

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PAZ ANULACION,)	
)	
Complainant,)	CASE NO. 4786-U-83-798
)	
vs.)	DECISION NO. 1734 - PECB
)	
WASHINGTON STATE COUNCIL OF COUNTY)	
AND CITY EMPLOYEES, LOCAL 120,)	
)	
Respondent.)	PRELIMINARY RULING

The complainant in the captioned matter is also the complainant in Case No. 4584-U-83-755, an unfair labor practice case filed on April 14, 1983 against the Tacoma Public Library. A preliminary ruling was issued in that matter on August 11, 1983 (Decision 1680 - PECB), wherein it was concluded that the complaint failed to state a cause of action. The complainant was afforded an additional period of time in which to file an amended complaint. In response to that order, the complainant moved to amend the complaint to name the Washington State Council of County and City Employees as a respondent and to allege:

These incidents took place because of failure by the Union to properly represent me because of my race (Filipino), and the Library failed to treat me equally as a bargaining unit employee by not granting me a merit step increase because of my race when other white employees in similar circumstances were granted merit step increases.

The docketing procedures of the Public Employment Relations Commission require that the allegations made against the union be treated as a separate case. A new case has been opened under the case number indicated in the caption of this order, and the complaint and supporting documents filed with the original complaint against the employer have been made a part of the file in the captioned matter.

Standing alone, allegations of racial discrimination by an employer do not state a cause of action as an unfair labor practice before the Public Employment Relations Commission. City of Seattle, Decision 205 (PECB, 1976). A collective bargaining agreement designed to discriminate on the basis of race or a refusal by a union (for reasons of discrimination on the basis of race) to represent a bargaining unit employee in the processing of a grievance, present a somewhat different situation. Just as discrimination

by a union on the basis of an employee's sympathies for or against the union is a matter subject to the jurisdiction of the Public Employment Relations Commission (See: Elma School District, Elma Teachers' Organization), Decision 1349 (EDUC, 1982), discrimination by a union on the basis of race could call into question the right of that organization to enjoy statutory status as exclusive bargaining representative of a bargaining unit. The Public Employment Relations Commission has authority to police its certifications.

The factual allegations in the complaint at hand fall short, however, of stating a cause of action. There is no claim that the complainant ever requested that the union represent her in the processing of the grievance or otherwise. From the allegations of the complaint against the employer (which are set forth in full in Decision 1680 - PECB), and from the documents filed by the complainant in support of her original complaint, it is easily inferred that the complainant sought to process her grievance entirely independent of the union, exercising the rights conferred in the proviso to RCW 41.56.080. Although there are some references to the presence of a union steward at initial meetings on the complainant's grievance, the less ambiguous references suggest that the union official was present only as an observer pursuant to notice given the union under the proviso to RCW 41.56.080. Absent an allegation that the union was asked for assistance, the foregoing allegation against the union is defective and the complaints both fail to state a cause of action.

NOW, THEREFORE, it is

ORDERED

The complainant will be allowed a period of fourteen (14) days following the date of this order to amend the complaint. In the absence of an amendment, the complaint will be dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 14th day of September, 1983.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director