

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

| | | |
|----------------------------|---|--------------------------|
| INTERNATIONAL UNION OF |) | CASE NOS. 6886-U-87-1395 |
| OPERATING ENGINEERS, LOCAL |) | 6888-U-87-1396 |
| 286, |) | |
| Complainant, |) | DECISION 2739-A - PECB |
| |) | |
| vs. |) | |
| |) | |
| PUYALLUP SCHOOL DISTRICT, |) | |
| |) | |
| Respondent. |) | ORDER OF DISMISSAL |
| <hr/> | | |

On May 26, 1987, International Union of Operating Engineers, Local 286 (complainant) filed two unfair labor practice complaints against Puyallup School District (respondent). Case No. 6886-U-87-1395 dealt with allegations concerning the imposition of a "no smoking" policy on a bargaining unit of maintenance, custodial, warehouse, courier, laundry, and security employees. Case No. 6888-U-87-1396 dealt with the same issue as it applied to a bargaining unit of school bus drivers.

A preliminary ruling was issued on August 12, 1987, wherein the complainant was notified that the complaint, as originally filed, did not state a cause of action. The new policy was announced on November 24, 1986, but deferred implementation of the policy until January, 1989. RCW 41.56.160 requires the Commission to limit inquiry into unfair labor practices that took place over six (6) months prior to the filing of the complaint. In this case, the policy was announced more than six months before the complaint was filed.

In addition, the complainant was informed that the complaints were defective in that there were no allegations that the complainant attempted to negotiate over the proposed no smoking policy. While prospective actions can constitute unfair labor practices, City of Dayton, Decision 2111-A (PECB, 1985), in a refusal to bargain complaint, there must be some indication that the complaining party attempted to negotiate over the specific matter complained of.

The complainant was given a period of fourteen (14) days to amend the complaint. The time for amendment has passed without further contact from the complainant. The complaints must be dismissed.

ORDER

The complaints charging unfair labor practices are hereby DISMISSED.

DATED at Olympia, Washington, this 2nd day of September, 1987.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This Order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-110.