STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SCHOOL EMPLOYEES OF WASHINGTON,	)	
Complainant,	)	CASE 18898-U-04-4804
vs.	)	DECISION 9309-A - PSRA
WESTERN WASHINGTON UNIVERSITY,	)	DECISION OF COMMISSION
Respondent.	)	

Eric T. Nordlof, General Counsel, for the union.

Rob McKenna, Attorney General, by *Morgan Damerow*, Assistant Attorney General, for the employer.

This case comes before the Commission on a timely appeal filed by Western Washington University (employer), seeking review and reversal of certain Findings of Fact, Conclusions of Law, and Order issued by Examiner Carlos Carrión-Crespo finding the employer committed unfair labor practices by refusing to bargain in good faith and independently interfering with protected employee rights.[1] Public School Employees of Washington (union) filed a timely cross-appeal seeking review and reversal of the Examiner's decision denying the union's motion to amend its complaint and the Examiner's decision declining the union's request for an extraordinary remedy.

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1 *Western Washington University*, Decision 9309 (PSRA, 2006).

ISSUES PRESENTED

1. Does the totality of the evidence support the Examiner's findings and conclusions that the employer failed to bargain in good faith with the union regarding compensation and fringe benefits through its insistence on compensation and fringe benefit proposals, refusal to bargain the mandatory subject of annual leave, and through statements made by the employer regarding the union's behavior at the bargaining table?

2. Did the Examiner commit reversible error by denying the union's motion to amend its complaint at the hearing because the allegations were untimely?

3. Did the Examiner commit reversible error by denying the union's request for extraordinary remedies?

For the reasons set forth below, we affirm the Examiner's findings and conclusions that the totality of evidence demonstrates that the employer failed to bargain in good faith and derivatively and independently interfered with protected employee rights through its statements and actions. We also affirm the Examiner's decision declining the union's motion to amend its complaint. Finally, we amend the Examiner's order to include an extraordinary remedy to effectuate the purposes of the state's labor laws.

ANALYSIS

ISSUE 1 - Bargaining in Good Faith

In 2002, the Legislature enacted the Personnel System Reform Act of 2002 (PSRA) which substantially restructured both the collective bargaining rights of most state employees and the administration of

the collective bargaining process. *University of Washington*, Decision 9410 (PSRA, 2006). Codified in Chapter 41.80 RCW, the PSRA granted state and higher education civil service employees "full scope" collective bargaining rights. These new rights permitted employees covered by the act the opportunity to select an exclusive bargaining representative and collectively bargain directly with the employer all matters affecting employee wages, hours, and working conditions. RCW 41.80.010(3). Employee organizations representing higher education classified staff negotiate with a delegation selected by the governing board of the institution, unless the institution elects to have the Governor's negotiating team bargain on its behalf. RCW 41.80.010(4).

The October 1 Deadline

Although the PSRA represents a step toward a more traditional collective bargaining process, the law still contains unique features that distinguish it from other similar laws. Key provisions of the PSRA that affect the collective bargaining process include RCW 41.80.010(3)(a) and (b). This statute directs the Governor to request from the Legislature funds necessary to implement the compensation and fringe benefit provisions of any negotiated collective bargaining agreement as part of his or her budget request. RCW 41.80.010(3)(a). However, the Governor may only make such a request for funds if the compensation and fringe benefit provisions of the contract are submitted to the Office of Financial Management (OFM) by October 1 prior to the legislative session at which the requests will be considered, and certified by OFM as financially feasible. If the funding request for the collective bargaining agreement is submitted to the Legislature, the Legislature is directed to approve or deny funding the

compensation and fringe benefit provisions as a whole.[2] If the Legislature rejects or fails to act upon the Governor's request for funds, then the agreed upon contract may be reopened for further negotiations, or the exclusive bargaining representative requests fact-finding under RCW 41.80.090. If a higher education institution negotiates with the exclusive bargaining representative of its employees, RCW 41.80.010(3)(a) and (b) still apply. The Governor then requests funding for the negotiated agreements on behalf of the higher education institutions as part of his or her budget.

