Seattle School District, Decision 5733-A (PECB, 1997)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 609,	)	
Complainant,	)	CASE 12079-U-95-2844
vs.	)	DECISION 5733-A - PECB
SEATTLE SCHOOL DISTRICT,	)	
Respondent.	)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Schwerin, Burns, Campbell and French, by Kathleen Phair Barnard, Attorney at Law, appeared on behalf of the union.

Perkins Coie, by Lawrence B. Hannah, Attorney at Law, and Paul E. Smith, Attorney at Law, appeared on behalf of the employer.

On September 28, 1995, International Union of Operating Engineers, Local 609, filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the Seattle School District had violated RCW 41.56.140(1) and (4). Specifically, the union alleged that the employer unilaterally changed the working conditions of bargaining unit employees without prior notification to the union and opportunity for bargaining on the decision and effects of reducing the lunch hours at Cleveland High School.

This case was deferred to arbitration on March 12, 1996, pursuant to the policy set forth by the Commission in City of Yakima, Decision 3564-A (PECB, 1991). The purpose of such a deferral is to

obtain an arbitrator's determination of whether the employer's action was either prohibited or permitted by the parties' collective bargaining agreement. On September 14, 1996, Arbitrator Jane R. Wilkinson ruled that the parties' contract neither prohibited nor protected the employer's reduction of the number of lunch periods at Cleveland High School. The processing of this unfair case was then re-activated.

A hearing was held before Examiner William A. Lang at Kirkland, Washington, on February 13, 1997 and on March 26, 1997. The parties filed post-hearing briefs on May 5, 1997.

BACKGROUND

The Seattle School District (employer) operates school lunch programs in each of its 10 high schools. International Union of Operating Engineers, Local 609 (union), represents the food service workers and managers employed in those school lunch programs. The employer and union are parties to a collective bargaining agreement effective from September 1, 1994 through August 31, 1997. Business Manager Dale I. Daugharty of Local 609 represented the food service workers and served on the employer's budget committee at all times pertinent to this controversy.

Prior to 1995, a one-period lunch schedule was in effect at seven of the employer's high schools, while a two-period lunch schedule was in effect at Cleveland High School, Sealth High School and Roosevelt High School. Cleveland High School utilized an academic schedule consisting of six 50-minute class periods, with two overlapping fourth period classes tied to 30-minute lunch periods. About half the students ate lunch during each lunch period.

On May 24, 1995, then-Superintendent William Kendrick of the Seattle School District issued a memorandum to the principals of the high schools which then had the one-period lunch schedule in effect, advising them that the budget committee had recommended that all high schools implement a two-period lunch schedule to assure that students would have the opportunity to eat lunch and to enhance revenues from the lunch program.[1] Kendrick instructed the principals to prepare for a two-period lunch schedule.

During the spring of 1995, a representative council consisting of school staff, parents, students, and community members at Cleveland High School considered the question of a change of lunch schedules. The initial vote of the council was to retain the two-period lunch schedule. Principal Theodore Howard conducted another vote, however, claiming that not enough council members were present at the meeting when the first vote was taken. The second vote was to change to a one-period lunch schedule. Although the council's decision is advisory, Principal Howard treated it as final.

Principal Howard asked Director of Child Nutritional Services Carol Anne Johnson and Cleveland High School Kitchen Manager Erela Banay to meet with him on June 16, 1995, to discuss implementing a one-period lunch schedule. Banay invited Daugharty to attend.[2] At the meeting, Howard informed Banay and Daugharty that the decision to go to a one-period lunch schedule on September 1, 1995, had been

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[1] The employer received federal monies for each lunch served to students who qualified for the subsidy.

[2] Banay thought the meeting involved discipline, so her request for union representation was initially made pursuant to rights secured by National Labor Relations Board v. Weingarten, Inc., 420 U.S. 251 (1975) and its progeny.

made by the representative council, and that retaining the two-period lunch schedule was not an option.

In late June of 1995, Superintendent Kendrick spoke with Principal Howard about the desire to move to a one-period lunch schedule at Cleveland High School. They did not resolve the apparent conflict between the direction being taken at that school and the district's policy preferring a two-period lunch schedule.

