

Portland Schools drags feet reinstating custodians

By **DON McINTOSH**
Associate Editor

A private janitorial contractor is still cleaning Portland Public Schools (PPS) 14 months after the Oregon Supreme Court condemned that as a violation of a civil service law that dates back to the 1930s.

PPS fired its 330 in-house custodians in the summer of 2002 and replaced them with janitors employed by the non-profit Portland Rehabilitation Center (PHC).

The custodians' union and the district's own Custodian Civil Service Board told PPS at the time that con-

tracting out was against the civil service law, which requires that PPS custodians be hired through civil service procedures. But it took over three years for that argument to be validated by the court.

Since the court's October 2005 decision, PPS appears to have dragged its feet in complying. First PPS asked the court to reconsider. That bought a six-month delay. In April, the court reaffirmed its ruling.

Three months after that, PPS sent a letter to custodians' attorneys offering "recall."

Recall differs from "reinstatement"

says Mark Griffin, an attorney who represents a group of custodians in a federal lawsuit seeking backpay damages for the firing; Recall has to do with layoff; reinstatement is a remedy for unlawful termination.

By whatever name, by early October, PPS had rehired about 130 of the fired custodians — nearly all of those who wanted to return. That wouldn't be enough staff to clean the schools, however. PHC is continuing to clean some schools and some shifts while rehired custodians clean others.

PHC's contract was supposed to expire July 14, but was extended first

90 days, then 30 days, and then 30 days again — through Dec. 15. The district won't say how much longer it will continue to extend its contract with PHC, except that it plans to have all in-house custodians by the start of the 2007-2008 school year.

"The custodians feel like the district broke the law and has yet to fully right that wrong," said Service Employees International Union (SEIU) 503 staff representative Shannon Strumpfer, who represents the returning custodians. "Having PHC still in the buildings is further violation of the law."

SEIU Local 140, which represented PPS custodians and cafeteria workers, merged into SEIU Local 503 after the custodians were fired.

What's keeping PPS from hiring new custodians? The custodian civil service law requires the district to fill all custodial vacancies from the list of candidates established by the Custodian Civil Service Board, which is supposed to administer competitive exams open to any applicant. About 300 people, including many current PHC janitors, took the civil service exam on two dates in August. But the process was put on hold when the district decided to get creative filling the vacancies.

In August, the school district's administration purged the CCSB and used its authority to appoint an all-new, all-attorney CCSB which began meeting in September. The district then asked the CCSB to approve a one-year exemption to allow an in-house training — given by PHC managers to PHC employees — to substitute for the civil service exam.

The argument behind the proposal is that PHC janitors who are now cleaning the schools might do poorly — the exam tests reading and math, and the district argues such a test might discriminate against those who are disabled or aren't competent in English.

SEIU Local 49, which represents PHC janitors, supports the district's proposal, as it wants its members to have a chance at the better-paid in-house jobs. But for PHC, the worry

might also be that its janitors would do too *well* on the exam.

PHC is a non-profit contractor that employs people with disabilities, and it got its contract with PPS under a state law that grants preference in contracting to such "qualified rehabilitation facilities." PHC has grown as public entities seek to save money by privatizing. But PHC has been plagued by questions — and lawsuits — about whether its employees really qualify as disabled. The contracting preference law is intended to benefit workers whose disabilities prevent them from getting jobs except in "sheltered" workplaces. If PHC employees were to pass CCSB's exam and be hired normally, that would suggest they weren't disabled enough to have been employed by PHC.

The new Custodian Civil Service Board will decide Dec. 15 whether to agree to the school district's proposal.

Meanwhile, returning custodians think PPS may try to change the custodian civil service law when the Oregon Legislature meets in January. Asked point blank whether the district is planning to lobby Salem about it, PPS spokesperson Sarah Carlin Ames paused. She wouldn't deny it, and would only say she hadn't been present at any meetings where it was discussed.

Providence System 'Grinch of Year'

Providence Health System was named "Grinch of the Year" by the workers' rights group Portland Jobs with Justice. The designation came as part of the group's annual holiday dinner fundraiser. Donors pay \$1 per vote, and cast their votes from among a list of union adversaries. Providence, which has resisted calls to sign a union-neutrality agreement, got 900 votes. Service Employees International Union Local 49 is trying to unionize about 5,000 support staff at Providence. To prevent that, management has reportedly hired a "union avoidance" law firm Jackson Lewis, the union said.

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