STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SCHOOL EMPLOYEES OF ENTIAT / PSE, Complainant, vs. ENTIAT SCHOOL DISTRICT 127, Respondent.	)	CASE 8610-U-90-1873 DECISION 3805 - PECB FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

Eric T. Nordlof, Attorney at Law, appeared on behalf of the complainant.

Jeffers, Danielson, Sonne and Aylward, by James M. Danielson, Attorney at Law, appeared on behalf of the respondent.

On May 24, 1990, Public School Employees of Entiat filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that Entiat School District 127 had violated RCW 41.56.140(1) as a result of certain personnel actions taken concerning its employee, Candace Corn. A hearing was held at Wenatchee, Washington, on November 27, 1990, before Frederick J. Rosenberry, Examiner. The parties submitted post-hearing briefs.

BACKGROUND

Entiat School District 127 provides educational services for kindergarten through 12th grade students in a portion of Chelan County. The administrative offices and classrooms are situated in one complex at Entiat, Washington.

Public School Employees of Entiat, an affiliate of Public School Employees of Washington (PSE), is the exclusive bargaining representative of a bargaining unit of classified employees who provide instructional aide, transportation, custodial, maintenance, secretarial-clerical, and food services for the Entiat School District.

The collective bargaining relationship between the employer and the union pre-dates the events involved in this case, and they were parties to a collective bargaining agreement for the period from September 1, 1986 to August 31, 1990.

Candace Corn was hired by the Entiat School District on September 9, 1985. At all times relevant to this proceeding, she was employed within the bargaining unit represented by PSE. From the time of her hire until June, 1990, Corn was assigned to work as an instructional aide under the immediate direction of the resource room certificated teacher. Her primary duties were to assist the teacher by gathering and copying materials, and by reviewing mathematics, english, reading, and other subjects with individual students and groups of students in kindergarten through junior high school. Corn was reassigned to other duties for the 1990-91 school year, as more fully described below.

From September, 1985 until June, 1988, Corn was scheduled to work a continuous shift from 8:30 a.m. to 2:00 p.m. Payroll records submitted in evidence indicate that she was paid for five hours per day under "Program 55". Another employee, Dolores Hambly, worked four hours per day as a resource room aide under "Program 55" until May of 1988, when she was replaced by Myrna Thorson.

For the 1988-89 school year, the employer reduced the number of aide hours allocated to the resource room. A school district funding levy had failed to acquire enough votes for passage in 1988, and the employer acted in order to curb expenses. According

to Corn, the employer offered her a dual-assignment work schedule consisting of 2 hours and 30 minutes as an aide in the resource room plus one hour as a playground attendant, for a total of 3-1/2 hours per day. Corn testified that she accepted the work shift in the resource room, but she did not desire to work as a playground attendant and declined to accept that one hour work opportunity.[1]

Myrna Thorson was hired in May of 1988 to replace the employee who had been working the four-hour "afternoon" aide shift in the resource room. As a result of the levy failure, Thorson's work shift as a resource room aide was reduced to 3 hours and 15 minutes per day. Thorson was offered, and she accepted, the one-hour playground attendant work opportunity that had been rejected by Corn. Thus, Thorson was paid for 4 hours and 15 minutes of work per day during the 1988-89 school year, divided between "Program 55" and "Program 01".

On June 27, 1989, Corn was summoned to the office of Virgil King, who was then superintendent of the Entiat School District. Upon reporting, King advised Corn that he was orally reprimanding her, at the direction of the school district's Board of Directors, for allegedly making remarks in the general community criticizing the performance of the resource room teacher.[2] Corn denied the allegation, disputed the propriety of the reprimand, and requested to speak to the school board regarding the matter.

Corn appeared before an executive session of the school board in July, 1989. At that session, the board repeated the allegations

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[1] The payroll records indicate that Corn was paid for a 3 hour and 15 minute daily shift during the 1988-89 school year, in the same "Program 55" account that had been charged for her time in previous years. The inconsistency was not explained. The Examiner infers, based on the documentary evidence, that Corn mis-spoke.