Duty to Bargain in Good Faith

RCW 41.80.005(2) defines collective bargaining as "the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020." RCW 41.80.005(2) also states that the collective bargaining obligation "does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter."

RCW 41.80.020 generally defines the scope of bargaining under the PSRA, and RCW 41.80.020(1) specifically notes that wages, hours, and other terms and conditions of employment are subjects of bargaining. Although not specifically defined as "mandatory subjects," the phrase "wages, hours, and other terms and conditions of employment," as used within RCW 41.80.020(1), comports with long-standing judicial and Commission precedent stating that

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[2] The Examiner states in his decision that the "Legislature also reserves the right to approve or reject all agreements." This is not an accurate statement of law. The Legislature may only approve or reject the funding of the contracts.

"personnel matters, including wages, hours, and working conditions" of bargaining unit employees are characterized as the mandatory subjects of bargaining. *City of Richland*, Decision 2448-B (PECB, 1987), *remanded on other grounds, IAFF, Local 1052 v. PERC*, 113 Wn.2d 197 (1989); *Federal Way School District*, Decision 232-A (EDUC, 1977), citing *NLRB v. Borg-Warner Corp.*, 356 U.S. 342 (1958).[3] Determination as to whether a particular subject is mandatory or nonmandatory is a question of law and fact to be determined by this Commission, and not the parties. WAC 391-45-550; *see also Spokane International Airport*, Decision 7890-A (PECB, 2003). An employer or union that fails or refuses to bargain in good faith on a mandatory subject of bargaining commits an unfair labor practice. RCW 41.80.110(1)(e); 41.80.110(2)(d).

A finding that a party has refused to bargain is predicated on a finding of bad faith bargaining in regard to mandatory subjects of bargaining. *See Spokane School District*, Decision 310-B (EDUC, 1978). The obligation to bargain in good faith encompasses a duty to engage in full and frank discussions on disputed issues, and to explore possible alternatives, if any, that may achieve a mutually satisfactory accommodation of the interests of both the employer and employees. While the parties' collective bargaining obligation under RCW 41.80.010(2) does not compel them to agree to proposals or make concessions, a party is not entitled to reduce collective bargaining to an exercise in futility. *Mason County*, Decision 3706-A (PECB, 1991)(totality of the evidence demonstrated that employer entered negotiations with a predetermined outcome); *see also Flight Attendants v. Horizon Air Industries, Inc.*, 976 F.2d

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[3] Judicial and Commission precedents interpreting the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, apply to the PSRA unless legislative intent clearly directs otherwise. *State - Natural Resources*, Decision 8458-B (PSRA, 2005).

541 (9th Cir. 1992)(making contract proposals that employer knew were consistently and predictably unpalatable to the union and failing to exert every reasonable effort to reach agreement violated the Railway Labor Act).

Differentiating between lawful "hard bargaining" and unlawful "surface bargaining" can be difficult in close cases. This fine line in differentiating the two reflects a natural tension between the obligation to bargain in good faith and the statutory mandate that there be no requirement that concessions be made or an agreement be reached. *Walla Walla County*, Decision 2932-A (PECB, 1988). An adamant insistence on a bargaining position is not, by itself, a refusal to bargain. *Mansfield School District*, Decision 4552-B (EDUC, 1995), *citing Atlanta Hilton and Tower*, 271 NLRB 1600 (1984). However, good faith is inconsistent with a predetermined resolve not to budge from an initial position. *NLRB v. Truitt Mfg. Co.*, 351 U.S. 149 (1956).

In determining whether an unfair labor practice has occurred, the totality of circumstances must be analyzed. *Walla Walla County*, Decision 2932-A; *City of Mercer Island*, Decision 1457 (PECB, 1982). The evidence must support the conclusion that the respondent's total bargaining conduct demonstrates a failure or refusal to bargain in good faith or an intention to frustrate or avoid an agreement. *City of Clarkston*, Decision 3246 (PECB, 1989).

