

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PE ELL SCHOOL DISTRICT,	)	
	)	
Employer	)	
-----	)	
ALEX RAJALA,	)	
	)	
Complainant,	)	CASE 8736-U-90-1906
	)	
vs.	)	DECISION 3801 - EDUC
	)	
PE ELL EDUCATION ASSOCIATION,	)	
	)	
Respondent.	)	PRELIMINARY RULING
	)	
	)	
	)	

The complaint charging unfair labor practices was filed in the above-entitled matter on August 21, 1990. The complaint identifies the complainant as an employee of the Pe Ell School District and identifies the Pe Ell Education Association, an affiliate of the Washington Education Association, as the exclusive bargaining representative of certificated employees of that employer.

A preliminary ruling letter was directed to the complainant on December 12, 1990, noting a need for more detail in order to determine whether the complaint stated a cause of action for further proceedings before the Commission. The complainant responded with a letter which was received December 27, 1990.

A second preliminary ruling letter was issued on April 9, 1991. The complainant responded with another letter, filed on April 23, 1991.

The matter is again before the Executive Director for consideration pursuant to WAC 391-45-110. The complaint is now taken to include

the original statement of facts and the information contained in both of the subsequent letters. At this stage in the proceedings, it is assumed that all of the facts alleged in the complaint are true and provable. It remains to be determined whether an unfair labor practice violation could be found.

The complainant alleges that he led a "decertification" effort against a Washington Education Association local in another school district, and that he had a subsequent dispute with the Washington Education Association in that school district. He alleges that he is now a member of a different employee organization, and is not a member of the Pe Ell Education Association.

The present complaint alleges:

1. Discrimination by the union in negotiating a salary schedule which disadvantages the complainant, because of his activities protected by Chapter 41.59 RCW.

2. Violation of the complainant's rights by excluding him from the meetings of the Pe Ell Education Association during which the allegedly discriminatory salary schedule was discussed.

The Educational Employment Relations Act, Chapter 41.59 RCW, secures the right of school district certificated employees to be represented by an organization of their own choosing, and also to refrain from union membership or activities. An exclusive bargaining representative has a duty, under RCW 41.59.090 and .140, to represent all of the employees in the bargaining unit, without regard to their membership in the union or lack thereof. Thus, the complaint states a cause of action to the extent that it alleges that the union has discriminated against the complainant because of his lack of membership or other protected activities, in negotiating a salary schedule for the bargaining unit.

The right to be fairly represented is not, however, the key to the door of the union meeting or to political rights within the union.

It is well settled that unions have the right to exclude non-members from participation in union business, including meetings in which bargaining strategy or proposed collective bargaining agreements are discussed. Lewis County, Decision 464-A (PECB, 1978). It would not appear that simply excluding the complainant from union meetings could be the basis for finding an unfair labor practice.

NOW, THEREFORE, it is

ORDERED

1. The complaint charging unfair labor practices fails to state a cause of action with respect to the exclusion of the complainant from union meetings, and those allegations are DISMISSED.
2. Examiner Mark S. Downing is designated to conduct further proceedings with respect to the allegation that the Pe Ell Education Association discriminated against the complainant, because of his protected activities, in the negotiation of a salary schedule.

Dated at Olympia, Washington, the 12th day of June, 1991.

PUBLIC EMPLOYMENT  
RELATIONS COMMISSION



MARVIN L. SCHURKE  
Executive Director

Paragraph 1 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.