[2] The incumbent resource room teacher served in that position at all times relevant to this proceeding.

raised against Corn. Once again, Corn denied the allegation. Corn asked for specific information regarding the matter, which the board declined to provide.[3]

On August 1, 1989, Thomas Jentges replaced Virgil King as superintendent of the Entiat School District. Later that month, Loren Gilson was hired as principal.[4] Neither Jentges nor Gilson was previously employed by the Entiat School District.

In early August, 1989, Superintendent Jentges called Corn to his office, where they discussed the possibility of Corn being assigned during the ensuing student year to a position other than that of resource room aide. Corn provided information regarding her work skills, and how she felt that she could best help students. According to Corn, Jentges also asked her to explain the circumstances of the reprimand issued to her by the former superintendent. Corn complied and, in doing so, she informed Jentges that she disagreed with some of the instructional methods used by the resource room teacher. Corn went on to cite examples of what she thought were demonstrative of "terrible" problems in the resource room. Corn denied any wrongdoing. The meeting ended without resolution of either the "assignment" or "teaching methods" issue.

Unlike prior years, Corn's assignment remained unspecified as the beginning of the 1989-90 school year approached. Corn was working in the school library on the day before students were scheduled to

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[3] There is no indication in the record that Corn was accompanied by a PSE representative at this meeting, or that PSE made a request for information, or that PSE pursued an unfair labor practice alleging a breach of the employer's obligation to provide data necessary to the union's processing of grievances. See, Aberdeen School District, Decision 3063 (PECB, 1988).

[4] The Entiat School District employs one principal who oversees the entire K-12 instructional program.

report for the new school year,[5] and she contacted Jentges to inquire what her work assignment would be. Jentges had Corn accompany him to Gilson's office, where Corn was presented with a work schedule that was to be effective the following day. Under that schedule, Corn was to work as a custodial assistant for 2 hours and 45 minutes per day, and was to work as a playground attendant for 45 minutes per day.

Corn had never worked as a custodian, had never indicated an interest in doing so, and was not aware of an aide ever being assigned to a custodial position in the past. She had worked as a substitute playground attendant in the past, and had no desire to do so on a regular basis.

Two other employees had assignment changes at that time: Myrna Thorson remained assigned as a resource room aide during the 1989-90 school year, and her work schedule was increased to 4 hours and 15 minutes per day in that capacity after September of 1989.[6] Linda Olin was also reassigned to work as a custodial assistant.[7]

Corn and Olin were displeased with their new work assignments, and they contacted their PSE representative, Kathy King, to report

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[5] The date was reflected in the record only as "on or about August 28, 1989". The record does not reflect the circumstance of Corn's assignment to the library.

[6] The payroll records on Thorson indicate that her time was divided between "Program 55" and "Program 01" for the month of September, but that her entire work time was charged to "Program 55" for the balance of the year.

[7] Olin had greater seniority than Corn. She had been scheduled to work as an aide for 6 hours and 30 minutes per day during the 1986-87, 1987-88 and 1988-89 school years. Beginning with the 1989-90 school year, she was scheduled to work for 4 hours and 30 minutes as a custodial assistant and 2 hours as an aide, thus retaining her 6 hour and 30 minute total schedule.

their grievance.[8] King advised them that she would arrange a meeting with Superintendent Jentges to discuss the matter.

On or about September 19, 1990, a meeting was held between King, Corn, Olin and Jentges to discuss the reassignments. In the course of that discussion, Jentges explained that the employer did not need Corn in the resource room, but that it did need help in the custodial area. The employer justified the retention of the less senior aide, Thorson, in the resource room on the basis that Corn had worked a morning shift that was no longer needed, while Thorson's afternoon shift was still needed. After discussion, the superintendent agreed that the custodial assignments were not appropriate, and he indicated that he would resolve the problem by returning Corn and Olin to aide assignments. According to Corn, they mentioned filing a grievance but held off for the time being.

