STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY, Employer.	
ERIC SHIREY, Complainant, vs. WASHINGTON STATE NURSES ASSOCIATION, Respondent.	CASE 21779-U-08-5558 DECISION 10389-A - PECB DECISION OF COMMISSION

Eric Shirey appeared *pro se*.

Timothy Sears, General Counsel, for the union.

On June 16, 2008, Eric Shirey (Shirey) filed an unfair labor practice complaint alleging that the Washington State Nurses Association (WSNA) interfered with his protected employee rights in violation of RCW 41.56.150(1) when the WSNA charged him and found him guilty of violating certain internal union policies. Specifically, Shirey's allegations concern enforcement of the WSNA's policy against "dual-unionism" and whether he can be punished under that rule for forming a rival bargaining organization and filing a petition with this agency to replace WSNA as the exclusive bargaining representative of Shirey's bargaining unit. Examiner Terry Wilson held a hearing and found that WSNA interfered with Shirey's protected rights by imposing internal union discipline against him for filing a change of representation petition with this agency.[1] The Examiner dismissed Shirey's allegation that WSNA interfered with his protected rights by excluding him from participating on the labor/management scheduling committee.

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[1] *King County (Washington State Nurses Association)*, Decision 10389 (PECB, 2009).

The WSNA filed a timely notice of appeal asking this Commission to reverse the Examiner's findings and conclusions that the union committed any unfair labor practice on the basis that the imposed discipline was purely an internal union matter that did not impact Shirey's employment. Shirey filed a timely notice of cross-appeal asking this Commission to reverse the Examiner's conclusion that the union did not interfere with his protected rights by removing him from the scheduling committee. Shirey's cross-appeal also asks this Commission to impose attorney's fees against the union.

ISSUES PRESENTED

1. Did the Examiner correctly conclude that WSNA interfered with Shirey's protected rights when it imposed certain internal union discipline against him for "dual-unionism" and for filing a change of representation petition?

2. Did the Examiner correctly conclude that WSNA did not interfere with Shirey's protected rights when it removed him from the labor-management scheduling committee?

3. Did the Examiner commit reversible error by not awarding attorney's fees to Shirey?

For the reasons set forth below, we reverse the Examiner's decision finding the WSNA interfered with Shirey's protected rights by imposing internal union discipline against him for engaging in "dual-unionism" and attempting to change representation.[2] Examining relevant precedent on this subject, we find that WSNA, as a private organization, has the right to enforce reasonably adopted disciplinary rules against union members to protect vital union interests. Enforcement of those rules must not impact the employer-employee relationship because they are reasonably enforced against a member who was free to resign union membership. When

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[2] This Commission reviews conclusions and applications of law, as well as interpretations of statutes, de novo. We review findings of fact to determine if they are supported by substantial evidence and, if so, whether those findings in turn support the Examiner's conclusions of law. *C-TRAN*, Decision 7088-B (PECB, 2002). Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *Renton Technical College*, Decision 7441-A (CCOL, 2002).

During the pendency of this appeal, WSNA filed a motion to vacate the Examiner's decision based upon this Examiner's reliance upon certain legal conclusions made in *King County (Washington State Nurses Association)*, Decision 10172 (PECB, 2010), and our subsequent order vacating that decision in *King County (Washington State Nurses Association)*, Decision 10172-A (PECB, 2010). Because we are reversing the Examiner's legal conclusions based upon a *de novo* review of the law, it is unnecessary to rule on the WSNA's motion.

these conditions are met, this Commission will not find a violation. In this case, WSNA enforced a reasonably adopted rule against Shirey in a manner that did not impact his employment relationship and Shirey always had the option of resigning his membership with the WSNA to avoid being subject to that discipline. Accordingly, Shirey's complaint is dismissed.

BACKGROUND

The facts of this case are not disputed. Shirey is employed by King County in a bargaining unit of registered nurses, licensed practical nurses, public health nurses, advanced registered nurse practitioners, and advanced practice nurse specialists represented by WSNA.[3] Shirey was an active member in WSNA and served on several committees, including the labor-management scheduling committee that existed under Article 13 of the collective bargaining agreement. Since at least 1993, WSNA's by-laws have contained a statement prohibiting WSNA members from engaging in dual-unionism.[4]

WSNA and King County were parties to a collective bargaining agreement that expired on December 31, 2006. In January 2007, bargaining unit employees voted down a tentative agreement negotiated between WSNA and the employer. Shirey and other unit employees formed the Public Health Union of Nurses (PHUN) as a rival labor organization to replace WSNA as the exclusive bargaining representative of the employees. Shirey did not resign his membership with the WSNA prior to forming PHUN or filing the petition to change representation.

On March 16, 2007, PHUN filed a Petition for Investigation of Question Concerning Representation with this agency seeking to have PHUN replace WSNA as the exclusive bargaining representative. Case 20976-E-07-3237. Shirey was listed as the contact person for PHUN on the petition. Following the filing of the petition, supporters of PHUN and WSNA campaigned on behalf of their respective labor organizations and held a series of debates.