On August 30, 1995, John H. Stanford replaced Kendrick as superintendent of the Seattle School District. Stanford sent an e-mail message to the high school principals, directing them to go to a two-period lunch schedule unless they could substantiate a preference for a one-period lunch schedule.

On August 31, 1995, Principal Howard responded to Superintendent Stanford, outlining his and other principals' views supporting a one-period lunch schedule.

On September 6, 1995, Superintendent Stanford approved the one-period lunch schedule for Cleveland High School. The new academic schedule consisted of four 80-minute class periods and one 40-minute lunch period.

Staffing needs for the food service program at each school are determined by the child nutrition services supervisor and the kitchen manager, who meet in late-August to assess the food service operation. They monitor the operation, and make adjustments in October based on student participation in the lunch program at each school. After Cleveland High School changed to the one-period lunch schedule, student participation in the lunch program dropped. That resulted in a reduction of scheduled staffing hours from 21.5

hours per day to 16.5 hours per day (a loss of 5 hours per day or 23.25%). While there were no layoffs of kitchen staff, two vacancies resulting from resignations were not filled. The union protested the change in lunch hours, filing both this unfair labor practice complaint and the grievance referred to above.

POSITIONS OF THE PARTIES

The union argues that lunch periods are a mandatory subject of collective bargaining. The union asserts that the employer's actions prevented bargaining, and confronted the union with a fait accompli, by failing to give notice or provide an opportunity for bargaining before it unilaterally implemented the one-period lunch program at Cleveland High School. The union claims that no "waiver by contract" defense is available to the employer in this case, because of the arbitration award.

The employer argues that lunch periods are a part of the daily academic schedule for students and, therefore, are not a mandatory subject of collective bargaining. In the alternative, the employer argues that if lunch periods are determined to be a mandatory subject of bargaining, then the union failed to make a timely request for bargaining and instead chose to file a grievance and unfair labor practice complaint. The employer asserts that the status quo was actually a one-period lunch schedule, and that it was not a unilateral change when Cleveland High School "embraced the District norm". Finally, the employer seeks to defend its actions on the basis of waiver by contract, citing a clause which permits the employer to "direct and manage its business functions" and language which permits it to "determine the starting and quitting time and the number of hours worked" by employees.

DISCUSSION

Number of Lunch Periods as a Mandatory Subject of Bargaining

In asserting that the lunch hours are a mandatory subject of collective bargaining, the union relies on Lower Snoqualmie Valley School District, Decision 1602 (PECB, 1983), which held that the school calendar controlling hours of employment was a mandatory subject of bargaining. The employer counters that the lunch schedule is part of the academic schedule excluded from mandatory collective bargaining as an educational program decision under Federal Way School District, Decision 232-A (EDUC, 1977).

The duty to bargain imposed by RCW 41.56.030(4) specifically encompasses the "hours" of bargaining unit employees. We are dealing here with the work hours of food service personnel. Those hours of work (and, indeed, the existence of the food service program) are specifically driven by student participation in the school lunch program. The union aptly argues that the decision at issue here reduced the opportunity for bargaining unit employees to work at Cleveland High School. The evidence establishes, and the employer does not dispute, that the change to a one-period lunch schedule at Cleveland High School decreased student participation in the lunch program and resulted in a five hour per day reduction in work opportunities for food service workers. The Examiner cannot characterize a reduction by nearly one-quarter as something other than a substantial change.

The employer argues that the one-period lunch schedule has had positive effects on monitoring attendance and academic achievement, so that it is an entrepreneur decision affecting student discipline, attendance, and supervision. The employer's attempt to

clothe this change in academic robes is not persuasive, however. At a minimum, it has a hollow ring because the disputed change was made by one building administrator, at odds with the directives of two successive chief executive officers and the district budget committee.[3] Additionally, it is clear that the decision which was held up by Principal Howard as controlling (i.e., the second vote of the building council) was not, in fact, a binding action even on the building administrator. The duty to bargain is imposed by RCW 41.56.030(4) on the union and the school district as a whole, not between the union and what could be a hundred or more building administrators with divergent views and aspirations.

It is clear that the Legislature intended for public employers to bargain with the exclusive bargaining representatives of their employees on hours of work. That broad terminology is not limited to starting and quitting times, and encompasses the number of hours worked. Even if the "balancing test" usually reserved for evaluation of "working conditions" issues were to be applied in this case, this evidentiary record and the employer's arguments do not justify eviscerating the statutory mandate that the employer bargain employee "hours".