On or about October 2, 1989, Olin and Corn were relieved of their duties and were reassigned. Olin was given an aide assignment involving elementary students. Corn was scheduled to work a split-shift consisting of three segments: From 8 a.m. to 8:30 a.m. and from 12 noon to 12:30 p.m., Corn was assigned to supervise students in the gymnasium; from 12:30 p.m. to 3 p.m. she worked in the high school library as an aide.

On an undisclosed date in October, 1989, Corn filed a grievance regarding the assignment to custodial and playground duties. It was alleged that the employer had violated the seniority and job posting provisions of the collective bargaining agreement. Corn presented her grievance to the school board, in conformity with the terms of the collective bargaining agreement. The employer

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[8] There is no indication in the record that PSE representative Kathy King is related in any way to former superintendent Virgil King.

rejected the grievance, and it appears that PSE then invoked the contractual arbitration procedure.[9]

Corn worked the remainder of the 1989-90 school year supervising students in the gymnasium, working in the library, and occasionally performing work in the employer's administrative office.

On April 17, 1990, Corn requested that her split shift be consolidated to start at 8 a.m., to accommodate her regarding a job that she had taken with a different employer. According to Corn, Gilson initially told her that there didn't seem to be a problem with her request. Corn was notified, however, on April 30, 1990, that her request was denied.

By letter dated May 22, 1990, Jentges notified Corn that her work hours would be substantially reduced for the next student year. That letter stated:

> We wish to communicate with you concerning employment for the 1990-1991 school year so that you may plan ahead. Article XI of the Contractual Agreement between Entiat School District No. 127 and Public School Employees of Entiat School District relates to notification of employees. At the present time, we have determined a need for aide time for the time 8:00 A.M. to 8:30 A.M. and the approximate time 12:06 P.M. to 12:36 P.M. for you for the 1990-1991 school year. The other aide

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[9] The docket records of the Public Employment Relations Commission reflect that the union filed a request for arbitration with the Commission on March 16, 1990, asking that a member of the Commission staff be assigned to serve as arbitrator on that grievance. That request was docketed as Case 8495-A-90-745. No hearing had been held in the arbitration case as of the time of the hearing in the instant case. According to testimony in this proceeding, the employer has apparently raised procedural objections to the arbitrability of the grievance. The arbitration case remained pending before another staff member as of the date of this decision.

> time available, which is 8:00 A.M. to 1:50 P.M. with a 50 minute break, has been offered to Mrs. Olin because of seniority and her present placement in the position. No other aide time is available or may be offered to you for the 1990-1991 school year. We wish to hear from you concerning this offer of employment for the 1990 - 1991 school year by 6-15-90. If no response is received by 6-15-90, we shall offer the position to another. If a need is determined, we shall be in contact with you as related in the agreement.
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> We wish to thank you for your contribution while in our employ. Your efforts are appreciated.

Jentges sent similar letters to Thorson and Olin. He notified Thorson that there would be no need for her as an aide for the 1990-91 school year. He notified Olin that either a five-hour aide shift or the one-hour shift offered to Corn was available to her.

On May 24, 1990, the union filed the instant unfair labor practice against the employer.

The record reflects that, on an undisclosed date during the Spring of 1990, the employer hired Jackie Rich as a Spanish/English bilingual instructional aide scheduled to work a five-hour shift. Corn testified that it was her impression that Rich was working in the resource room during the 1990-91 student year.

POSITION OF THE PARTIES

The union alleges that the employer reduced Candace Corn's work hours in retaliation, because she filed grievances opposing the custodial and playground assignments made by the employer. The union views the employer's offer of a one-hour split shift for the 1990-91 school year to be tantamount to a constructive discharge. In its post-hearing brief, the union alleged that the employer

created the custodial position and appointed Corn to fill it in retaliation for her grieving the reprimand issued to her on June 27, 1989, also in an attempt to compel her to resign. According to the union, Corn should be scheduled for all available aide hours commensurate with her seniority, including those hours of work assigned to the less senior bilingual aide, that she should be provided any Spanish language training necessary for the "bilingual" job, and that she should be made whole for all loss of income and other benefits resulting from the alleged discrimination.

