

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PAUL G. PERKINS,	)	
	)	
Complainant,	)	CASE 12410-U-96-2942
	)	
vs.	)	DECISION 5498 - PECB
	)	
UNIVERSITY OF WASHINGTON,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
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UNIVERSITY OF WASHINGTON,	)	
	)	
Employer	)	
<hr style="border-top: 1px dashed black;"/>	)	
PAUL G. PERKINS,	)	
	)	
Complainant,	)	CASE 12422-U-96-2947
	)	
vs.	)	DECISION 5499 - PECB
	)	
WASHINGTON FEDERATION OF STATE	)	
EMPLOYEES, AFSCME, AFL-CIO,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
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This matter is before the Executive Director for a preliminary ruling pursuant to WAC 391-45-110. At this stage of the proceedings, all of the facts alleged by the complainant are assumed to be true and provable. The question at hand is whether the allegations state a cause of action for unfair labor practice proceedings before the Public Employment Relations Commission.

On March 25, 1996, Paul G. Perkins filed a complaint charging unfair labor practices with the Public Employment Relations Commission, using the form promulgated by the Commission under Chapter 391-45 WAC. Two separate respondents were named. Consistent with the Commission's docketing practices, a separate case number was

assigned for each respondent: The University of Washington is named as the respondent in Case 12410-U-96-2942; the Washington Federation of State Employees is named as the respondent in Case 12422-U-96-2947.

The statement of facts filed with the complaint appears to apply to both of the respondents. It specifies:

- I. My position is Rehabilitation Counselor
- II. This position is a management and supervision position. (See attached specification for Class Code 6121.)

The bargaining unit agreement between the University of Washington and WFSE excludes supervisory positions. (See page 28 of WFSE-HMC Bargaining Unit.)

- II. I was a member of WFSE up until the vote on the union security agreement in approximately 1987. When I inquired as to my ballot so I could vote I was told that I could not vote on the security agreement because my position was not covered in the bargaining unit. But the reason why Rehabilitation Counselor positions were included in the bargaining unit was because I was a member at the time as no other Rehabilitation Counselors were.

The reason why I was denied the opportunity to vote was because my position was through the University of Washington. Therefore, Rehabilitation Counselor should not have been included in the bargaining unit at that time because there were no Rehabilitation Counselors employed at Harborview at that time.

- III. The Rehabilitation Counselor positions are provisional positions. They are also "Excepted" provisions under personnel rules. This means that counselors do not work according to a time clock and are not eligible for overtime pay. The bargaining unit agreement exempts professional positions from inclusion in the

bargaining unit. (See page 28 of contract.)

- IV. On March 24, 1995 (see copy of letter from WFSE), I was notified that I would be dismissed unless I joined the union. I complied with this request. I am now being asked to pay back union dues for the period of time I was alleged supposed to be a member of the union but had not been notified. I am protesting the imposition of back union dues for not being a member of the union during a period of time when I had not been aware I needed to be a member of the union. The responsibility of administering the union contract is not mine and I, therefore, do not bear the financial responsibility for errors in the administration of the union contract.

There are multiple reasons why that statement does not set forth facts which could be the basis for the Commission to find an unfair labor practice violation.

#### The Jurisdiction of the Commission

The Public Employment Relations Commission is a state agency created by Chapter 41.58 RCW. The name of the agency is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency by statute. The Commission has a role in resolving collective bargaining disputes between employers, employees, and unions under Chapters 28B.52, 41.56, 41.59, 49.08, 53.18, and 54.04 RCW, but it does not have jurisdiction over **all** public employers or over **all** public employees. Thus, the Commission does not have authority to resolve each and every dispute that might arise in public sector employment.

As regards the University of Washington, the Legislature has only given the Commission limited jurisdiction over that institution of higher education and its employees: (1) Under RCW 41.56.022, the

provisions of the Public Employee's Collective Bargaining Act, Chapter 41.56 RCW, are made applicable to the University of Washington and its printing craft employees; and (2) under RCW 41.56.201, the provisions of Chapter 41.56 RCW are made applicable to bargaining units in which the employer and exclusive bargaining representative have executed a collective bargaining agreement exercising their option to have their relationship governed by Chapter 41.56 RCW.<sup>1</sup>

Except as described in the preceding paragraph, all personnel matters concerning the University of Washington and its employees are subject to the jurisdiction of the Washington Personnel Resources Board (WPRB) and the Washington State Department of Personnel (DOP) under Chapter 41.06 RCW, which is commonly referred to as the "state merit system" or as the "civil service system".<sup>2</sup> Any collective bargaining relationships or affairs between the University of Washington and the Washington Federation of State Employees under Chapter 41.06 RCW are an outgrowth of the state merit system, and are regulated by the WPRB and DOP.

It is clear from the "rehabilitation counselor" title and Higher Education Personnel Board job specification set forth by the complainant that Perkins is not a printing craft employee subject to the jurisdiction of the Public Employment Relations Commission under RCW 41.56.022. A search of the Commission's docket records fails to disclose any bargaining unit in which the University of Washington and the Washington Federation of State Employees have filed any notice or contract to exercise the option available to them under RCW 41.56.201. These combined circumstances support a

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<sup>1</sup> This "collective bargaining option" was made available by 1993 c 379 (House Bill 1509).

<sup>2</sup> Until 1993, the University of Washington and its employees were subject to a separate personnel system under Chapter 28B.16 RCW, which was administered by the Higher Education Personnel Board.

conclusion that these complaints have been filed with the wrong regulatory agency. The Public Employment Relations Commission has no jurisdiction to resolve these disputes under any of the statutes administered by the Commission.


NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices filed in the above-captioned matters are DISMISSED.

DATED at Olympia, Washington, this 9th day of April, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.