

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 92,	)	CASE 8618-U-90-1878
	)	
Complainant,	)	DECISION 3779 - PECB
	)	
vs.	)	
	)	
VANCOUVER SCHOOL DISTRICT,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW
Respondent.	)	AND ORDER
	)	
	)	

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Hafer, Price, Rinehart and Schwerin, by Lawrence Schwerin, Attorney at Law, and Schauermaun and Thayer, by William Thayer, appeared on behalf of the complainant.

Horenstein and Duggan, by Dennis R. Duggan, Attorney at Law, appeared on behalf of the respondent.

On May 31, 1990, Service Employees International Union, Local 92 (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the Vancouver School District (respondent) committed unfair labor practices within the meaning of RCW 41.56.140(1), (2) and (4), by discharging Robert Wilcox from employment.

On October 8, 1990, the complainant filed a motion in limine, seeking exclusion of evidence relating to events surrounding a suspension of Mr. Wilcox from service, which occurred prior to his dismissal. On November 16, 1990, the respondent filed a memorandum in opposition to the motion in limine. On December 3, 1990, the motion in limine was denied by the Examiner.

A hearing was conducted on January 30, 1991, in Vancouver, Washington. The parties filed post-hearing briefs on March 18, 1991.

BACKGROUND

Vancouver School District is located in Clark County, Washington, and provides a variety of educational services for local residents. The school district is under the policy direction of an elected Board of Directors. Daily operations are supervised by Superintendent James F. Parsley. Assistant Superintendent Mike Bruener is responsible for personnel and administrative services.

The school district has collective bargaining relationships with several employee organizations. Service Employees International Union, Local 92 represents a bargaining unit of classified employees in the job classifications of mechanical maintenance, building maintenance, grounds maintenance, warehouse, campus security, custodian, transportation, and food services. The instant unfair labor practice complaint arose in the transportation service and involves Robert Wilcox, a bargaining unit employee working as a school bus driver.

During the 1989-90 school year, Wilcox drove bus routes for Fort Vancouver High School as well as for Walnut Grove Elementary School. In October, 1989, a student on one of Wilcox's bus routes complained that Wilcox had grabbed him. Wilcox met with the school principal and Pupil Transportation Supervisor Robert Dolhanyk to establish a process to follow if student discipline became a problem.

The record indicates that a second incident occurred in December, 1989, when a parental complaint about an alleged shoving incident resulted in another meeting between Wilcox and Dolhanyk. Investigation revealed that Wilcox had not pushed the student, but had tapped the student on the shoulder. In any event, Dolhanyk cautioned Wilcox to avoid such incidents in the future, and Wilcox did not have further difficulties in his employment relationship with the school district until March, 1990.

On March 28, 1990, Wilcox was driving his elementary students home. During that trip, one of the students was not sitting in her assigned seat. The student and several of her friends were trying to push one another into the aisle when Wilcox noticed the activity. Several students who were present during the March 28 incident testified that Wilcox became agitated, shouted several obscenities and stopped the school bus.<sup>1</sup> He then approached the children who were causing the disturbance, and confronted the student who was not in her assigned seat. Wilcox used profanity and physically put the student into her assigned seat. Credible evidence was presented that Wilcox grabbed the student in the neck or shoulder area, and forced her against the wall of the school bus in returning her to her assigned seat. As the student left the bus at her bus stop, Wilcox made further statements to the student. The student credibly testified that she perceived the statements made by Wilcox to be threatening, given the earlier actions on the school bus.

The student told her parents of the incident, and her parents, in turn, notified school district officials. The record indicates that the parents first contacted the student's school principal. The principal then spoke with Dolhanyk who, in turn contacted Assistant Superintendent Mike Bruener. Dolhanyk then spoke with Wilcox, who denied that he acted improperly. Dolhanyk told Wilcox that he would be suspended with pay, starting on March 30, 1990. Wilcox was informed that final action had not yet been determined, and that the suspension with pay was to continue while investigations were still ongoing.