The employer argues that Corn has failed to meet the requisite burden of proof necessary to demonstrate, by a preponderance of the evidence, that the employer had illegal motives against Corn because of her protected activity. The employer denies that any of its personnel actions involving Corn were in reprisal for her processing of grievances. It maintains that the reduction in available work was due to a general de-emphasizing of the use of aides in the instructional process. The employer points out that it eliminated the aide position filled by less senior employee Thorson, and that, aside from those hours worked by the bilingual aide, Corn is working all aide hours that are available commensurate with her seniority.

DISCUSSION

Retaliation for Grievance on Reprimand

The complaint charging unfair labor practices was filed in this matter on May 24, 1990. The allegations concerned the work schedule being given to Corn for the 1990-91 school year. No relief was sought by the complaint with respect to the assignment of Corn to a custodial position that was made on or about August 28, 1989. Notwithstanding the fact that the incident was not included in the complaint, the union's post-hearing brief seems to

seek a determination and remedy on the matter. The allegedly unlawful personnel action occurred more than six months prior to the filing of the unfair labor practice complaint, and the complaint was thus not timely as to that matter. King County, Decision 3558-A (1991). The incident can be considered by the Examiner in this proceeding only as "background".

Claim to "Bilingual Aide" Position or Hours

During the course of the hearing, the union raised a new allegation that the employer improperly deprived its classified employees of an opportunity to participate in employer-sponsored Spanish language lessons, notwithstanding their desire to do so. The union implied that the failure to provide such training deprived Corn of an opportunity to fill the "bilingual aide" position given to junior employee Jackie Rich. As a portion of its proposed remedy to the alleged unfair labor practices, the union asked that the employer be required to provide such instruction to Corn.

The record reflects that the Spanish language lessons were offered to the employer's certificated staff in the spring of 1988, approximately two years prior to the filing of the instant unfair labor practice complaint. Apart from the evident untimeliness of the allegations, the union has offered no substantive evidence establishing that Corn had an ascertainable right to such instruction, or that the employer should now be required to make such an offering to Corn. The Examiner is not persuaded that the matter of past instruction of the Spanish language is reasonably related to the issue at hand.

Finally, the union seems to argue that there was some violation of Corn's "seniority" rights by reason of the hiring of the "bilingual aide" in the spring of 1990. The record is not clear as to when that individual was hired, and it could even have been after the filing of this unfair labor practice case. The record is not clear

as to the work schedule of the "bilingual aide" during the 1990-91 school year.

This topic was not addressed at all in the complaint or answer. It came up for the first time at the hearing in this matter, and was a subject of argument in the union's brief. However, the union offered no substantive evidence regarding the qualifications or duties of the "bilingual aide", or regarding Corn's qualifications to perform such a position.[10] Moreover, the union made no claim that the position was not warranted, or that it was created as a pretext to avoid using Corn. The seniority rights of employees are secured by the collective bargaining agreement between the employer and union. The Commission does not directly determine or remedy contract violations in unfair labor practice proceedings. City of Walla Walla, Decision 104 (PECB, 1976). In the absence of a timely allegation that the hiring of the "bilingual aide" was an act of discrimination in violation of RCW 41.56.140(1), the matter is not properly before the Examiner.[11]

The Applicable Legal Standard

It is unlawful for a public employer to engage in any form of reprisal against its employees because they exercise their right, under Chapter 41.56 RCW, to pursue grievances. Valley General

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[10] Corn speaks english, and she acknowledged in testimony that she is not bilingual.

[11] The employer defended its hiring of the "bilingual aide" on the basis that the aide was needed to assist in the education of bilingual students, and it contended that the resource room program has been reorganized, so that it is no longer structured as it was in the past. According to the employer, the bilingual aide performs her duties in the classroom that was formerly called the resource room, but that the "bilingual aide" does not report to the teacher assigned to that classroom. Consistent with City of Walla Walla, supra, the Examiner does not determine those issues.

Hospital, Decision 1195-A (PECB, 1981). An employer commits an "interference" violation if it engages in conduct such that an employee could reasonably believe that the employer has intruded into the free exercise of the right to present grievances. King County, Decision 3318 (PECB, 1989).

