

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SCHOOL EMPLOYEES OF)	
PASCO,)	
)	CASE 12053-U-95-2836
Complainant,)	
)	
vs.)	DECISION 5384 - PECB
)	
PASCO SCHOOL DISTRICT,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On September 19, 1995, Public School Employees of Pasco filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging the Pasco School District had committed unfair labor practices in violation of the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. Specifically, the union alleged that the employer had failed or refused to provide certain information requested by the union.

A preliminary ruling letter issued on October 26, 1995, pursuant to WAC 391-45-110,¹ found the complaint was insufficient to state a cause of action. The union was given a period of 14 days in which to file and serve an amended complaint, or face dismissal of the case.

The duty to bargain in good faith imposed on employers and unions by RCW 41.56.030(4) includes a duty of both parties to provide,

¹ At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

upon request of the other, information that is reasonably needed for collective bargaining or contract administration. This case was deemed unusual because of the union's blanket request for the "complete work record" of an individual who is apparently not within the bargaining unit represented by the union. The preliminary ruling letter noted that request was related to the pending grievance only by the fact that the individual was a former supervisor accused of having harassed the grievants. A concern arose that the duty to provide information which grows out of the collective bargaining statute should not be converted to support a fishing expedition into matters outside of the union's legitimate sphere of interest under the collective bargaining law (i.e., the wages, hours and working conditions of bargaining unit employees). The facts alleged in support of the union's request were thus found insufficient to state a cause of action.

The preliminary ruling letter noted that a close question was presented with respect to the union's specific request for documents "relating to [the supervisor's] work assignment, transfer, or similar matters ..." The complaint alleged that the union "is informed and believes that [the supervisor] was removed from her work assignment as a result of poor job performance", and the preliminary ruling letter noted that it would be reasonable for a union to pursue such a theory before an arbitrator. The preliminary ruling letter noted, however, that it was not clear whether the union had adequately informed the employer of the focus of this narrower request. The letter attached to the union's complaint was not specific, and there was no indication of other communications between the parties on the subject. Absent a direct tie to the parties' processing of the current grievance, the allegation was found insufficient to state a cause of action.

A final problem noted in the preliminary ruling letter related to the union's remedy request, wherein it asked the Commission to vacate any unfavorable arbitration award which might be entered

while this matter was pending. The preliminary ruling letter noted that arbitrators draw their authority from contracts that are negotiated under RCW 41.56.122 and RCW 41.58.020, and their decisions are not subject to review by the Commission. Vancouver School District, Decision 197 (PECB, 1977). It was further noted that the Commission refused to vacate an interest arbitrator's award where a party that eventually prevailed in an unfair labor practice case went ahead with arbitration of a dispute prejudiced by unlawful conduct of the other party. Spokane County Fire District 1, Decision 3447-A (PECB, 1990).²

The union has not corrected any of the problems noted in the preliminary ruling letter, so the case must be dismissed.

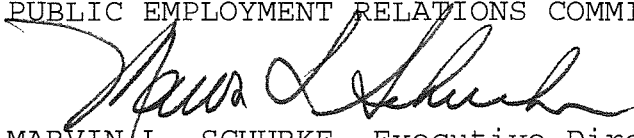
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is DISMISSED as failing to state a cause of action.

Entered at Olympia, Washington, on the 6th day of December, 1995.

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.

² The preliminary ruling letter noted that the union might have to seek a delay of the grievance arbitration proceeding, if it desired to benefit fully from a remedial order in the instant proceedings.