Application of Standard

The Examiner found that the totality of the employer's behavior during the bargaining process evidenced a failure on the part of the Board of Trustees and the University President to provide the employer's bargaining team with the authority to bargain in good faith with the union. The employer argues that the Examiner erred

in finding that the employer failed to grant its bargaining team sufficient authority to negotiate with the union. The employer claims that the institution's Board of Trustees and University President set forth the parameters that its bargaining team was to operate under, and that Commission precedent recognizes that an employer may clearly communicate the parameters that it is limited to when considering collective bargaining proposals. We agree with the Examiner's conclusion that the employer's proposals and conduct constitute a violation of the good faith bargaining obligation.

Failure to Bargain Employee Compensation

During negotiations regarding the compensation and fringe benefit provisions of the collective bargaining agreement, the employer informed the union that it wanted parity for all of its collective bargaining agreements and also that the employer understood that the compensation package given to state general government employees, a 3.2 percent cost-of-living adjustment (COLA) the first year of the contract and a 1.6 percent COLA for the second, would be the limit that the Legislature would approve. The employer also stated that it would not use locally controlled funds to supplement the compensation provisions of the contract.

We agree with the employer that the union cannot compel the employer through bargaining to use local funds for the collective bargaining agreement. In general, employer budgets are non-mandatory subjects of bargaining. *Spokane Education Association v. Barnes*, 83 Wn.2d 366 (1974); *Federal Way School District*, Decision 232-A (EDUC, 1977).

We nevertheless find that the collective bargaining approach used by the employer reduced bargaining with the union to an exercise of futility. Under the PSRA, the parties' negotiated contract is submitted to OFM for certification as financially feasible. RCW

41.80.010(b). Prior to bargaining, the higher education institutions shall consult with OFM regarding budgetary and financial obligations that may arise during the collective bargaining process. This does not mean that a higher education employer can simply rely upon figures provided to them by OFM as a means to set aside its bargaining obligation. Different bargaining units have different communities of interest, and unions must have the ability to attempt to negotiate independent contracts for their employees, and to not be constrained by a deal that was previously negotiated with a different union.[4] The good faith obligation requires the employer to freely exchange proposals and ideas with unions in an effort to reach an agreement, and upon reaching agreement transmit the tentative agreement to OFM for certification. Unions must be aware that even a realistic compensation package may not be certified as being financially feasible for the state.

The employer argues that it fulfilled its good faith obligation. It argues that it made certain concessions to the union separate and apart from the COLA, including a salary survey that would potentially raise employee wages using state funds. We disagree.

The evidence demonstrates that the employer was unwilling to move off its initially stated position with respect to the COLA adjustment for employees, and was unwilling to consider granting

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[4] Although this case does not concern the presence of a "parity" clause contained within a different contract that is affecting negotiations regarding an issue in this case, this Commission has previously held that while parity clauses are not per se illegal, this Commission will examine the totality of the circumstances to determine whether the presence of a parity clause affects the good faith obligation. *Whatcom County*, Decision 8512-A (PECB, 2005). This principle applies equally to cases where employers desire parity amongst all represented employees.

employees a COLA that was different from the COLA accepted by other unions representing other employees at the institution. For example, the employer's Chief Human Resources Officer testified the employer did not want to create "two classes" of employees by offering the union a different compensation package, and at this stage in negotiations essentially brought the bargaining process to futility.[5]

The employer's insistence on identical wage provisions among all of its bargaining unit employees without giving serious consideration to alternative non-wage related provisions proposed by the different unions, taken with its conduct as a whole, is not demonstrative of good faith bargaining. The employer's goal to obtain identical wage packages, by itself, is not an unfair labor practice. However, it is clear from the Chief Human Resources Officer's testimony that the employer was taking its marching orders from OFM, and was not independently negotiating an agreement with the union. This record establishes that other bargaining representatives negotiated economic packages different from the 3.2 percent/1.6 percent wage package that the employer insisted was all that OFM would permit.

