STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARYSVILLE ASSOCIATION OF EDUCATIONAL SECRETARIES, an affiliate of PUBLIC SCHOOL EMPLOYEES OF WASHINGTON,

CASE NO. 2323-U-79-334

Complainant,

DECISION NO. 1300-A - PECB

vs.

MARYSVILLE SCHOOL DISTRICT NO. 25,

Respondent.

ORDER REMANDING CASE FOR HEARING

G. P. Sessions, Attorney at Law, appeared on behalf of the union.

Williams & Terry, by <u>John David Terry</u>, <u>II.</u>, Attorney at Law, appeared on behalf of the employer.

The Marysville Association of Educational Secretaries (the union) seeks reversal of the Executive Director's dismissal of the union's unfair labor practice complaint against the Marysville School District. The Executive Director ruled under WAC 391-45-110 that the union's complaint failed to state a claim upon which relief could be granted, in light of a ruling by the Executive Director in another case that the individuals involved were "confidential" employees excluded by RCW 41.56.030(2)(c) from the coverage of the Public Employee Collective Bargaining Act.

The union evidently does not dispute the conclusion that the individuals involved were and are "confidential" employees, and it did not petition for review of the Executive Director's unit clarification order. It points out in its petition for review that the Executive Director failed to address the issue raised in paragraph 3.4 of the complaint which, under a heading of "Violations", states:

"3.4 Also, or alternatively, the District has unlawfully refused to bargain with the exclusive bargaining representative by unilaterally altering the scope of a bargaining unit and unilaterally transferring bargaining unit work out of the bargaining unit."

Under appropriate circumstances, that which the union alleges may constitute an unfair labor practice. See: South Kitsap School District, Decision 472 (PECB, 1978); Lakewood School District, Decision 755-A (PECB, 1980); City of Mercer Island, Decision 1026-A (PECB, 1981). Accordingly, the union is entitled to a hearing on the merits.

NOW, THEREFORE, it is

ORDERED

- The order of the Executive Director dismissing the complaint is reversed.
- 2. The matter is remanded to the Executive Director for assignment to an Examiner for further proceedings under Chapter 391-45 WAC.

DATED this 2nd day of March, 1982.

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JAME R. WILKINSON, Chairman

R. J. WILLIAMS, Commissioner

MARK C. ENDRESEN, Commissioner