

Bellevue School District, Decision 6862 (EDUC, 1999)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

BELLEVUE EDUCATION ASSOCIATION,)	
)	
Complainant,)	CASE 14619-U-99-3660
)	
vs.)	DECISION 6862 - EDUC
)	
BELLEVUE SCHOOL DISTRICT,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	

On June 3, 1999, the Bellevue Education Association (union) filed a complaint charging unfair labor practices with the Commission under Chapter 391-45 WAC, alleging the Bellevue School District (employer) had interfered with employee rights and refused to bargain in violation of the Educational Employment Relations Act, at RCW 41.59.140(1)(e).

The case was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on August 17, 1999, pointed out several problems with the complaint. The union was given a period of 14 days in which to file and serve an amended complaint that stated a cause of action, or face dismissal of the complaint. Nothing further has been received from the union. The complaint is dismissed.

¹ At this stage in the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

DISCUSSION

The union alleged, generally, that the employer unilaterally discontinued a practice of giving school psychologists supplemental contracts for testing children individually for entrance into programs for gifted elementary students. The change had the effect of reducing the employees' total compensation.

Insufficient Factual Allegations

The complaint lacks detailed factual allegations sufficient to form an opinion as to whether the decision to discontinue individualized testing constituted a mandatory subject of collective bargaining under Chapter 41.59 RCW. The Commission has ruled:

The scope of mandatory bargaining includes matters that directly impact the wages, hours or working conditions of bargaining unit employees.

Managerial decisions that only remotely affect "personnel matters," and decisions that are "managerial prerogatives" are classified as nonmandatory subjects.

The case law is clear, ... that the employer had no duty to bargain the decision to reduce its budget. This Commission has also held that decisions concerning curriculum and basic education policy are reserved to the employer, without need for notice to or bargaining with unions representing school district employees.

[Federal Way School District, Decision 232 (EDUC, 1977)] dealt with the distinction between a "decision" and its "effects", noting that an employer may have bargaining obligations concerning the effects of a management decision that is not subject to the duty to bargain.

Wenatchee School District, Decision 3240-A (PECB, 1990)
(citations omitted)

The union was advised that facts were needed supporting its interest, if it was claiming the decision to discontinue individualized testing was not just a managerial prerogative involving budget/program considerations.

No Demand for Bargaining

The complaint lacks an allegation that the union demanded bargaining, or was excused from doing so. It was only alleged, at paragraph 6, that a union representative asked the employer not to implement the proposed change. In Lake Washington Technical College, Decision 4721-A (PECB, 1995), the Commission ruled that a union must make a clear demand for bargaining to trigger the employer's obligations; a statement in that case that the pending action violated a collective bargaining agreement was not sufficient, and that union was held to have waived its rights by inaction.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is hereby DISMISSED for failure to state a claim for relief available through proceedings before the Commission.

Issued at Olympia, Washington, this 25th day of October, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC-391-45-350.