

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of)
FRANKLIN PIERCE EDUCATIONAL)
SECRETARIES ORGANIZATION)
involving certain employees of)
FRANKLIN PIERCE SCHOOL)
DISTRICT NO. 402)
_____)

Case No. 235-DEW-147
Decision No. 78A-PECB

ORDER REMANDING FOR FURTHER PROCEEDINGS

Franklin Pierce Educational Secretaries Organization having, on April 29, 1976, filed a petition with the Public Employment Relations Commission seeking severance of a unit of secretarial-clerical employees from an existing unit of all classified personnel in the Maintenance, Secretarial-Clerical, Food Service and Aide general job classifications employed by Franklin Pierce School District No. 402; and an authorized agent of the Commission having dismissed the petition by a letter dated May 26, 1976; and the petitioner having timely filed a notice of appeal; and the Commission having considered the matter and being satisfied that the matter should be remanded for further proceedings,
NOW, THEREFORE, it is

ORDERED

That the Executive Director be, and hereby is, directed to re-open the above entitled matter for further proceedings to determine whether the petitioned-for unit is an appropriate unit within the meaning of RCW 41.56.060 and WAC 391-20-145.

DATED at Olympia, Washington, this 8th day of December 1976.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Mary Ellen Krug

MARY ELLEN KRUG, Chairman

Robert B. Arkell

ROBERT B. ARKELL, Commissioner

Michael H. Beck

MICHAEL H. BECK, Commissioner

FRANKLIN PIERCE SCHOOL DISTRICT NO. 402
Case No. 235-DEW-147

MEMORANDUM ACCOMPANYING ORDER
REMANDING FOR FURTHER PROCEEDINGS

This matter comes before the Commission on appeal from an order of a member of the agency staff dismissing a petition for severance. The stated reason for dismissal was the presumed failure of the petitioning organization to be in compliance with the requirements of WAC 391-20-065 on and before the date the petition was filed. That conclusion was, in turn, based upon correspondence and a copy of the bylaws of the petitioner which were filed with the agency subsequent to the filing of the petition.

In reviewing this matter on appeal, the Commission notes that a question of equal protection of the law lurks in the rules of the agency as applied in this case. On the other hand, the petition does not rise or fall on WAC-391-20-065 alone, and it is a well established principle that constitutional issues should not be reached if the case is subject to disposition on other grounds. Here, the unit requested by the petitioners must meet the criteria set forth in RCW 41.56.060. Secondly, because the petitioned-for unit is presently included within an existing larger unit, the unit requested by the petitioners must meet the severance criteria set forth in WAC 391-20-145. Only in the event that the unit in question would be appropriate for severance would a question arise as to whether the limitation of access to severance proceedings to labor organizations constitutes a denial of equal protection of the law to individuals and other groups. The Executive

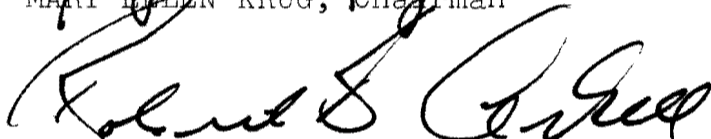
FRANKLIN PIERCE SCHOOL DISTRICT NO. 402
Memorandum

Director has, therefore, been directed to reopen these proceedings to take evidence on and decide the unit questions as well as such additional evidence as may be available with respect to the petitioner's compliance with WAC 391-20-065.

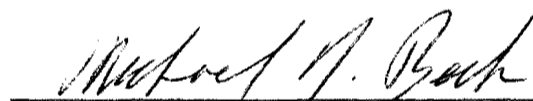
PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARY ELLEN KRUG, Chairman



ROBERT B. ARKELL, Commissioner



MICHAEL H. BECK, Commissioner