Finally, the record demonstrates that the employer's bargaining team was either restrained from truly being able to explore alternatives with the union regarding compensation proposals, or failed to engage in meaningful negotiations by not offering counter proposals. The employer's labor consultant testified that the employer considered all of the union's proposals, but that it did not want to "punish" those bargaining representatives that reached

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5 Transcript, page 221, line 11 through page 222, line 22.

agreement first by agreeing to a better compensation package for this union.[6]

Employer Statements Also Demonstrate Lack of Good Faith Bargaining

The Examiner found that the employer's statements to the union that no agreement would be reached because the University President did not wish to "reward bad behavior" interfered with employee rights because bargaining unit members could reasonably feel threatened by those types of statements. The employer argues that these statements were simply "bluster and banter," and that Commission precedents recognize that bargaining unit employees who take part in negotiations should expect such comments as part of the bargaining process. We disagree with the employer, and find that these statements reinforce a finding that the totality of the employer's conduct during the course of bargaining demonstrated a lack of good faith.

The employer's statements not only disparage the union, but they also show an intent on the part of the employer to punish the union for its conduct at the bargaining table. The employer expressed no legitimate reason as to why an agreement could not be reached other than the expressed reason of the University President that she did not wish to reward the union for its behavior.

The statements made by the employer were not expressing realities of the employer's budget status,[7] rather they were a direct attack

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[6] Transcript, page 206, line 20 through page 207, line 21.

[7] The Examiner correctly noted that the employer may not dictate bargaining strategy to the union. If an employer believes that an exclusive bargaining representative is not bargaining in good faith by its course of conduct, it is free to allege so through an unfair labor practice complaint.

on the union for its actions at the bargaining table.[8] This statement is even more troubling in light of the fact that the parties had reached a tentative agreement. These types of comments, taken together with the employer's overall course of conduct at the bargaining table, demonstrate a pattern of bad faith bargaining on the part of the employer.

Finally, we also find that the Examiner correctly held that the University President's statements constituted an independent interference violation.[9] Those comments also demonstrate an intent to undermine the union's authority. Thus, we also affirm the Examiner's findings and conclusion that the employer independently

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[8] The testimony of the union's chapter president illustrates other types of negative comments directed at bargaining unit employees during the course of negotiations that, while not necessarily indicating the employer bargained in bad faith, or even an unfair labor practice, demonstrate a lack of respect between the employer and the union's negotiating team. Specifically, the union's chapter president testified that the employer stated to the union's negotiating team that bargaining unit employees were "valueless", had "nothing to trade for anything", of "no worth", and that the employer "could hire a monkey off the street just like [the employee]." Transcript, page 30, lines 4 through 11. It is these types of unrefuted statements that reinforce our decision directing the employer to attend agency conducted collective bargaining training.

[9] Employer communications to employees can be an interference unfair labor practice if those statements tend to disparage, discredit, ridicule, or undermine the union. Furthermore, it is not necessary to show that the employer acted with intent or motivation to interfere, nor is it necessary to show that the employee or employees involved actually felt threatened or coerced. The determination is based on whether a typical employee in the same circumstances could reasonably see the employer's actions as discouraging his or her union activities. Even if non-coercive in tone, a communication may be unlawful if it has the effect of undermining a union. *City of Seattle*, Decision 3566-A (PECB, 1991).

interfered with protected bargaining unit rights through its comments.

We recognize that collective bargaining does not occur in a vacuum, and factors outside of the parties' control may influence proposals and reasons for the rejection or acceptance of such proposals. While these statements by themselves may not necessarily prove that the employer bargained in bad faith, in this circumstance, the totality of the evidence supports the finding that the employer declined to genuinely consider the union's proposals and advance alternatives, and through this course of conduct the employer failed to bargain in good faith.

Failure to Bargain Holidays

In addition to his finding that the employer failed to bargain in good faith with respect to employee compensation, the Examiner found that the employer failed to bargain in good faith regarding holiday scheduling and an additional day off. The employer argues that its bargaining team did not believe that it had the authority to vary the leave schedule because a particular administrative rule from WAC 251 was repealed and no replacement had been adopted at the time of negotiations.