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[3] King County is not a party to these proceedings.

[4] Dual-unionism is defined "as a charge (usually a punishable offense) leveled at a union officer or member who seeks or accepts membership or position in a rival union, or otherwise attempts to undermine a union by helping its rival." ROBERTS' DICTIONARY OF INDUSTRIAL RELATIONS 110 (Revised Edition 1971).

During the pendency of the representation petition, King County ceased negotiations with WSNA as required by WAC 391-25-140.

The agency's staff processed PHUN's petition, and on June 21, 2007, a tally of ballots issued. The vote demonstrated that the employees selected WSNA to continue as their exclusive bargaining representative. Neither PHUN nor WSNA filed election objections with respect to the parties' conduct during the campaign. A final certification was issued on June 29, 2007. *King County*, Decision 9788 (PECB, 2007).

Following the election results, Shirey sent a message to employees who were on PHUN's e-mail list thanking them for their support and expressing his commitment to support WSNA. In July 2007, WSNA's bargaining unit leadership held several meetings with bargaining unit employees where they discussed the status of negotiations with the employer and the strategy that WSNA would undertake in the future. Shirey attended these sessions.

Shortly after the July meeting, Maria Peacock-Albers (Peacock-Albers) and William Johnston (Johnston), two bargaining unit employees and WSNA members, co-authored a letter to WSNA president Kim Armstrong (Armstrong) informing her that they believed Shirey violated the WSNA's policy against dual-unionism. In that letter, the authors informed Armstrong of Shirey's PHUN activities. Shortly thereafter, Judy Huntington, Executive Director of WSNA, sent Shirey a letter informing him that a WSNA disciplinary panel met on August 9, 2007 regarding the charges raised by Peacock-Albers and Johnston's letter. The letter also informed Shirey that sufficient evidence existed for a hearing to be held to determine the merits of those allegations.

On October 4, 2007, Shirey and other PHUN supporters were brought before a WSNA disciplinary panel. Shirey was allowed to present evidence, but was not allowed counsel or provided an opportunity to confront or cross-examine Peacock-Albers and Johnston. At the hearing, Shirey admitted that he actively supported PHUN and PHUN's attempt to replace WSNA as the exclusive bargaining representative.

On December 17, 2007, the WSNA disciplinary panel issued its findings and conclusions about the charges brought against Shirey. The report found Shirey guilty of dual-unionism in violation of the WSNA by-laws and explained at length why dual-unionism was destructive to the WSNA. The disciplinary panel issued a letter of censure against Shirey, suspended him from union membership for a period of two years, and distributed a letter to all bargaining unit employees explaining the charges brought against Shirey and the discipline that WSNA imposed on him. WSNA also removed Shirey from participating in the labor-management scheduling committee. At no time during its disciplinary proceedings did WSNA threaten Shirey's employment with King County.

DISCUSSION

Applicable Legal Standard

In *Seattle School District (International Union of Operating Engineers, Local 609)*, Decision 9135-B (PECB, 2007), this Commission tackled the question of whether an exclusive bargaining representative interferes with protected employee rights in violation of Chapter 41.56 RCW by imposing internal union discipline against a bargaining unit employee for engaging in certain actions that may be detrimental to the union. Examining existing agency and National Labor Relations Board (NLRB) precedents, the Commission found that this agency has "no jurisdiction over complaints where the union has disciplined one of its members in order to enforce a properly adopted rule that reflects a legitimate union interest, impairs no policy that our state Legislature has imbedded in the labor laws, and is reasonably enforced against union members who are free to leave the union and escape the rule." *Seattle School District (International Union of Operating Engineers, Local 609)*, Decision 9135-B, *citing Scofield v. NLRB*, 394 U.S. 423 (1969)(*Scofield*).[5] Thus, if enforcement of the union rule satisfies all parts of the *Seattle School District* test, an interference violation cannot be found.

The Examiner's analysis framed the issue as whether WSNA can discipline an employee for filing a change of representation petition. However, Shirey was not disciplined for filing a change of representation petition; rather, he was disciplined for violating WSNA's constitution

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[5] Under longstanding precedent, decisions construing the NLRA are persuasive in interpreting similar provisions of Chapter 41.56 RCW. *Nucleonics Alliance v. WPPSS*, 101 Wn.2d 24 (1981).

and rules against dual-unionism, and the act of supporting and filing the change of representation petition with this agency was an act that constituted evidence of dual-unionism. While this distinction may seem insignificant, it is actually extremely important for the analysis. Thus, the question that this Commission must answer is whether WSNA's rule was reasonably adopted, whether enforcement of WSNA's rule against dual-unionism effectively encumbers employees from exercising their right to file a change of representation petition under Chapter 41.56.070, and whether the rule was reasonably enforced.

Was WSNA's Rule Reasonably Adopted?

In *Scofield*, the Supreme Court of the United Stated held that a "properly adopted rule" is a rule that is "duly adopted and not the arbitrary fiat of a union officer." *Scofield*, 394 U.S. 423, 428. This part of the analysis does not question the legitimacy of the rule; rather, the question is whether the respondent has provided its membership sufficient notice of the rule or any changes to the rule prior to its enforcement. *See Millwright and Machinery Erectors*, 276 NLRB 59 (1985) vacated on other grounds, *Millwright and Machinery Erectors*, 287 NLRB 545 (1987).