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[3] Principal Howard's testimony on cross-examination severely undermines the employer's implication that the decision was somehow an educational policy matter decided at the district level:

> Q. [By Ms. Barnard] Which superintendent are we talking about?
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> A. [By Mr. Howard] The only one we had then was Kendrick. ... until August 31st, and he said, "Ted, I want you to have autonomy in your building, to go ahead and make the decisions. I'm not going to interfere, but if a decision comes out where I mandate that you go to a two lunch, would you adhere to it?" And I said, "yes."

Transcript at page 178, lines 1-8.

The "Waiver by Inaction" Defense

The employer argues that its June 16, 1995 notice to the union that Cleveland High School was going to a one-period lunch schedule in September gave the union sufficient opportunity to request bargaining, and that the union would have had two and a half months to bargain the issue if it had merely asked to do so. The employer also asserts that the decision to change to the one-period lunch schedule was not final on June 16, and was subject to further discussion among the building principals and the superintendents into September of 1995. Regardless of whether the union had knowledge of the internal debate, the employer contends that it needed to make a demand that the employer bargain the change in working conditions. Based on testimony of its labor relations director that the union did not make any request, either orally or in writing, for bargaining on the decision to go to a one-period lunch schedule at Cleveland High School, the employer would have the Examiner find that the union waived its bargaining rights by inaction.

The June 16 Meeting -

The employer's reliance on Mukilteo School District, Decision 3795-A (PECB, 1992) is misplaced. Although that decision held that a union cannot be content with merely protesting an action or filing an unfair labor practice complaint, the facts in Mukilteo are different from those involved here. As noted in Mukilteo, the employer has an affirmative duty to inform the union of a proposed change in working conditions before the decision is made, and also has an affirmative obligation to provide for an opportunity for meaningful bargaining before the decision is made. In this case, the evidence shows that the scheduling of the June 16 meeting by the building principal was in pursuit of a decision already made by

the representative council, which the principal himself treated as final even if it technically was not binding upon him. The record supports the union's contentions.

Called as a witness by the employer, Principal Howard testified that:

> Q. [By Mr. Hannah] Do you have any recollection of Ms. Banay saying anything particular at the meeting? ...
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> A. [By Mr. Howard] She didn't like the one lunch. She wanted to have the two lunches. And she gave me the reasons why, **and I said, "Well, we've already voted to go to one lunch.** Let's try to work out how we're going to make this one lunch work. **That's not an option anymore. We voted as a staff to go to one lunch.** Lets try to talk about how can we make it work.

Transcript page 167, lines 2-14 (emphasis by **bold** supplied).

> ...
>
> Q. [By Mr. Hannah] All right do you remember at that meeting Mr. Daugharty saying anything about filing a grievance?
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> A. Yes. That was his exact words. He said – when he came, **I didn't remember inviting him.** And he said I was invited by Ms. Banay and I want you to know that I'm going to file a grievance about this lunch?" and that he felt it unfair and went on and then considered this to be the first step of a grievance.

Transcript page 162, lines 14-23 (emphasis by **bold** supplied).

Thus, the employer is bound by the testimony of its own witness, which indicates both: (1) that the June 16 meeting was not called to give notice to the union; and (2) that the change of lunch

schedule was presented as an already-made decision to be implemented, rather than as a proposal for bargaining.

Daugharty recalled the conversation with Howard in his testimony on direct examination, as follows:

> Q. [By Ms. Barnard] And do you remember that conversation?
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> A. [By Mr. Daugharty] Well, **I said it was a unilateral — a unilateral action**, that we'd grieve and file an unfair labor practice. I said it would have a negative impact on the lunchroom people. ...

Transcript page 46, lines 11-15 (emphasis by **bold** supplied).

Recalled as a witness for the union later in the hearing, Daugharty testified as follows:

> Q. [By Ms. Barnard] Did you make any demand for negotiations at that time?
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> A. No, there was no need to because they told us to go to hell.
>
> Q. Did you subsequently file the unfair labor practice charge?
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> A. Yes. After we decided that they were going to go against the Superintendent's will or he was going to change his opinion we filed an unfair labor practice.