Wilcox contacted his union representative, Larry Church, to look into the situation. Church spoke with Bruener, and requested

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<sup>1</sup> The children testifying at the hearing ranged in age from 11 to 13 years. Their names are not mentioned in this decision, because the Examiner finds that the children's names are not material to the case at hand.

information about the suspension of Wilcox. At some unspecified time during April, 1990, Church was allowed to review Wilcox's personnel file. Church also had several conversations with Bruener about the status of the investigation. During these conversations, Church learned that the school district was conducting a series of interviews with students who were on the bus on March 28, 1990. The student interviews were conducted by the school principal and Dolhanyk.

Bruener informed Church of the interview results during an April 22, 1990 meeting. Church asked that several more students be interviewed, and Bruener directed the school principal and Dolhanyk to undertake those additional interviews.

Church and Wilcox met with Bruener and Dolhanyk on May 8, 1990. At that meeting, the school district officials informed Church and Wilcox that the investigation was complete, and that the school district was prepared to suspend Wilcox without pay from May 8, 1990 through June 12, 1990. Bruener gave Wilcox a letter explaining the school district's decision in the following terms:

... The district's investigation involved the interviewing of students as well as yourself. Based on this investigation, I have determined that your behavior on the day in question was unacceptable in that you lost control, became angry and improperly touched a student and used inappropriate language. Furthermore, you have had previous incidents of similar behavior this school year in which you lost control and improperly disciplined students by touching or grabbing them. These previous incidents were discussed with you by your supervisor ...

Bruener's letter went on to explain that similar action would subject Wilcox to discharge, and that he would not be returned to work as a driver on the Walnut Grove school bus route. At the meeting, Church requested a copy of Wilcox's personnel file, as

well as information relating to other employees involved in similar incidents.

On May 9, 1990, Church contacted Dolhanyk, requesting permission to ride on Wilcox's former bus route, and to interview students who were present on the bus on March 28, 1990. Dolhanyk conveyed Church's request to Bruener, who denied the request. Dolhanyk told Church to speak directly with Bruener if he had any questions about the matter.<sup>2</sup>

On May 10, 1990, Bruener sent a letter to Church, confirming that Church would be provided with a copy of Wilcox's personnel file as well as a copy of the statements of students involved in the March 28, 1990 incident. On the same day, Church spoke with Bruener about the conduct of the union's investigation. Bruener expressed concerns about the volatile nature of the incident, and Church assured Bruener that the union would proceed carefully. The record does not reveal that Church made any effort to protest or file a grievance concerning Bruener's denial of Church's request for direct student interviews on the school bus.

Later on May 10, 1990, Church contacted Wilcox, suggesting that Wilcox accompany Church to the final stop on Wilcox's former school bus run, in order to speak with the students involved in the March 28, 1990 incident. The record reveals that Church and Wilcox waited at the school bus stop for the bus to arrive. Church approached a parent who was waiting to pick up his child. Church explained why he and Wilcox were there, and asked permission to speak with the parent's child about the March 28, 1990 incident. The parent gave his consent for Church to speak with the child when the bus arrived. Church met with another parent who arrived at the

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At an unspecified time, Dolhanyk told the school bus driver who replaced Wilcox, Lucinda Warren, that neither Church nor Wilcox should be allowed on a school bus to speak with the children.

bus stop, and received permission to speak with that student as well.<sup>3</sup> Church then returned to his automobile and waited with Wilcox for the arrival of the school bus.

When the school bus arrived, Church left his automobile. School Bus Driver Warren noticed Church and Wilcox waiting, and she did not let the students off the bus immediately. Warren radioed to the school district's dispatch center for instructions as to whether the students should be permitted to leave the bus, and was told that the students should be allowed to leave the bus. As the students filed out, Warren told them that they did not have to speak with Church or Wilcox if they did not want to.

When the students finally left the bus, Church approached several children, asking if he could speak with them. At some point, Wilcox joined him, and they asked the children where they lived, and whether their parents were home.<sup>4</sup> Few of the children spoke, and Church and Wilcox returned to the first parent Church contacted, to speak with his child. After a short conversation in the parent's presence, Church and Wilcox left the bus stop to speak with the second parent and her child at the parent's residence. Soon afterward, Church spoke with a third parent and her child at a private residence in a nearby neighborhood. After leaving the residence, Church and Wilcox saw several Vancouver School District employees in the vicinity, and asked them for information about the addresses of children in the area who were on the bus. Based on this information, Church and Wilcox went to another residence several blocks away.

