STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PENINSULA COLLEGE FACULTY ASSOCIATION,	)	
Complainant,	)	CASE 11267-U-94-2636
vs.	)	DECISION 5017 - CCOL
PENINSULA COLLEGE,	)	
Respondent.	)	ORDER OF DISMISSAL

Eric R. Hansen, Attorney at Law, appeared for the complainant.

Christine Gregoire, Attorney General, by Erik Rohrer, Assistant Attorney General, appeared for the respondent.

The complaint charging unfair labor practices filed by the Peninsula College Faculty Association/WEA/NEA in the above-captioned matter on August 8, 1994, was previously the subject of a preliminary ruling under WAC 391-45-110. Examiner Frederick J. Rosenberry was designated to conduct further proceedings in the matter. A hearing was scheduled for February 28, 1995, and the employer filed its answer. In the meantime, other events transpired which caused the Examiner to refer the matter back to the Executive Director for reconsideration of the preliminary ruling.

The Executive Director reviewed the pleadings in light of the docket records in a related proceeding. Specifically, the Commission's docket records indicate that a petition filed on December 8, 1994, raised a question concerning representation in the academic faculty bargaining unit at Peninsula College, that the Peninsula College Faculty Association/WEA/NEA joined in a written agreement requesting an immediate election in that proceeding, and that another organization prevailed in an election held on January 13, 1995. The Peninsula College Faculty Association/WEA/NEA thus

ceased to be the exclusive bargaining representative of the academic faculty employees at Peninsula College on January 23, 1995, when another organization was certified.[1]

This case concerns employees who teach for Peninsula College at the Clallam Bay Corrections Center. Challenged are five actions which allegedly constituted violations of Chapter 28B.52 RCW:

1. A "refusal to bargain" by unilateral change in March of 1994 in the number of terms to be taught;

2. A "refusal to bargain" by unilateral change in March of 1994 in the amount of time allocated per class;

3. A "refusal to bargain" by unilateral change in June of 1994 in the number of periods taught per day, and a decrease in the amount of time allotted to each class;

4. A "refusal to bargain" by unilateral change on June 20, 1994, in the terms and conditions of employment of instructors Foss, Parsinen, Streeter, and vom Steeg; and

5. "Discrimination in reprisal for lawful union activity" by the discharge of instructors Foss, Parsinen, Streeter, and vom Steeg on June 30, 1994.

A union that loses its status as exclusive bargaining representative for a particular bargaining unit also loses its standing to pursue "refusal to bargain" unfair labor practice allegations in that bargaining unit. Vancouver School District, Decision 2575-A (EDUC, 1987). Inasmuch as the complainant in the above-referenced case no longer has standing to pursue the four "refusal to bargain" allegations identified above, those elements of the complaint no longer state a cause of action, and must be dismissed.[2]

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[1] Peninsula College, Decision 4963 (CCOL, 1995).

[2] The employer's answer relies on an existing collective bargaining agreement between the employer and union, so these refusal to bargain allegations might otherwise have been subject to "deferral to arbitration" under City of Yakima, Decision 3564-A (PECB, 1991).

A union's legal standing to pursue "interference", "domination" or "discrimination" allegations does not depend on having status as the exclusive bargaining representative of any bargaining unit, so the original complainant still had standing to pursue the fifth allegation identified above. It appeared from the employer's answer, however, that the underlying dispute may already have been resolved in the Superior Court for Clallam County.[3] Those remedies appeared to be all that would be available before the Commission, and the parties were provided a period of 14 days in which to show cause why the unfair labor practice complaint should not be dismissed in its entirety.

Nothing further has been heard or received from any party to this proceeding.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is DISMISSED.

DATED at Olympia, Washington, this 10th day of March, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to 391-45-350 391-95-270.

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[3] The employer's answer was accompanied by reinstatement letters addressed to the four alleged discriminates, and by salary calculations which are subject to the interpretation that they have already been made whole for any loss of pay and benefits which they may have suffered.