STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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| SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 925, | ) | |
| Complainant, | ) | CASE 16214-U-02-4145 |
| vs. | ) | DECISION 7729 - PECB |
| MARYSVILLE SCHOOL DISTRICT, | ) | PARTIAL DISMISSAL AND ORDER FOR FURTHER PROCEEDINGS |
| Respondent. | ) | |

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by SEIU, Local 925 (union) on February 6, 2002. The complaint alleged that Marysville School District (employer) interfered with employee rights and discriminated in violation of RCW 41.56.140(1), dominated or assisted the union in violation of RCW 41.56.140(2), and refused to bargain in violation of RCW 41.56.140(4), by its unilateral change in work schedules, involuntary transfers, and uniforms without providing an opportunity for bargaining, by supervisor Tye Titus' misrepresentations that the union had agreed to changes in work schedules, involuntary transfers, and to move security employees from the "10-month employee" collective bargaining agreement to the "12-month employee" agreement, by Titus' threats that employees could find another job if they did not like their new assignments, and by Titus' warning that "you will only make it worse" if employees contacted the union.

The complaint was reviewed under WAC 391-45-110.[1] A deficiency notice was issued on March 6, 2002, indicating that it was not possible to conclude that a cause of action existed at that time for the allegations of employer discrimination in violation of RCW 41.56.140(1), and domination or assistance of the union in violation of RCW 41.56.140(2). In reference to the discrimination allegations, the deficiency notice stated that the complaint failed to allege facts indicating that the employer's actions were taken in reprisal for union activities protected under Chapter 41.56 RCW. In relation to the domination allegations, the deficiency notice indicated that none of the facts alleged in the complaint suggested that the employer had involved itself in the internal affairs or finances of the union, or that the employer had attempted to create, fund, or control a "company union." *See City of Anacortes*, Decision 6863 (PECB, 1999).

The deficiency notice indicated that the interference and refusal to bargain allegations of the complaint under RCW 41.56.140(1) and (4) appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had an opportunity to respond to the deficiency notice.

The deficiency notice advised the union that an amended complaint could be filed and served within 21 days following such notice, and that any materials filed as an amended complaint would be reviewed under WAC 391-45-110 to determine if they stated a cause of action. The deficiency notice further advised the union that in the absence

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[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.

of a timely amendment stating a cause of action, the allegations concerning employer discrimination in violation of RCW 41.56.140(1), and domination or assistance of the union in violation of RCW 41.56.140(2) would be dismissed. Nothing further has been received from the union.

NOW THEREFORE, it is

ORDERED

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

> Employer interference with employee rights in violation of RCW 41.56.140(1), and refusal to bargain in violation of RCW 41.56.140(4), by supervisor Tye Titus' misrepresentations that the union had agreed to changes in work schedules, involuntary transfers, and to move security employees from the "10-month employee" collective bargaining agreement to the "12-month employee" agreement, by Titus' threats that employees could find another job if they did not like their new assignments, and by Titus' warning that "you will only make it worse" if employees contacted the union.

The interference and refusal to bargain allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Marysville 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 answer 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 allegations of the complaint concerning employer discrimination in violation of RCW 41.56.140(1), and domination or assistance of the union in violation of RCW 41.56.140(2) are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 28th day of May, 2002.

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.