STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
PUBLIC SCHOOL EMPLOYEES OF NORTH THURSTON	)	CASE 11099-D-94-108
For determination the union security obligations of:	)	DECISION 4938-A - PECB
DELORES PICCININI	)	
Under a collective bargaining agreement between:	)	
NORTH THURSTON SCHOOL DISTRICT	)	DECISION OF COMMISSION
and	)	
PUBLIC SCHOOL EMPLOYEES OF NORTH THURSTON	)	

Delores Piccinini, appeared pro se.

David Fleming, Attorney at Law, appeared on behalf of the union.

This case comes before the Commission on a motion filed by the Public School Employees of North Thurston, seeking to dismiss a petition for review in which Delores Piccinini sought to overturn a decision issued by Examiner Vincent M. Helm.[1]

BACKGROUND

On April 1, 1994, Delores Piccinini made a written request of North Thurston School District (employer) to be released from union

[1] North Thurston School District, Decision 4938 (PECB, 1995).

membership due to religious convictions. Her request was forwarded to David Fleming, field representative of Public School Employees of North Thurston (union). On May 2, 1994, Fleming wrote to Piccinini, enclosing a copy of Chapter 391-95 WAC as well as a copy of the collective bargaining agreement between the employer and union. The agreement contained union security provisions. The union pointed out to Piccinini that it was proceeding with the case despite the fact she had not taken the steps required in WAC 391-95-030 to notify the union of her claim. The union also stated it did not receive notice as to the charity Piccinini would like to have receive her alternative payments.

On May 5, 1994, the union submitted the case to the Commission, by filing a petition for ruling on the union security obligations of Delores Piccinini. The case was heard on October 20, 1994, and Examiner Vincent M. Helm issued his findings of fact, conclusions of law and order in the matter on January 30, 1995. The Examiner held that Piccinini did not sustain her burden of proof to establish her claim of a right of nonassociation based upon a bona fide religious objection to union membership.

On February 15, 1995, Piccinini filed a petition for review with the Commission, claiming that she was not properly prepared because of being misinformed by her employer concerning the formality of the hearing. She stated she felt badgered during the hearing by a representative of the union. Piccinini requested reconsideration, and requested until April 3, 1995 to present her reasons for nonassociation in writing to the Commission.

On March 6, 1995, the union filed a motion to dismiss the appeal, citing that the petition for review had not been served upon the union pursuant to WAC 391-95-270. The union contended that Piccinini has failed to follow procedural guidelines in the past, including failure to properly serve the union with her initial claim. The union noted that the time for notifying the union of

the appeal would have been no later than February 21, 1995. As of that date, the union had not received notification from Piccinini.[2]

DISCUSSION

WAC 391-95-270 requires both: (1) the filing of an original and three copies of a petition for review with the Commission, and also (2) service of a copy of the petition for review on the other party to the proceeding and on the employer. The rule provides, in pertinent part:

> The original and three copies of the petition for review shall be filed with the Commission at its Olympia office **and the party filing the petition shall serve a copy on the other party to the proceedings and on the employer.**
>
> **[Emphasis by bold supplied]**

In Clover Park School District, Decision 377-A (EDUC, 1978), the Commission affirmed a dismissal order issued by the Executive Director without comment on the merits, because of the failure of the party filing the petition for review to serve copies on all of the other parties. That failure violated WAC 391-08-120 and provisions of the unfair labor practice rules. In Mason County, Decision 3108-A (PECB, 1989), the Commission said that service of the petition for review on opposing counsel is a "jurisdictional requirement", and as such is equivalent to the service of a notice of appeal from a superior court to the court of appeals. We see no reason to depart from that precedent now.

The Commission recognizes it has the authority, under WAC 391-08-003, to waive Commission rules when a party is not prejudiced. The

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[2] The union learned of Piccinini's appeal through an informal conversation with Examiner Vincent Helm on February 27, 1995.

exercise of that authority should be based, however, on whether such a waiver effectuates the purposes and provisions of the applicable collective bargaining statute. See, Mason County, supra. The collective bargaining statutes embody a legislative policy requiring litigants to communicate with one another, and also establish administrative procedures for bringing an orderly resolution to disputes. When one party does not follow proper procedures, it can reduce processes to meaningless exercises, jeopardize relationships, and prejudice the rights of other parties.

In this case, we do not find sufficient justification for a waiver. As the union contends, this is not the first time Piccinini has failed to follow procedural guidelines contained in Chapter 391-95 WAC. The first claim was not properly served on the union. The union nevertheless sent Piccinini copies of pertinent rules, including WAC 391-95-270, and specifically advised her of the requirement to serve the parties. Despite being advised of the service requirement, there is no indication on the face of the document that her petition filed on February 15, 1995 had been served on the union or the employer.

Our rules do not require that claimants be represented by legal counsel, and we acknowledge that a pro se claimant may be treading on unfamiliar ground in presenting a case on their own. However, parties who choose to appear pro se are not thereby excused from compliance with the rules duly promulgated by the Commission and published in the Washington Administrative Code (WAC). King County, Decision 2704-A (PECB, 1987). While leniency towards a pro se litigant is sometimes appropriate, we must also be mindful of statutory requirements and the rights of other parties. See, Port of Seattle, Decisions 4394-B and 4395-B (PECB, 1992). When the attention of a pro se litigant has been called to the very procedural requirements that are then disregarded, we find no

greater consideration can be given to such a litigant than to a party represented by experienced counsel.[3]

The record shows that the union has allowed Piccinini every opportunity to make her case. As in Mason County, where the Commission found that waiver of the service requirements of WAC 391-45-350 would not effectuate the purposes of that rule, we find under the circumstances of this case that a waiver of WAC 391-95-270 would neither further the statutory policies of "communication" and "orderly dispute resolution", nor promote peace in labor relations.

NOW, THEREFORE, it is

ORDERED

1. The union's motion to dismiss the appeal is granted, and Delores Piccinini's petition for review is dismissed.

2. The Findings of Fact, Conclusions of Law and Order issued in the above-entitled matter on January 30, 1995, by Vincent M. Helm shall stand as the final order of the agency on the merits of the case.

ISSUED at Olympia, Washington, this 28th day of March, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

JANET L. GAUNT, Chairperson

SAM KINVILLE, Commissioner

JOSEPH W. DUFFY, Commissioner

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[3] See, Battle Ground School District, Decision 2997-B (1989).