The statute provides in relevant part:

> **RCW 41.56.040 RIGHT OF EMPLOYEES TO ORGANIZE AND DESIGNATE BARGAINING REPRESENTATIVE.** No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.
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> . . .
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> **RCW 41.56.140 UNFAIR LABOR PRACTICES ENUMERATED.** It shall be an unfair labor practice for a public employer:
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> (1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter; ...

Interference violations result from a variety of personnel actions and embody a number of more specific unfair labor practices, including that of discrimination.

A discrimination violation occurs where it is demonstrated that an employer has deprived an employee of some ascertainable right, or has unfairly or unequally applied policy in reprisal for employee pursuit of lawful activities protected by Chapter 41.56 RCW. Essential to such a finding is a showing that the employer intended to discriminate against the employee. City of Seattle, Decision 3066 (PECB, 1989).

The Commission has adopted a standard for deciding cases where an employer responds to "discrimination" allegations with a claim of legitimate reasons for its actions. See, City of Olympia, Decision 1208-A (PECB, 1982), citing with approval Wright Line, 251 NLRB 1083 (1980). The prescribed test balances the rights of employees with those of the employer. The courts have also embraced the same principles. Clallam County vs. Public Employment Relations Commission, 43 Wn.App. 589 (Division II, 1986).

In Port of Seattle, Decision 1624 (PECB, 1983), the so-called Wright Line test was applied in evaluating claims of adverse action against an employee based on discriminatory motivation, stating:

> Where an employer responds to discrimination allegations with [a] claim of business reasons for its actions, a shifting of burdens occurs during the course of litigation. ... The complainant is required initially to make a prima facie showing sufficient to support an inference that protected activity was "a motivating factor" in the employer's decision. Once that is established, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.

Allegations very similar to those of the instant case were decided by the Commission, using the Wright Line method of analysis, in Washougal School District, Decision 2055-A (PECB, 1985).

The Union's "Prima Facie" Case

The union points to three separate transactions as indicating that the employer was motivated by a union animus.

The September, 1989 Grievance Conference -
According to Corn, Superintendent Jentges treated her differently than he did Olin at the grievance conference held on September 19, 1989. Corn described Jentges as being "short" with her, as not

demonstrating understanding of her displeasure with the work assignment given to her, and as giving an impression that she did not have a right to question him regarding the matter. Corn based her opinion on her perception of Jentges' physical demeanor and voice inflection. Jentges denied that he was angry about the situation, and denied treating Corn any differently as a result of the grievance.

It is important to note that, just a few weeks prior to her assignment to the custodial and playground assignments, Corn had explained to Jentges that she felt that there were significant problems in the resource room. They discussed reassigning her elsewhere, and there is no evidence that Corn resisted the idea of being reassigned out of the resource room. If such a reassignment was unacceptable to Corn, she presumably would have so stated, and she would not have readily provided information regarding how she felt that her services could be used in other areas. The Examiner infers from the evidence that it was not the reassignment out of the resource room, but rather the offered custodial and playground duties, that were not acceptable to Corn at that time.

It is impossible to determine Jentges' state of mind at the meeting with Olin, Corn and the PSE representative, but it is clear that Jentges relented on the custodial assignments, acquiescing to the request of Olin and Corn to be assigned to "aide" work.

The incident lacks sufficient specificity to be indicia of "union animus" on the part of Jentges toward Corn. There has been no allegation of reprisal against Olin for exercising her right to grieve the reassignment,[12] and no explanation has been offered why Corn would be singled out for reprisal.

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[12] The record reflects that Olin accepted the resolution of her grievance, and dropped the matter.

Request to Consolidate Split Shift -
The union next relies on the employer's rejection of Corn's request, made in April of 1990, that her split shift be consolidated, citing it as another incident that reflects "union animus" on the part of the superintendent against Corn. In support of that claim, the union points to the initial positive response given to Corn by Principal Gilson.