Transcript at page 254, lines 12-21.

An employer representative schooled in the practices, precedents, and terminology of the collective bargaining process should easily have recognized Daugharty's claim of "unilateral action" as one associated with the duty to bargain. On this record, the Examiner infers that Principal Howard neither realized that he was presenting the change of lunch periods to the union as an unlawful fait

accompli, nor that the union was asserting its statutory bargaining rights by describing the change as a "unilateral action".

Together with the principal's "we had voted" and "that's not an option anymore" presentation of the change to the union, the reference to "unilateral action" also distinguishes this case from Lake Washington Technical College, Decision 4721-A (PECB, 1995), where a union only asserted a claim of contract violation in response to a timely notice of an occasion for bargaining. Although Director of Child Nutritional Services Johnson testified that Daugharty said he wanted the June 16 meeting to be considered as the "informal step" of the grievance procedure, comparison of the testimony of the various participants supports a conclusion that Daugharty only dropped back to a "grievance and/or unfair labor practice" position after he was presented with the fait accompli and his "unilateral action" comment was ignored by Principal Howard.

The union aptly relies upon Spokane County, Decision 2167-A (PECB, 1985), which held that a union did not waive its right to bargain by failing to request bargaining when faced with a fait accompli. Bargaining at such a time would predictably be futile, and would inherently be prejudiced by a decision already made without the union's input or influence.

Ongoing Discussion Within Management-

Daugharty was admittedly confused by Principal Howard's adamant stance in the face of the budget committee recommendation and the superintendent's directive that the high schools were to go to a two-period lunch schedule. The record in this case indicates that the employer's decision actually remained in flux until September 6, 1995, when the new superintendent gave his final approval to the

change of lunch schedules at Cleveland High School. The union contends, however, that it was not privy to the internal debate between former-Superintendent Kendrick and Principal Howard, or to the e-mail exchange between new-Superintendent Stanford and Howard, about whether there should be one or two lunch periods at the employer's high schools.

Because nothing in the record suggests that Daugharty was aware of the later discussions or the e-mail exchange, the Examiner cannot impute union knowledge that the decision which was announced to it on June 16, 1995 was something other than a fait accompli. There is no evidence in this record that the employer even notified Daugharty of the September 6 approval of the one-period lunch schedule at Cleveland High School.[4] Collective bargaining is a process of communications, and the Commission's decisions honor those who communicate in an open and forthright manner.[5] Based on this record the Examiner concludes that the union was entitled to act on the basis of the position taken by Howard on June 16,[6] including a conclusion that a demand for bargaining would have been futile. There was no waiver by inaction.

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[4] Superintendent Stanford's memo approving the change was directed to Howard and other management personnel, but did not indicate a copy was sent to Daugharty or Local 609.

[5] It is noteworthy that although Labor Relations Director Miner received a copy, he failed to notify Daugharty of the change in hours to afford the union of an opportunity to bargain.

[6] The record shows that Superintendent Kendrick gave principals substantial autonomy to make decisions affecting their schools.

The "No Change From Status Quo" Defense

Based on the fact that 7 out of the 10 high schools operated by the employer were using a one-period lunch schedule prior to events giving rise to this controversy, the employer argues that the change made at Cleveland High School in September of 1995 was an "embracing of the norm" rather than a change of the status quo. The argument does not fit the facts:

- The evidence clearly establishes that the employer's budget committee and superintendent had disavowed the one-period lunch schedule as a district-wide "norm" or "status quo", citing both student-oriented and financial-oriented concerns. Principal Howard and the representative council at Cleveland High School were clearly pulling in a direction opposite to, rather than with, the announced policy of the employer.

- The evidence clearly establishes that a two-period lunch schedule had been in effect at Cleveland High School prior to the June 16, 1995 announcement of a change.

- The impact of the change announced to the union on June 16, 1995, and eventually approved by Superintendent Stanford on September 6, 1995, actually constituted a change at Cleveland High School, in the form of a substantial reduction of the work opportunities available for food service personnel.

The only other comment warranted on this employer argument is that it is so preposterous as to invite a finding that it is frivolous.