We begin by noting that RCW 41.80.020(6) provides that if any "executive rule, administrative order, or agency policy" conflicts with the terms of a collective bargaining agreement, the collective bargaining agreement shall prevail. Second, this Commission determines whether an issue of bargaining is permissive or mandatory, and a party who refuses to bargain a mandatory subject does so at its own peril.

The employer does not dispute that annual leave is a mandatory subject. It merely argues that it reasonably believed that it was

not permitted to bargain annual leave and holidays without the express authority of an administrative regulation. Here, the employer's belief was not reasonable.

RCW 41.80.020(6) makes it patently clear that collective bargaining provisions prevail over administrative rules unless the collective bargaining provision conflicts with a statute. The employer identified no statute to the union suggesting that it could not bargain annual leave, and the Examiner correctly noted that RCW 1.16.050 permits collective bargaining over holidays.[10] Because the employer's assumption was in error, the employer refused to bargain the mandatory subject of annual leave due to its erroneous belief that it needed authority through an administrative rule to do so.

ISSUE 2 - Union's Motion to Amend Complaint

Commission rules permit parties, in certain circumstances, to "conform the pleadings to evidence received without objection, upon motion made prior to the close of the evidentiary hearing." WAC 391-45-070(2)(c). WAC 391-45-070(1)(b) requires any motion to amend a complaint to be timely.

During the hearing, the union introduced evidence without objection that it claims demonstrates additional instances of employer interference with protected employee rights, and moved to conform its pleading to the evidence. The Examiner took the union's motion under advisement, but ultimately denied the motion as being untimely. We agree with the Examiner's ruling.

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[10] RCW 1.16.050 states, in part: "Nothing in this section shall be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state . . . ."

The later allegations are claims of circumvention separate and distinct from the interference allegations stated in the union's original complaint. The pertinent events occurred in late September and early October of 2004. The union's motion occurred at the hearing, well after the six-month statute of limitations had expired. The union presented no compelling reason as to why it was prohibited from filing a timely amended complaint regarding these new allegations.

ISSUE 3 - The Examiner's Remedy

The Legislature empowered this Commission to prevent and remedy unfair labor practices. RCW 41.56.160. The fashioning of remedies is a discretionary action of the Commission. *City of Seattle*, Decision 8313-B (PECB, 2004). When interpreting the Commission's remedial authority under Chapter 41.56 RCW, the Supreme Court of the State of Washington approved a liberal construction of the statute to accomplish its purpose. *METRO v. Public Employment Relations Commission*, 118 Wn.2d 621 (1992). With that purpose in mind, the Supreme Court interpreted the statutory phrase "appropriate remedial orders" as including those remedies necessary to effectuate the purposes of the collective bargaining statute and to make the Commission's lawful orders effective. *METRO*, 118 Wn.2d at 633. The Commission's expertise in resolving labor-management disputes was also recognized and accorded deference. *METRO*, 118 Wn.2d at 634 (*citing Public Employment Relations Commission v. City of Kennewick*, 99 Wn.2d 832 (1983)).

When reviewing an examiner's decision to grant or deny an extraordinary remedy, this Commission will put itself in the same position as a reviewing court.[11] This Commission will not disturb a

[11] In cases such as this, where a party is found to have violated its good faith bargaining obligation and interfered with protected employee rights, the standard

discretionary award of an extraordinary remedy unless the examiner's exercise of discretion was manifestly unreasonable or the decision was based on untenable grounds. *Pasco Housing Authority v. Public Employment Relations Commission*, 98 Wn. App. 809 (2000)(citations omitted).

Application of Standard

The union argues that the Examiner erred by not granting the union an extraordinary remedy of either attorney's fees or interest arbitration. The Examiner denied the union's request for attorney's fees based, in part, on the timing of the events in the instant case, as well on the fact that another examiner had admonished the employer in a prior unfair labor practice case alleging different violations. The Examiner also denied the union's request for interest arbitration based upon the parties' failure to utilize the mediation and fact-finding services available to the parties under the PSRA.

