the affiliated union was "ministerial only" and that all members of the independent union became members of the affiliated union without payment of initiation fees.

In summation, the Board has held that where a union is

actually the continuation of another union under a different name as a result of affiliation, disaffiliation, merger, or the formation of a new organization, and the predecessor union ceases to exist or unequivocally abandoned bargaining rights, its successor is entitled to the predecessor's bargaining rights. On the other hand, if there are <u>significant changes in the actual identity of the bargaining representative</u>, the employer is faced with a question of representation and will not be required to bargain with the new representative until its majority status is established.

Therefore, as a matter of law, this Board does have an interest in any affiliation that any exclusive bargaining representative has. To allow any bargaining representative to affiliate with a labor organization one year and a different organization the next year, would contravene the purposes of
the Alaska Statutes. Such an arrangement would allow the president or vice-president, perhaps with or perhaps without voter member approval to pick and choose any other labor organization to bargain in its name place and stead.
The purposes PERA is to allow the majority of the

employees to pick their representative, if the representative wants to be the exclusive representative of those employees.

Therefore, the Board will post a Notice of Hearing pursuant to 2AAC.

IT IS HEREBY ORDERED that any labor organization wishing to intervene pursuant to the Alaska Administrative Code may do so within 15 days of the receipt of this Order. If a labor organization does not intervene the election will be conducted with CCSEA and no representation on the ballot.

DATED this 20th day of April, 1981

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C. R. "Steve" Hafling

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Morgan Reed

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Ron Henry

[Signatures of Hafling and Henry on File]