"Waiver by Contract" Defense

The employer has attempted to resurrect a "waiver by contract" defense before the Examiner. The employer asked for and was granted "deferral to arbitration" in this case. The Commission only defers "unilateral change" cases. There is no loss or surrender of the Commission's jurisdiction to decide unfair labor practice cases; the whole purpose of "deferral" is to give effect to the statutory preference to have arbitrators make decisions concerning the interpretation or application of existing collective bargaining agreements.[7] If the arbitrator finds a contract violation, the arbitrator must remedy that violation;[8] if the arbitrator finds that the employer's conduct was protected (permitted) by the parties' contract, the arbitrator will deny the grievance and a dismissal of the unfair labor practice complaint will logically follow;[9] if the arbitrator finds the employer's conduct was neither protected nor prohibited by the contract, the employer will be exposed to liability for having committed an unfair labor practice. In this case, the employer failed to persuade Arbitrator Wilkinson that its actions were protected by the parties' collective bargaining agreement. The arbitration award disposes of the waiver by contract defense, and the Examiner will not revisit the issue.

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[7] RCW 41.58.020(4).

[8] The Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976).

[9] City of Tukwila, Decision 3800 (PECB, 1991).

Remedy

Conventional Remedies -

The ordinary remedy for a unilateral change violation would be to restore the status quo which existed before the change (including reinstatement and back pay for affected employees), to require the posting of a notice of the violation, and to order the parties to bargain from the status quo. Here, the unilateral change resulted in the loss of five hours of work per day at Cleveland High School, but attrition absorbed the loss so no employee(s) can be identified as having suffered specific monetary loss. Under these circumstances, it is appropriate to spread the back pay among the employees who remained at the unlawfully-reduced operation at Cleveland High School for the period from the date the violation began (i.e., September of 1995) until the two-period lunch schedule is re-established and/or personnel are added to restore the work opportunities which existed at Cleveland High School prior to the unlawful unilateral change. The back pay amount is to be prorated among the employees who filled food service positions at Cleveland High School during the back pay period, in proportion to the hours they worked during the period in question.

Extraordinary Remedy -

Attorney fees are awarded as an extraordinary remedy, where needed to effectuate the Commission's order or as a response to frivolous defenses. Lewis County, Decision 644-A (PECB, 1979); affirmed 31 Wn.App. 853 (Division II, 1982), review denied 97 Wn.2d 1034 (1982). In this case, the employer's continued assertion of its "waiver by inaction" defense must be deemed to have been frivilous, once Principal Howard's testimony about the June 16 meeting compelled a fait accompli conclusion. The employer and the Commission's processes would clearly have been better served if

counsel for the employer had taken account of the fact that the employer was bound by the testimony of its star witness. Similarly, the employer has belabored the record in this proceeding with its "embraced the norm" and "waiver by contract" defenses. An award of attorney fees is warranted in this case.

FINDINGS OF FACT

1. Seattle School District is a public employer within the meaning of RCW 41.56.030(1). At all times pertinent Theodore Howard was principal of Cleveland High School. William M. Kendrick was superintendent of the Seattle School District until August 30, 1995, when John H. Stanford became superintendent.

2. International Union of Operating Engineers, Local 609, represented food workers and managers employed by Seattle School District in its food service programs. At all times pertinent, Dale I. Daugharty was business manager of the union.

3. Cleveland, Sealth, and Roosevelt High Schools were using a two-period lunch schedule in 1994-95. Seven other high schools operated by the employer were using a one-period lunch schedule. On May 24, 1995, Superintendent Kendrick issued a memorandum to the high school principals informing them that the employer's budget committee recommended that the schools go to a two-period lunch schedule, in order to enhance revenues and encourage student participation.

4. On June 16, 1995, Daugharty was informed by Principal Howard that Cleveland High School was going to a one-period lunch schedule. The purpose of the meeting was to discuss implementing a one-period lunch schedule based upon a decision already made, and the employer did not provide the union with notice or opportunity to bargain the decision.

5. Daugharty reasonably understood Principal Howard's statements to indicate that a two-period lunch schedule was no longer an option at Cleveland High School, he thus did not make a demand to bargain the decision or its effects. The union filed a grievance and unfair labor practice complaint over what it considered a unilateral action.