An examination of the historical collective bargaining relationship between these parties demonstrates the following:

- In *Western Washington University*, Decision 8256 (PSRA, 2003), the employer committed an unfair labor practice when it unilaterally changed employee parking.
- In *Western Washington University*, Decision 9010 (PSRA, 2005), the employer committed an unfair labor practice when it unilaterally transferred work from the bargaining unit without

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remedy is a cease and desist order, as well as the posting of notices that the offending party will not commit the offending action again, and a public reading of the notice into the record at a formal meeting of the respondent's governing body, and an order to return to bargaining upon the complainant's request.

first notifying the union and providing an opportunity to request bargaining.[12]

- In *Western Washington University*, Decision 9068 (PSRA, 2005), the employer committed an unfair labor practice when it failed to provide pertinent and necessary collective bargaining information to the union.

Based upon the facts of this case, as well as the employer's historical pattern of rejecting the basic principles of collective bargaining, we find that an extraordinary remedy is warranted. The question now becomes what remedy is appropriate based upon the facts of this case as well as the history of the parties.

For the most part, awards of attorney's fees have been awarded as a punitive remedy in response to egregious conduct or to frivolous defenses asserted by a party. *See Lewis County*, 644-A (PECB, 1979) *aff'd*, 31 Wn. App. 853 (1982)(attorney's fees awarded where it is clear that history of underlying conduct evidenced patent disregard for statutory mandate to engage in good faith negotiations); *see also Auburn School District*, Decision 2710-A (1987)(motion for attorney's fees on appeal denied where Commission found that although employer's appeal had no merit, it was not frivolous). Although attorney's fees have been awarded for repetitive conduct, and the history of the parties' collective bargaining relationship is troubling at best, we find that in this case, an award for attorney's fees does not assist these parties in developing a good collective bargaining relationship. In crafting extraordinary remedies for cases such as this, our responsibility should focus

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[12] Although the employer was found to have not committed a second unilateral change to employee parking in this case, that does not overcome the fact that the employer still committed other violations.

not only on ensuring that the employees' free exercise of collective bargaining rights is protected, but also to educate the offending party on how to comply with its statutory responsibility.

We find that effectuation of the act is best served by tailoring the remedy towards ensuring that in the future the employer fully complies with its obligation to collectively bargain in good faith. Therefore, the employer shall comply with the following remedial order.

We first direct the employer to send its negotiating team, including those individuals who are primarily responsible for administration of the collective bargaining agreement, to labor relations training to be conducted by agency staff. The Commission's Executive Director is instructed to develop a curriculum that will best serve this employer based upon the history of its violations. The training will be conducted at the Commission's Olympia headquarters at a date and time deemed convenient by the Executive Director. Once training has been completed to the Executive Director's satisfaction, she is directed to inform the union that the employer has complied with this aspect of the remedial order. The employer shall schedule and complete this training prior to the union's demand to bargain the 2009-2011 contract.

Additionally, we place the following conditions on the actual negotiations for the 2009-2011 collective bargaining agreement:

- At the same time the union makes a demand to the employer to negotiate a successor agreement, the parties shall jointly select an interest arbitrator from the membership panel maintained by the Commission, or ask the Executive Director to appoint an interest arbitrator from agency staff, to be

available for an interest arbitration hearing to be conducted sometime between August 25 and August 29, 2008.

- Prior to the commencement of negotiations, the Executive Director shall appoint an agency mediator to assist the parties in negotiations regarding their next collective bargaining agreement.
- If the parties are unable to reach agreement for a successor collective bargaining agreement by August 15, 2008, the Executive Director shall certify the outstanding mandatory subjects of bargaining for binding interest arbitration under standards similar to RCW 41.56.450 through RCW 41.56.470, except as modified by this order. The interest arbitrator shall issue his or her award prior to the October 1 deadline.

Finally, should interest arbitration be required, the employer shall be responsible for the arbitrator's costs, unless the parties jointly agree that an agency staff member will conduct the arbitration.

NOW, THEREFORE, it is

ORDERED

The Findings of Fact and Conclusions of Law issued by Examiner Carlos Carrión-Crespo are AFFIRMED and adopted as the Findings of Fact and Conclusions of Law of the Commission.

