

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

NORTH BEACH SCHOOL DISTRICT,	)	
	)	
Employer,	)	CASE NO. 6227-U-86-1187
* * * * *	)	
WAYNE MATHESON,	)	
	)	
Complainant,	)	
	)	
vs.	)	DECISION NO. 2487 - PECB
	)	
PUBLIC SCHOOL EMPLOYEES OF	)	
WASHINGTON,	)	PRELIMINARY RULING
	)	
Respondent.	)	
	)	
	)	

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On February 11, 1986, Wayne Matheson filed a complaint charging unfair labor practices with the Public Employment Relations Commission, listing Public School Employees (PSE) as respondent. The first step in the processing of an unfair labor practice case is a preliminary ruling pursuant to WAC 391-45-110. At this stage of the proceedings, it must be assumed that all of the facts alleged in the complaint are true and provable. The question at hand is whether the complaint states a claim for relief which can be granted through the unfair labor practice provisions of the Public Employment Collective Bargaining Act, Chapter 41.56 RCW.

The docket records of the Commission indicate the following as background and context to the complaint: Case No. 6011-E-85-1075 was docketed on October 7, 1985, when the Classified Public Employees Association/WEA filed a petition with the Commission for investigation of a question concerning representation involving certain employees of the North Beach School District. Those employees had theretofore been represented by PSE. A pre-

hearing conference was conducted by a member of the Commission staff on October 30, 1985. Wayne Matheson, who is the complainant in the instant unfair labor practice case, attended that pre-hearing conference. An election agreement was signed. An election was conducted on January 7, 1986, with the result that 17 employees voted for representation by PSE and 15 employees voted for representation by CPEA/WEA. Matheson filed a document with the Commission within the period allowed for filing objections to an election, but later supplied written notice to the Commission disclaiming any intent to pursue election objections under the rules of the Commission. Challenges to certain ballots were withdrawn by the employer, and PSE was certified on January 15, 1986, as exclusive bargaining representative of the bargaining unit. North Beach School District, Decision 2375 (PECB, 1986).

Although the complainant's statement in support of the complaint fills more than two typewritten pages, the factual allegations are simple and few in number. The complainant alleges that PSE sent a letter to employees on November 14, 1985 which stated, in part, that:

. . . Wayne Matheson appeared with a W.E.A. representative at a pre-hearing conference regarding the upcoming election.

As Mr. Matheson appears to be supporting the W.E.A., I would like to share some correspondence with you. . . .

Matheson complains that the letter constituted interference, restraint, coercion and discrimination on the part of PSE against the him, principally by discrediting Matheson in the eyes of his co-workers. While the complainant alleges that the dissemination by PSE of its letter constituted an "interference" violation under RCW 41.56.150(1), the factual allegations are not

sufficient to conclude that such a violation could be found. The collective bargaining statute restricts free speech only to a limited degree. Counteracting an opponent, or even of a perceived opponent, during a representation campaign is not automatically unlawful. There is no allegation that the union made any threats of reprisal or force against the complainant, or that it was in collusion with the employer to discriminate against the complainant, or that the collective bargaining agreement was applied in a discriminatory manner.

In order for an action to be within the jurisdiction of the Commission, the claim must allege facts that tie the alleged interference or discrimination to an activity that is protected by the statute. City of Seattle, Decision No. 2129 (PECB, 1985). In the absence of any allegations of threats of reprisal or force or use of forged documents, the allegations are insufficient to warrant a hearing.

The complainant also alleges that the secret ballot procedure was violated as to him. The Commission protects its representation election processes, holding parties to a standard of "laboratory conditions" in which employees may freely express their views on selecting a bargaining representative. Even in this area, however, the Commission does not police every representation or mis-representation made by the parties to an election campaign. Parties have the freedom to respond to campaign statements which they believe to be false or misleading, and employees are expected to evaluate campaign information for themselves.

The allegations against the union have been examined to determine if they involve a charge of breach of the union's "duty of fair representation". Nothing is found, however, that indicates that the PSE has aligned itself in interest against the complainant

with respect to the negotiation or administration of a collective bargaining agreement.

With the direction herein provided, complainant may be better able to amend the complaint to focus attention on claims within the jurisdiction of the Commission.

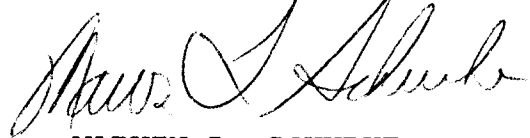
NOW, THEREFORE, it is

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 3rd day of July, 1986

PUBLIC EMPLOYMENT  
RELATIONS COMMISSION



MARVIN L. SCHURKE  
Executive Director