

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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|--|---|--------------------------|
| LAKE WASHINGTON VTI FEDERATION<br>OF TEACHERS, AFT LOCAL 3533, | ) |                          |
|  | ) | CASE NO. 5976-U-85-1116  |
| Complainant,   | ) |                          |
|  | ) | DECISION NO. 2317 - EDUC |
| vs.  | ) |                          |
|  | ) |                          |
| LAKE WASHINGTON SCHOOL DISTRICT,                               | ) | PRELIMINARY RULING AND   |
|  | ) | ORDER OF DISMISSAL       |
| Respondent.  | ) |                          |
|  | ) |                          |
|  | ) |                          |

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On September 12, 1985, Lake Washington VTI Federation of Teachers, AFT Local 3533, filed a complaint charging unfair labor practices with the Public Employment Relations Commission. The matter is now before the Executive Director for a preliminary ruling pursuant to WAC 391-45-110. At this stage of the proceedings, it must be assumed that all of the facts alleged are true and provable. The question at hand is whether the complaint states a cause of action.

In the space provided on the complaint form for indication of the sections of the statute alleged to have been violated, the complainant marked only sections regulating the conduct of public employers under Chapter 41.56 RCW, the Public Employees Collective Bargaining Act. From information contained in the complaint and from information contained in the docket records of the Commission, it is inferred that the employees involved are actually certificated employees of the school district who are covered by the Educational Employment Relations Act, Chapter 41.59 RCW. Since the unfair

labor practice provisions of the two statutes are generally similar, the complainant has been given the benefit of the doubt in translating to the comparable sections of Chapter 41.59 RCW.

Although the statement of facts is set forth under a heading which states:

The charge: AFT #3535 charges the Lake Washington School District with failure to bargain in good faith and with circumventing the negotiations process by making proposals directly to instructors,

the factual allegations recite only an incident wherein the director of the Lake Washington Vocational-Technical Institute visited various classrooms, to discuss with students an impasse in negotiations between the employer and the organization representing its teaching employees, as well as to discuss the potential of a strike. The complaint alleges that the employer's agent threatened the students with a loss of financial aid if they discussed the strike or honored picket lines.

No violation could be found on the facts alleged. Neither Chapter 41.56 RCW nor Chapter 41.59 RCW protects a right of public employees to strike. Neither statute contains a clause protecting "concerted activities". To the extent that they exist, any legal prohibitions on public employee strikes in the state of Washington are a product of the common law as developed through the courts. The Public Employment Relations Commission does not regulate strikes through the unfair labor practice provisions of the statute. Spokane School District, Decision 310-B (EDUC, 1978). Therefore, the employer is not prohibited from making statements (or even threats) in order to deter employees from strike activities. Concrete School District, Decision 1059 (EDUC, 1980).

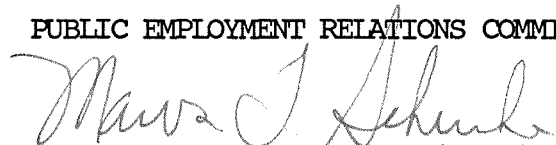
NOW, THEREFORE, it is

ORDERED

The complaint filed in the above-entitled matter is dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 9th day of December, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This Order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.