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<sup>3</sup> Wilcox waited in Church's automobile while Church spoke with the two parents. The record indicates that Wilcox did not speak with either of the parents himself.

<sup>4</sup> Warren saw Wilcox speaking with one student, but could not hear the conversation. She did not see any other activity around the bus stop, and she contacted dispatch a second time about the situation before returning to the transportation garage.

The record indicates that Church and Wilcox travelled to the residence of Theresa Smith who operated a licensed daycare facility in her home. A number of children went there after school while waiting for their parents to return from work, and Smith's son had been on the school bus on March 28, 1990. Several other students who were present at the disputed incident were also at Smith's residence when Church and Wilcox drove up. Church left his automobile, and started to cross the front yard to speak with Smith. Wilcox waited in the automobile.

As Church approached Smith's house, he encountered Linda Poe, a parent who was at Smith's residence to pick up her child. Poe's child also rode the school bus that Wilcox had driven on March 28, 1990. Poe confronted Church, demanding to know why he was trying to approach the students from the bus. Church explained that he thought he was using correct procedure, and that his contact was part of the union's investigation. Poe told Church that he did not have her permission to speak with her child, and Church then went back to his automobile, without speaking to any student present.

Poe followed Church, and she spoke with Wilcox, who was still waiting in the automobile. Poe testified that she told Wilcox that he could not contact her child without her prior approval, and that she would call the police if he and Church did not leave immediately. Poe testified that Wilcox seemed angry, and that he said something to the effect that Poe would "live to regret" her actions. Church testified that a short conversation took place at the automobile, but he did not recall any specific statements made by Wilcox. Wilcox and Church left Smith's residence, and the record indicates that neither of them had further contact with any of the students from the March 28, 1990 incident.

After Church and Wilcox left the neighborhood where Smith's residence is located, several of the parents contacted Bruener about the attempted contact with students. Bruener immediately

telephoned Church to find out what had transpired. Church returned Bruener's call on May 11, 1990. Church explained what had happened, but Bruener determined that further investigation was required.

On May 14, 1990, Superintendent Parsley sent Wilcox and Church a letter relating to the May 10, 1990 events.<sup>5</sup> After expressing his strong objections to the attempted contact with students, and stating that civil and criminal legal action were being pursued, Parsley concluded his letter by saying:

Please be advised that neither of you are to have any contact with any of the Walnut Grove students and/or staff, including the school bus driver. If there should be any further contact with the students, staff and/or bus driver, or if either of you should come upon the Walnut Grove premises, I will notify the Clark County Sheriff's office and the prosecuting attorney's office and request that appropriate charges be filed. These charges could include trespassing, harassment, assault, disturbing the peace and any other charge that would be appropriate under the circumstances. Be further advised that any further contact as above-outlined by Mr. Wilcox will be considered insubordination and breach of his employment contact (sic) with the Vancouver School District and I will recommend immediate termination.

On May 16, 1990, Lawrence Schwerin, attorney for the union, sent a letter to Parsley in response to Parsley's May 14, 1990 letter. Schwerin maintained that Parsley's letter contained a number of factual errors, and that the union was proceeding appropriately to investigate the March 28, 1990 incident. Schwerin also warned

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At one point in the letter, Parsley states that Wilcox and Church had posed as deputy sheriffs in their contacts with the students. The record does not contain any credible evidence to support this accusation.



Parsley that further interference with the investigation could lead to unfair labor practice charges.

Also on May 16, 1990, Church sent Bruener a letter requesting postponement of a "pre-grievance hearing" because of the additional problems arising from the attempted contact with students.<sup>6</sup> Church suggested that the parties meet on May 21, 1990.

On May 18, 1990, Bruener sent Church a letter in which he agreed to meet on May 21, 1990. Bruener went on to explain the district's reason to meet on that date in the following terms:

Please be advised that the purpose of our meeting is to issue Mr. Wilcox a letter which indicates that the district has decided to terminate his employment with the Vancouver School District. I assume that you will utilize the grievance procedure as the result of my decision to terminate Mr. Wilcox's employment from the district. Please be advised that the Vancouver School District is willing to stipulate that the parties can bypass the steps in the grievance procedure and proceed directly to arbitration as set forth in Step 3 of the grievance procedure.