The Order issued by Examiner Carlos Carrión-Crespo is AMENDED to read as follows:

1. Western Washington University, its officers and agents, shall immediately CEASE AND DESIST from:

a. Failing to bargain in good faith with Public School Employees of Washington, as the exclusive bargaining representative of the appropriate bargaining unit described in paragraph 2 of the foregoing findings of fact.

b. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights secured by the laws of the state of Washington.

2. Western Washington University (University) shall immediately TAKE THE FOLLOWING AFFIRMATIVE ACTION to remedy its unfair labor practices and effectuate the purposes and policies of Chapter 41.80 RCW:

a. Upon request, meet and bargain collectively in good faith with Public School Employees of Washington, concerning mandatory subjects of bargaining as described in Chapter 41.80 RCW for the members of Bargaining Unit "D".

b. Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto. Such notices shall be duly signed by an authorized representative of the respondent, and shall remain posted for 60 days. Reasonable steps shall be taken by the respondent to ensure that such notices are not removed, altered, defaced, or covered by other material.

c. The University President shall read the notice attached to this order into the record at a regular, public meeting of the Governing Board of the University, and

permanently append a copy of the notice to the official minutes of the meeting where the notice is read, as required by this paragraph.

d. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice attached to this order.

e. Notify the Executive Director of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps the University has taken to comply with this order, and at the same time provide the Executive Director with a signed copy of the notice attached to this order.

f. At least 30 days before negotiations with Public School Employees of Washington for the 2009-2011 collective bargaining agreement commence, the University shall contact the Executive Director of the Public Employment Relations Commission to arrange a convenient date and time for the employer's negotiating team to attend collective bargaining training consistent with this decision.

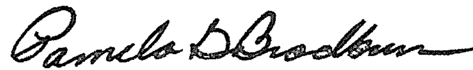
g. Upon receiving a request from Public School Employees of Washington to commence negotiations for a successor agreement, the University and Public School Employees of Washington shall immediately and jointly select an interest arbitrator to be available consistent with terms set forth in this decision. The University and Public School Employees of Washington shall also jointly request

appointment of a mediator from the Public Employment Relations Commission to assist them with negotiations for a successor agreement. If the University and Public School Employees of Washington have not reached agreement on the terms and conditions of employment for the 2009-2011 collective bargaining agreement by August 15, 2008, the parties shall engage in binding interest arbitration consistent with the terms set forth in this decision.

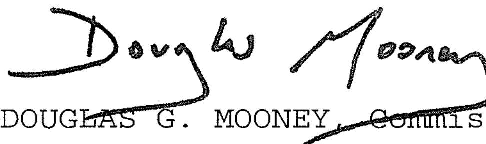
Issued at Olympia, Washington, the 3rd day of January, 2008.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson



PAMELA G. BRADBURN, Commissioner



DOUGLAS G. MOONEY, Commissioner

Case 18898-U-04-4804

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING IN WHICH ALL PARTIES HAD THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION RULED THAT WE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF STATE COLLECTIVE BARGAINING LAWS, AND ORDERED US TO POST THIS NOTICE TO EMPLOYEES:

WE UNLAWFULLY failed to bargain in good faith with Public School Employees of Washington, representing the members of Bargaining Unit "D", concerning mandatory subjects of bargaining.

WE UNLAWFULLY interfered with the members of Bargaining Unit "D" in the exercise of their collective bargaining rights under state law.

TO REMEDY OUR UNFAIR LABOR PRACTICES:

WE WILL meet and bargain collectively in good faith with Public School Employees of Washington, concerning mandatory subjects of bargaining as described in Chapter 41.80 RCW for the members of Bargaining Unit "D".

WE WILL NOT, in any manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

DATED: ________________ WESTERN WASHINGTON UNIVERSITY

BY: ______________________________
Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days, and must not be altered or covered by any other material. Questions about this notice or compliance with the Commission's order may be directed to the Public Employment Relations Commission (PERC), 112 Henry Street NE, PO Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 570-7300. The full decision will be published on PERC's web site, www.perc.wa.gov.