6. A debate among employer officials concerning one-period lunch or two-period lunch schedule at Cleveland High School was not resolved until September 6, 1995, when Superintendent Stanford authorized Principal Howard to continue on a one-period lunch schedule, but Daugharty and the union was not privy to that debate.

7. The new lunch schedule reduced the number of hours of food service from 21.5 hours to 16.5 per day. Two food service workers who had resigned were not replaced.

CONCLUSIONS OF LAW

1. The Public Employment Relation Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-45 WAC.

2. The employer has failed to sustain its burden of proof as to its affirmative defense that the union waived its right under RCW 41.56.030(4) by failing to demand to bargain the change to a one-period lunch schedule at Cleveland High School in September 1995.

3. By its action in the foregoing Findings of Facts, the employer Seattle School District, violated RCW 41.56.140(1)and(4) by unilaterally changing working conditions without prior notification and opportunity for bargaining on the decision and effects of reducing the lunch hours at Cleveland High School and employee work hours.

4. The defenses asserted by the employer in this proceeding are so frivolous as to warrant the imposition of an extraordinary remedy under RCW 41.56.160.

ORDER

The Seattle School District, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:

   a. Interfering and discriminating against, restraining or coercing employees in the exercise of their collective bargaining rights under the laws of the State of Washington, by refusing to bargain collectively with the International Union of Operating Engineers, Local 609, on hours of work of food service employees at Cleveland High School.

b. In any other manner interfering with, discriminating against, restraining or coercing the employees in the exercise of their collective bargaining rights secured by the laws of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:

a. Upon request, bargain collectively in good faith with the International Union of Operating Engineers, Local 609, with respect to hours of work and all other subjects of bargaining as described in Chapter 41.56 RCW for the employees in the bargaining unit established by the Commission.

b. Pay to the food service employees who remained at the unlawfully-reduced operation at Cleveland High School, a sum equal to monies lost through the reduction of hours for each day food service was in operation at Cleveland High School from September 1, 1995 until the date the two-period lunch schedule is re-established and/or personnel are added to restore the work opportunities which existed at Cleveland High School prior to the unlawful change. The back pay amount is to be prorated among the employees who hold positions of food service at Cleveland High School during the back pay period, in proportion to the hours they worked during the period in question.

c. Reimburse International Union of Operating Engineers, Local 609, for its costs and reasonable attorney's fees associated with this matter, upon presentation of a sworn statement of such costs and fees.

d. Post, in conspicuous places on the employer's premises where notices to employees are usually posted, copies of the notice attached hereto and marked "Appendix". Such notices shall, after being duly signed by an authorized representative of the Seattle School District, be and remain posted for sixty (60) days. Reasonable steps shall be taken by the Seattle School District to ensure that said notices are not removed, altered, defaced, or covered by other material.

e. Notify the complainant, in writing, within thirty (30) days following the date of this order, as to what steps have been taken to comply herewith, and at the same time provide the complainant with a signed copy of the notice required by the preceding paragraph (2)(f).

f. Notify the Executive Director of the Public Employment Relations Commission, in writing, within thirty (30) days of the date of this order, as to what steps have been taken to comply herewith, and at the same time provide the Executive Director with a signed copy of the notice required by the preceding paragraph (2)(f).

DATED at Olympia, Washington, this 16th day of September, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

William A. Lang

WILLIAM A. LANG, Examiner

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

APPENDIX

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE HAVE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

WE WILL, upon request, bargain collectively in good faith with International Union of Operating Engineers, Local 609, AFL-CIO, with respect to hours of work and all other subjects of bargaining as described in Chapter 41.56 RCW for the employees in the bargaining unit established by the Public Employment Relations Commission.

WE WILL pay to the food service employees who remained at the unlawfully-reduced operation at Cleveland High School, a sum equal to monies lost through the reduction of hours for each day food service was in operation at Cleveland High School from September 1995 until the date the two-period lunch schedule is re-established and/or personnel are added to restore the work opportunities which existed at Cleveland High School prior to the unlawful change. The back pay amount is to be prorated among the employees who hold positions of food service at Cleveland High School during the back pay period, in proportion to the hours they worked during the period in question.

WE WILL pay International Union of Operating Engineers, Local 609, AFL-CIO, reasonable costs and attorney's fees in this matter.

DATED: _____

SEATTLE SCHOOL DISTRICT

BY: _____

Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 753-3444.