On May 21, 1990, Bruener met with Church. Wilcox was not present. Bruener gave Church a copy of a letter detailing the reasons for Wilcox's termination. Bruener sent the same letter to Wilcox by certified mail. The letter detailed the following reasons for Wilcox's dismissal along with Bruener's explanation for his decision:

Please be advised that I have reconsidered my decision of suspending you from your work responsibilities without pay and have deter-

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<sup>6</sup> The record indicates that the collective bargaining agreement allows a "pre-grievance hearing" that is to be used in settlement of potential grievances at the earliest stage possible.

mined that justifiable and/or sufficient cause exists to terminate your employment with the Vancouver School District. Please be advised that your suspension without pay is hereby revoked and you are discharged and terminated from your employment with the Vancouver School District, effective May 8, 1990.

The reasons for your discharge and termination are as follows:

1. Incidents of behavior for the school year 1989-90 in which you lost control and improperly disciplined students by touching or grabbing them. These previous incidents were discussed with you by your supervisor.
2. Improper or unprofessional conduct, specifically losing control, becoming angry, improperly touching a student, and using inappropriate language on or about March 28, 1990.
3. Violation of the rules and regulations of the Board of Directors of the Vancouver School District.
4. Your actions and conduct as set forth in the letter directed to you dated May 14, 1990. Reference is hereby made to the letter of May 14, 1990 and attached hereto and by this reference made a part of this letter.

Wilcox's discharge was made retroactive to May 8, 1990. On May 31, 1990, the union filed the instant unfair labor practice complaint. The record indicates that a grievance was subsequently filed pursuant to the grievance procedure of the collective bargaining agreement.

#### POSITIONS OF THE PARTIES

The complainant argues that the instant unfair labor practice complaint deals only with the respondent's decision to discharge Robert Wilcox. It contends that Wilcox was discharged because of the union's efforts to investigate his suspension from service, and

that the respondent could not otherwise justify its decision to discharge Wilcox. The complainant contends that it acted reasonably in conducting its investigation, and that the respondent acted improperly by escalating the suspension to the level of a discharge from employment. As a remedy, the complainant asks that Robert Wilcox be reinstated with backpay to the date of June 12, 1990.

The respondent argues that it acted properly given the circumstances presented in this case. The respondent maintains that Robert Wilcox had a troubled employment history with the school district, and that the improper contact with students on May 10, 1990 was the unfortunate culmination of Wilcox's series of problems. The respondent contends that it had authority to discharge Wilcox, because of events surrounding the May 10, 1990 contact with students. The respondent asks that the complaint charging unfair labor practices be dismissed.

#### DISCUSSION

Testimony presented at hearing amply demonstrates that the instant unfair labor practice case arose in the context of a highly-charged, emotional atmosphere. The Examiner recognizes the strong feelings surrounding around the events leading to these proceedings, but emphasizes that a decision must be based on application of pertinent law to the facts presented.

The instant unfair labor practice case must be analyzed in the context of the criteria set forth in Wright Line Transportation, 251 NLRB 1083 (1980). The Public Employment Relations Commission adopted the Wright Line analysis in City of Olympia, Decision 1208-A (PECB, 1982). Under the Wright Line test, the complainant must initially sustain its burden of proof that it was engaged in an activity protected by the applicable collective bargaining statute. It must then offer sufficient evidence to support an inference that

such activity was a substantial or motivating factor in the employer's decision to terminate Robert Wilcox from employment. If the complainant sustains its burden of proof, the burden shifts to the respondent to prove that it had a legitimate business reason to terminate Mr. Wilcox, not related to the protected activity.

PRECEDENT ON "PROTECTED ACTIVITY"

As a starting point, it must be determined whether the complainant was engaged in an activity protected by the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. RCW 41.56.040 states:

No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.