Corn testified that she was hired by the United States Forest Service to work part-time during the summer of 1990. The record does not reflect the actual date of her hire by the Forest Service, but the Examiner infers that it was some time in April or May.[13] While Corn's unrebutted testimony was that Gilson initially responded that he didn't see a problem with Corn's request, she acknowledged that he conditioned his response with indication that he would have to check with the superintendent. According to Corn, she never heard back from Gilson. When she re-contacted him, he then suggested that she contact the superintendent personally. When she did so, Jentges responded that he was busy at that time, but invited her to come back later. Within a day or two, Gilson gave a memorandum to Corn denying her request. According to Corn, it took two weeks to receive a response, her request was denied for vague reasons that she felt were a pretext, and she doubts that the librarian was consulted regarding the request.[14]

It is fair to assume that the split shift imposed an inconvenient burden on Corn. However, she had been working the split shift for approximately eight months at the time of this incident. The Examiner assumes that, if Corn thought that there was a reasonable chance of having the split shift consolidated from the outset or at

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[13] Corn would not otherwise have been faced with the "overlapping schedules" problem that motivated her request.

[14] The librarian was not called as a witness at this proceeding.

an earlier period of time, she would have attempted to do so. The Examiner must also assume that the split shift was scheduled to meet some business or programmatic needs of the school district. There is no evidence that the circumstances of the work that she performed had materially changed since her initial assignment to the split shift.

The evidence does not support an inference that the employer categorically rejected Corn's request because of her pending grievance or any other union activity on her part.

Reduction of Work Hours -
Aside from the preceding incidents of personnel action, the complainant offered no evidence in support of its claim that Corn's work hours were reduced for the 1990-91 school year in reprisal for her processing of grievances. Again, no explanation has been offered why Corn should be considered a "discriminatee" when junior employee Thorson appears to have been completely laid off and senior employee Olin was given a Hobson's choice between a 23% or 84% reduction of her work hours.

Conclusion on "Prima Facie" Burden -
The complainant has failed to make the minimum showing necessary to shift the burden of proof to the employer. City of Bonney Lake, Decision 1962-A (PECB, 1985); Douglas County, Decision 1220 (PECB, 1981). Absent acceptance of an inference that the employer was motivated by a desire to retaliate against Corn when it exercised personnel actions concerning her, the complaint must be dismissed.

The Employer's Case - An Alternative Approach

The Examiner recognizes that reasonable minds could differ with regard to the inference of union animus in this case. Even if the burden were to be shifted to the employer under the Wright Line standard, however, the Examiner is satisfied that the complaint

would have to be dismissed. The employer has demonstrated that it reduced the number of hours allocated to teacher aides because of changes in its instructional program following the hiring of a new superintendent and principal.

This is a very small school program.[15] According to the employer, the instructional process was in a state of transition to the extent that students would no longer be taken out of regular classes and placed in the resource room for remedial instruction as extensively as had been done in the past. Instead, the employer was having the resource room teacher visit regular classrooms, to provide instruction supplementing that of the classroom teacher in a conventional classroom setting. In defense of its staff and hours reductions, the employer points out that it did not need aide time in its high school other than in the morning and during the students' noon hour. Jentges reasonably explained that the need for aide time in the library was eliminated because of certificated staff and organizational restructuring in the library. Many tasks that were performed in the past would no longer be performed, among them a study period for students. The employer's explanation regarding the changes is credible. The management style of the new superintendent and principal was such that they did not use aide time to the extent that it had been used in the past.

Additionally, the employer's reduction of senior aide Olin's hours of work is inconsistent with any inference that the employer was willing to risk the imposition of a lay-off on junior aide Thorson in order to strike back against Corn. Rather, the reduction of Olin's work hours is consistent with a general decrease in the amount of "aide" work available to be offered.

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[15] The Entiat School District had an enrollment of approximately 262 students at the pertinent time. Washington Education Directory (1989-1990 edition, at page 40), published by Barbara Krohn and Associates from data provided by the Office of the Superintendent of Public Instruction.

