STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

GARY WILLIAM FINHOLT Complainant, vs. SEATTLE SCHOOL DISTRICT NO. 1 Respondent.	Case No. 332-ULW-242 ORDER OF DISMISSAL DECISION NO 169 EDUC

Gary William Finholt having, on June 29, 1976, filed charges with the Public Employment Relations Commission alleging that the Seattle School District had engaged in unfair labor practices by refusing to process a grievance to the second and higher steps of a grievance procedure; and the Executive Director having reviewed the matter and being satisfied that the facts alleged do not, as a matter of law, constitute an unfair labor practice,

NOW, THEREFORE, IT IS

ORDERED

That the charges filed in the above entitled matter be, and hereby are, dismissed.

DATED at Olympia, Washington, this 29th day of December, 1976.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Marvin L. Schurke

MARVIN L. SCHURKE, Executive Director

GARY WILLIAM FINHOLT
Case No. 332-ULW-242

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

The instant matter was filed with the Commission on June 29, 1976, at a time when the Commission did not have any rules in effect for the processing of unfair labor practice allegations. The document now on file does not comply with the procedural requirements subsequently adopted, but is not being disposed of on that basis.

The case was filed by Gary William Finholt, but references the Seattle Federation of Teachers, Local 200, affiliated with the American Federation of Teachers, AFL-CIO. The text of the allegation is as follows:

> Gary Finholt, 4427 2nd Ave. N.W., Seattle, Wa. 98107 filed two grievances against the Seattle School District, 815 4th Ave. North, Seattle, Wa. 98109, over essentially the same issues. The first grievance was filed on March 29, 1976, a significant period before the filing party was terminated. The second grievance was filed on May 11, 1976 shortly after the filing party was terminated by the Seattle School District. The charge is that the Seattle School District has failed to provide due process by refusing to continue either grievance through the second and higher levels. The filing party requests that Seattle Public School District #1 be required to allow and perform the second and third steps of the grievance. By the very honoring of the first step within the negotiated agreement, the grievant contends the grievance (grievances) must be allowed to continue to its/their completion.

The complainant does not purport to be or to represent an exclusive bargaining representative within the meaning of RCW 41.59.020(6) and, on the contrary, notice is taken of agency records which indicate that the Seattle Teachers Association has been and continues to be the exclusive bargaining representative of educational employees of the respondent.[1/] Thus, rather than an alleged refusal to bargain with an exclusive bargaining representative in violation of RCW 41.59.140(1)(e), the document presently

1/ Case Nos 371-M-76-91, 382-F-76-01, and 527-P-76-02 all dealt with the resolution of an impasse between the Respondent and the Seattle Teachers Association with respect to negotiations for a collective bargaining agreement to succeed an expired agreement.

on file raises only a question of interpretation of some grievance procedure. The statutes provide individuals a right to present their grievances. However, RCW 41.59.090 does not provide any particular procedure and, most particularly as it relates to this case, does not specify any "second" or "higher levels" of a grievance procedure. The multiple step procedure to which the Complainant refers could well be either a unilateral policy of the Respondent or the grievance procedure contained in the collective bargaining agreement between the Respondent and the exclusive bargaining representative, but, in either case the interpretation and application of such a policy or contractual provision would be a matter for determination in the courts or through contractual grievance machinery. The legislature has not chosen to make all public employment controversies justiciable before this particular administrative agency as unfair labor practices, and the jurisdiction of the agency is limited to the type of conduct proscribed in RCW 41.59.140. While violation of a collective bargaining agreement is made an unfair labor practice in some other states, our legislature has apparently preferred to follow the pattern of Federal law where, under Section 301 of the Labor-Management Relations Act of 1947, suits for violation of a collective bargaining agreement may be brought in a federal or state court and are not within the jurisdiction of the National Labor Relations Board.

It is the conclusion of the Executive Director that the facts as alleged do not, as a matter of law, constitute a violation of RCW 41.59.140, and the complaint is, therefore, dismissed.

MARVIN L. SCHURKE
Executive Director