The Commission has determined that grievance processing, pursuant to a grievance procedure established by a collective bargaining agreement, is a protected activity. See: Clallam County, Decision 1405-A (PECB, 1984). As the complainant properly notes in its closing brief, an employer violates Chapter 41.56 RCW by increasing the discipline of an employee in reprisal for the employee's attempts to process a grievance. See: King County, Decision 3319 (PECB, 1989).<sup>7</sup> Similarly, employer action against an employee attempting to process a grievance may interfere with other employ-

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In King County, the employer transferred an employee engaged in processing a grievance to an inferior work assignment in retaliation for the employee's initial grievance filing.

ees' rights to file and pursue grievances. See: Valley General Hospital, Decision 1195 (PECB, 1981).<sup>8</sup>

Apart from the mere filing of a grievance, reasonable investigation of the facts leading to a grievance must be considered to be a protected activity, if grievance processing is to be a meaningful exercise. As stated in City of Yakima, Decision 1124 (PECB, 1981), an employer must provide information needed for the proper processing of a grievance. In its closing brief, the respondent properly notes that the union must make a good faith demand for relevant information, and the employer must then respond with information provided in a timely manner and in a useful form. See: Pullman School District, Decision 2632 (PECB, 1987).

On the other hand, in Pierce County Fire District No. 9, Decision 3334 (PECB, 1989), the Examiner concluded that the employer was not obligated to tolerate an employee's abusive behavior toward supervisory personnel. The employee's actions were not excused because the disruptive behavior took place during a grievance meeting. Pierce County Fire District No. 9 clearly shows that there are limits on conduct during the grievance process, and that neither employer nor union officials can act with impunity.

Given this precedential background, analysis now shifts to the specific acts involved in the instant unfair labor practice complaint. Simply put, it is not enough for the complainant to claim that it was involved in the investigation of a grievance. The specific acts must be examined to determine whether the "investigation" falls within the protection provided by the collective bargaining statute.

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In Valley General Hospital, the employer was found to have violated RCW 41.56.140(1) by discharging a probationary employee and inferring that other employees pursuing grievances would also be terminated if the grievances were not dropped.

APPLICATION OF PRECEDENT ON "PROTECTED ACTIVITY"

The record reveals that the union and the employer were in steady communication about the March 28, 1990 school bus incident, and that the employer provided all documents requested by the union. Once the union saw the results of the employer's investigation, the union requested that further student interviews be conducted, and the employer complied with the union's request. While the additional interviews did not change the employer's decision to suspend Wilcox without pay, the evidence supports a conclusion that the employer acted in good faith when approached by the union for information. In this context, the union unilaterally began an effort to contact individual children, without the employer's prior knowledge or approval.

The record reflects that several students were contacted only after parental approval was obtained. Such contact is not at issue in this case. If parents gave consent for interviews, the respondent cannot prohibit the contacts.

A real problem arises for the complainant, however, in trying to justify direct contact with students. Such contacts were made after school district officials cautioned the union business agent about the volatility of the situation, and the business agent gave assurances that further investigations would be conducted in a responsible manner. It is difficult to understand the union's desire to contact the children unilaterally, since the employer had allowed general access to all personnel records to that point.

The Examiner notes that Business Representative Church made a request to ride on the school bus, but after his request was denied, the record does not show that alternatives were discussed with the school district. Apart from a conversation with Bruener where he promised to be careful in any forthcoming actions, Church did not give notice of the union's intention to contact the

individual children, or to take other steps designed to avoid the type of confrontation detailed above. Given the strong emotional reaction to the initial incident, and the nature of the underlying complaint, the complainant was not acting in a reasonable manner when Church and Wilcox approached children on May 10, 1990.

While the act of processing a grievance is protected under the collective bargaining statute, that right is not absolute. The complainant has not sustained its initial burden of proof that it was engaged in a protected activity when students were contacted on May 10, 1990. The record clearly shows that Wilcox had already been subject to discipline for certain acts surrounding contact with students. On May 10, 1990, Wilcox and a union representative had further contact with students in an effort to gain information about the earlier incident. The May 10, 1990 contact worsened the situation, and was not reasonable in the context of the existing circumstances. The May 10, 1990 contact with students placed the employer in a difficult position. Having already placed Wilcox on suspension without pay, discharge from employment was the next step in the disciplinary process.

Since the contact with students was not statutorily protected, it must be concluded that the employer did not violate Chapter 41.56 RCW by terminating Robert Wilcox for the May 10, 1990 contact with students. The unfair labor practice complaint must be dismissed.

#### FINDINGS OF FACT

1. Vancouver School District provides a number of educational services for local residents, and is a "public employer" within the meaning of RCW 41.56.030 (1).
2. Service Employees International Union, Local 92 represents a bargaining unit of classified employees of Vancouver School

District, and is a "bargaining representative" within the meaning of RCW 41.56.030(3).