FINDINGS OF FACT

1. The Entiat School District is a public employer within the meaning of RCW 41.56.030(1).

2. Public School Employees of Entiat, affiliated with Public School Employees of Washington, a bargaining representative within the meaning of RCW 41.56.030(3), is the exclusive bargaining representative of a unit of classified employees who provide instructional aide, transportation, custodial, maintenance, secretarial-clerical, and food services in the Entiat School District.

3. Candace Corn was employed by the Entiat School District on September 9, 1985. From the time of her hire until June, 1989, Corn was employed as an instructional aide assigned to assist the resource room teacher.

4. On June 27, 1989, Corn was reprimanded for allegedly making remarks in the general community criticizing the performance of the resource room teacher. Corn denied the allegation, disputed the propriety of the allegation, and requested background information regarding the complaint.

5. In July of 1989, at her request, Corn appeared before the Board of Directors of the Entiat School District, where she again denied the allegation which led to the reprimand given to her on June 27, 1989. The Board of Directors denied the grievance.

6. Thomas Jentges became superintendent of the Entiat School District, effective August 1, 1989. Also in August, 1989, Loren Gilson became principal of the Entiat schools. Neither Jentges nor Gilson had previously been employed by the Entiat School District. Jentges and Gilson thereafter commenced a

change of operational policy which reduced reliance on the use of a "resource room" for remedial education.

7. In August, 1989, Corn was summoned to Jentges office to explain the circumstances of the reprimand that had been issued to her in June by the former superintendent. In so doing, Corn explained that she disapproved of certain practices of the resource room teacher. Corn and Jentges discussed the possibility of transferring Corn to a different assignment.

8. On or about August 28, 1989, Corn and a more senior aide, Linda Olin, were assigned custodial and/or playground duties in lieu of aide duties formerly assigned to them.

9. Corn and Olin disagreed with their new assignments, and brought the matter to the attention of their union representative, Kathy King.

10. Corn, Olin and King met with Superintendent Jentges on or about September 19, 1989, to voice their objections to the new assignments given to Corn and Olin. Jentges agreed to reassign Corn and Olin.

11. On or about October 2, 1989, Corn was reassigned. For the first time, she had a split shift, working from 8 a.m. to 8:30 a.m. and from 12 noon to 12:30 p.m. supervising students in the school gymnasium, and then from 12:30 p.m. to 3 p.m. working as an aide in the high school library.

12. In October, 1989, Corn submitted a grievance alleging that her reassignment was inappropriate. Corn alleged that the seniority and job posting provisions of the collective bargaining agreement had been violated by the employer. That

grievance had not been resolved at the time of the hearing in this unfair labor practice proceeding.

13. On April 17, 1989, Corn requested that her split shift be consolidated to accommodate her work schedule with another employer. That request was denied by memorandum dated April 30, 1989.

14. By letter dated May 21, 1989, the employer notified Myrna Thorson, an aide who was less senior than Corn, that there would be no aide work available for her for the 1989-90 school year.

15. By letter dated May 22, 1989, the employer notified Corn that her work hours as an aide would be reduced for the 1990-91 school year from 3 hours and 15 minutes per day to a one-hour split shift per day.

16. By letter dated May 22, 1989, the employer notified Linda Olin that her work hours as an aide would be reduced for the 1990-91 school year from 6 hours and 30 minutes per day to 5 hours per day.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.

2. The complainant has failed to sustain the necessary burden of proof to support an inference that Entiat School District discriminated against Candace Corn in its personnel actions involving her, because she pursued grievances alleging that the employer had violated the terms of the collective bargaining agreement between the employer and Public School

Employees of Entiat, so that there has been no violation of RCW 41.56.140(1).

3. Entiat School District has established in any event that its personnel actions involving Candace Corn were consistent with management and program changes not predicated on the exercise by Corn of her rights under Chapter 41.56 RCW, so that there has been no violation of RCW 41.56.140(1).

ORDER

The complaint charging unfair labor practices filed in the above entitled matter is hereby DISMISSED.

DATED at Olympia, Washington, this 18th day of June, 1990.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Frederick J. Rosenberry

FREDERICK J. ROSENBERRY, Examiner

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.