

with an organization representing rank and file employees of the employer. By contrast, the Public Employees Collective Bargaining Act, RCW 41.56, makes supervisors employees within the meaning of the Act. City of Tacoma, Decision No. 95-A (PECB, 1977). Distinctly different organizational rights flow from that "opposite extreme" statutory treatment. Under the Educational Employment Relations Act, RCW 41.59, supervisors are not employees within the meaning of the Act unless (and until) they have been included in a bargaining unit pursuant to RCW 41.59.080.

In the separate representation decision issued today, certain of the individuals covered by the petition of the Clover Park Association of Mid-Management have been found to be non-supervisory employees of the Clover Park School District. Those employees have been and will continue to be included in the bargaining unit of non-supervisory employees. No question concerning representation has been raised with respect to the non-supervisory unit, so there is no present expectation of an election in which those employees would be eligible to vote.

Certain other individuals in the so-called mid-management group have been found to be supervisors. Any claim to "employee" rights which they had under the Act in April, 1977 would have stemmed (via RCW 41.59.910) from their coverage by a collective bargaining agreement which was in effect on the effective date of the Act. Any such extended rights expired upon the expiration of that collective bargaining agreement on June 30, 1977.

Those individuals were not employees within the meaning of the Act at the time the complaint was filed and are not at the present time. The relationship between them and the Employer will be regulated by the unfair labor practice provisions of the Act only following the exercise of their right, by vote, to create a bargaining unit and to thereby become employees within the meaning of the Act.

Assuming all of the facts alleged to be true, the complaint makes out a potential violation only for the period between April, 1977 and June 30, 1977. Any such violation would no longer be a violation subject to remedy here, and is dismissed as de minimus.

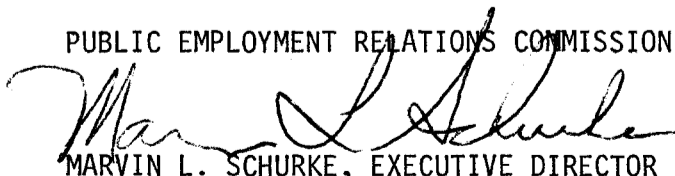
NOW, THEREFORE, it is

ORDERED

The complaint of unfair labor practices filed in the above-entitled matter is dismissed.

Dated at Olympia, Washington this 2nd day of February, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, EXECUTIVE DIRECTOR