

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL UNION OF OPERATING	)	
ENGINEERS, LOCAL 286,	)	
	)	
Complainant,	)	CASE 15230-U-00-3843
	)	
vs.	)	DECISION 7167 - PECB
	)	
CLOVER PARK SCHOOL DISTRICT,	)	PARTIAL DISMISSAL AND
	)	ORDER FOR FURTHER
Respondent.	)	PROCEEDINGS
	)	
	)	

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The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission on June 6, 2000, by International Union of Operating Engineers, Local 286 (union). The complaint involves three allegations against Clover Park School District (employer). The allegations concern: (1) Interference with employee rights; (2) Discrimination; and (3) Discrimination for filing an unfair labor practice charge.

A Deficiency Notice was issued for the third allegation of the complaint on August 9, 2000 under WAC 391-45-110.<sup>1</sup> The deficiency notice indicated that it was not possible to conclude that a cause

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<sup>1</sup> 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.

of action exists at this time for the allegations of employer discrimination for filing an unfair labor practice charge in violation of RCW 41.56.140(3). The deficiency notice stated that a statement of facts attached to the complaint did not contain any factual allegation of employer misconduct for the filing of an unfair labor practice complaint under Chapter 41.56 RCW.

The deficiency notice informed the union that absent the filing and service of an amended complaint stating a cause of action within 21 days following the date of the deficiency notice, the third allegation of the complaint would be dismissed. A letter was filed by the union on August 23, 2000 indicating that it would not be amending the complaint.

The deficiency notice concluded that, assuming that all of the facts alleged in the complaint are true and provable, it appears that an unfair labor practice violation could be found for the first and second allegations of the complaint.

NOW THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the first and second allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights and discrimination in violation of RCW 41.56-.140(1), by its unsatisfactory performance evaluation of Mike McClure in reprisal for his union activities protected by Chapter 41.56 RCW.

The first and second allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Clover Park School District shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

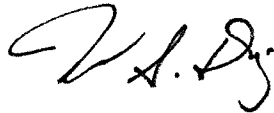
- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The original answer and one copy shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. See, WAC 391-45-210.

3. The third allegation of the complaint concerning employer discrimination for filing an unfair labor practice charge in violation of RCW 41.56.140(3) is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 6<sup>th</sup> day of September, 2000.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.