3. Robert Wilcox was a bargaining unit employee working as a school bus driver. In October and December, 1989, Wilcox was counseled by school district officials because of complaints that he had grabbed or shoved students on his bus.
4. In March, 1990, Wilcox was responsible for a high school bus run as well as for an elementary school bus run.
5. On March 28, 1990, while bringing the elementary students home, Wilcox reacted to a disturbance by yelling at a student, using obscenities, and physically intimidating the child.
6. The March 28, 1990 incident was reported to school district officials by a number of parents. Transportation Supervisor Robert Dolhanyk met with Wilcox, and informed him that the school district was suspending him with pay effective March 30, 1990, while investigations were undertaken.
7. Wilcox contacted the union, and Business Agent Larry Church contacted Deputy Superintendent Michael Bruener for information about the incident. During this process, Church was allowed access to Wilcox's personnel file, and other documentation was provided by the school district.
8. The school district conducted its investigation into the March 28, 1990 incident by interviewing a number of students present on the school bus. Bruener reported the results of the interviews to Church. Church reviewed the report, and requested that the school district conduct additional interviews. Church provided the names of the students that he wanted the school district to interview. The school district



complied with Church's request, and interviewed the additional students.

9. On May 8, 1990, school officials met with Church and Wilcox. The officials informed them that the school district was suspending Wilcox without pay from May 8, 1990 through June 12, 1990.
10. On May 9, 1990, Church contacted Dolhanyk, asking permission to ride on Wilcox's bus route and to interview children while on the bus. Dolhanyk relayed Church's request to Bruener. Bruener denied the request. The union did not file a grievance or otherwise protest Bruener's decision.
11. On May 10, 1990, Church and Wilcox drove to the last bus stop on Wilcox's former elementary school bus route. Church intended to interview students on the school bus. Church had not notified school district officials of his May 10, 1990 activities.
12. At the bus stop, Church found several parents waiting to pick up their children, and asked if he could interview them. The parents present at the bus stop gave their permission, and Church went back to his car to wait for the bus to arrive.
13. When the bus arrived, the school bus driver saw Church and Wilcox waiting, and radioed for instructions. The students were released to go home. Church spoke with the students that he had received permission to speak with, while Wilcox waited in Church's automobile.
14. After speaking with the children at the bus stop, Church and Wilcox drove to several houses in the immediate neighborhood, seeking further interviews with students.

15. At one point, Church and Wilcox saw several school district employees, and asked them if there were other houses that should be visited. Based on this information, Church and Wilcox went to the residence of Theresa Smith. Smith had a child who was on the school bus on March 28, 1990, and she also ran a licensed day care center where a number of the students from the school bus would wait for their parents to pick them up after work.
16. Church approached Smith's house. Several children saw him and became agitated. Before Church could reach the house, he was confronted by Linda Poe, a parent who was there to pick up her child. Poe's child had been present at the March 28, 1990 incident, and Poe was angry at Church for attempting to contact the children without their parents' prior notification. Church returned to his automobile without further contact with the children.
17. Parents immediately contacted school district officials. Bruener discussed the matter with Church on May 11, 1990.
18. On May 14, 1990, Superintendent James Parsley sent a letter to Church and Wilcox, stating that they could not contact students or enter the elementary school. Possible civil and criminal litigation was outlined in Parsley's letter.
19. On May 18, 1990, Bruener sent Church a letter, agreeing to meet on May 21, 1990 in a "pre-grievance meeting", and telling Church that the school district intended to terminate Wilcox from his position with the employer.
20. On May 21, 1990, Bruener gave Church a copy of the termination notice. On the same date, a copy of the notice was sent to Wilcox by certified mail.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. The contact with students on May 10, 1990, was not "protected activity" within the meaning of Chapter 41.56 RCW.
3. By events described in Findings of Fact 17, 18, and 19, above, the Vancouver School District did not commit an unfair labor practice within the meaning of RCW 41.56.140(1), (2) or (4).

ORDER

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED.

DATED at Olympia, Washington, this 13<sup>th</sup> day of May, 1991.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
KENNETH J. LATSCH, Examiner

This Order may be appealed by filing a Petition for Review pursuant to WAC 391-45-350.