



STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEATTLE OFFICE
300 West Harrison
Seattle, Washington 98119

May 26, 1976

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PUBLIC EMPLOYMENT
RELATIONS COMMISSION

Mrs. Vi Barner, President
Franklin Pierce Educational
Secretaries' Organization
Christensen Elementary School
10232 Barnes Lane
Tacoma, Washington 98444

DECISION NO. 78. PECB
CASE NO. 235-DEW-147
RE: /CASE NO. / SEN-147/
Severance

Dear Mrs. Barner:

Thank you for your letter of explanation which we received on May 25, 1976. It is regrettable that you could not locate a copy of the previous Bylaws of your organization. It should not be surprising, however, as you state that you have been inactive since 1967, a period of nine years.

The Public Employees' Collective Bargaining Act did not become effective until July 1, 1967, and prior to that the public employer was not required to negotiate. Collective bargaining in school districts before 1967 consisted of meeting and conferring with the district informally without consummating a written agreement because there was no permissive legislation relating to same. But the "meet-and-confer" process of those days would not be considered true "negotiations" under our present statutes.

The "Declaration of Purpose" of the Act (RCW 41.56.010) states its intent to implement ". . . the right of public employees to join labor organizations of their own choosing and to be represented by such organizations. . ." (emphasis supplied). The first occasion on which a question was raised as to whether or not an organization was a "labor organization" under the Act, was in 1967. A final decision by Mr. Harold J. Petrie, then Director of the Department of Labor and Industries, ruled that Public School Employees of Washington did not qualify because of the contents of their Constitution and Bylaws. (Franklin Pierce School District, Case No. 0-240, December 7, 1967) Emergency rules were put into effect shortly thereafter and were made permanent on April 10, 1970. This rule has been adopted by the Commission and is codified as WAC 391-20-065.

It is highly doubtful that the Bylaws of your organization which were adopted before 1967 would qualify your group as a "labor organization" or "lawful organization" even if you could have found them. As you can see, this was prior to

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adoption of the Act or the Rules. If your group plans to become an authentic labor organization in the future, I would suggest that you amend the May 11, 1976 draft to make sure it complies with WAC 391-20-065 (3), (a) and (b). The Bylaws, in their present form, do appear to be deficient in those two areas.

The statute and the rules provide that any "labor organization" may petition for representation. It is obvious that your group was not a labor organization pursuant to WAC 391-20-065 when you petitioned this Commission on April 29, 1976. Your submission of Bylaws as you remembered them to be nine years ago cannot be accepted. Therefore, we have no alternative except to dismiss your representation petition.

Sincerely,

Willard G. Olson
Associate Chief Labor Mediator

WGO:st

cc: ✓ Mr. Marvin L. Schurke
Mr. Dick Randall
Mr. Robert Zurfluh