WSNA's by-laws were last amended by its membership in 2005. Exhibit 16. Article II, Section 4, subsection 5, of the by-laws states that an employee may be disciplined for dual-unionism. Appended to the by-laws is a policy statement written by WSNA explaining the prohibition on dual-unionism. That policy statement was drafted by the WSNA General Assembly in 1993. It is apparent from the record that the WSNA by-laws were already adopted and published at the time Shirey formed a competing labor organization, PHUN. As a WSNA member, Shirey should have been aware that those rules existed. At the time of the imposed discipline, the WSNA's policy statement against dual-unionism had been adopted, published and accessible for WSNA members, and it cannot be said that the rule was the arbitrary fiat of any WSNA officer. The facts of this case demonstrate that the WSNA's rule was reasonably adopted.

Turning to the question of whether the WSNA's policy also protects a legitimate union interest, we find that this part of the test is easily met. WSNA's policy prevents members from providing assistance to rival labor organizations which are in direct competition with the WSNA. The Supreme Court of the United States has recognized that a labor organization has the right to

promulgate rules to protect against the erosion of its status as the exclusive bargaining representative. *See NLRB v. Allis-Chalmers, Mfg. Co.*, 388 U.S. 175 (1967).

Does the WSNA's Rule Impair a Policy Imbedded in Washington's Labor Laws?

The next step in the *Seattle School District* test is to determine whether the union's rule or policy impinges upon a policy imbedded within Washington's labor laws. In reaching his conclusion that the WSNA interfered with Shirey's protected rights by imposing union discipline on him, the Examiner concluded that Chapter 41.56 RCW protects an employee's right to select a labor organization of her or his own choosing. The Examiner found that "suspending an employee [from union membership] because they exercised a state protected right impedes others from exercising that right." In reaching this conclusion, the Examiner relied in part upon the provisions of RCW 41.56.150(3). Although it is understandable why the Examiner reached his conclusion based upon the premise that a union rule cannot interfere with policy embedded in this state's labor laws, we cannot concur with his analysis or conclusion that enforcement of WSNA's rule against dual-unionism and the imposition of discipline for violating that rule interfered with an employee right protected by statute.

Both Chapter 41.56 RCW and the National Labor Relations Act (NLRA) recognize that a union cannot regulate access to the administrative bodies that govern the collective bargaining laws. RCW 41.56.150(3) makes it an unfair labor practice for an exclusive bargaining representative "to discriminate against an employee who has filed an unfair labor practice charge." Similarly, the NLRB has held that an exclusive bargaining representative may not discipline a union member for filing an unfair labor practice charge under Section 8 of the NLRA. *See Seafarers (Van Camp Sea Food Co.)*, 159 NLRB 843 (1966). The reason behind such provisions is that an employee or union member should not be punished for bringing to light the unlawful acts of her or his exclusive bargaining representative no matter how much harm such a complaint causes the organization.

Section 7 of the NLRA guarantees employees "the right to self-organization, to form, join, or assist labor organizations" of the employees' own choosing. Unlike cases interpreting union rules that limit an employee's access to the NLRB under Section 8, a different conclusion is

reached when examining enforcement of internal union rules limiting the rights of employees to select exclusive bargaining representatives of their own choosing under Section 7.

NLRA precedent holds that an exclusive bargaining representative may impose internal union discipline against a member and expel that member from union membership for filing a decertification petition Section 7. In *NLRB v. International Modelers and Allied Workers Union, Local No. 125 AFL-CIO*, 442 F.2d 92 (7th Cir. 1971)(*International Modelers*), the United States Court of Appeal, Seventh Circuit explained the reasons for such a distinction. The *International Modelers* Court first recognized that although Section 8(b)(1)(A) prohibits unions from interfering with protected rights, Section 8(b)(1)(A) also recognizes that the unfair labor practice provisions are not meant to "impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein[.]" Therefore, in order to determine whether the union's rule interferes with protected employee rights, the rights of the union must be balanced against the rights of the employees on a case-by-case basis. *International Modelers*, 442 F.2d at 94.

In applying that balancing test, the *International Modelers* Court found that the union had the right to impose discipline against a member who files a decertification petition under Section 9 of the NLRA to remove the union as the exclusive bargaining representative of the employee. The Court explained that:

> [T]he filing of a petition for decertification, unlike the filing of an unfair labor practice charge under § 8, attacks the very existence of the union as the exclusive bargaining agent. In light of this threat, the proviso to § 8(b)(1)(A) justifies a defensive reaction by the union such as expulsion of a member who has filed a petition for decertification with the Board. Otherwise, . . . a retained member would be privy to the union's tactics and other information during the pre-election campaign. Expulsion eliminates the presence of an antagonistic member whose disloyalty would pose such problems to the union.

International Modelers, 442 F.2d at 94. The courts apply the same analysis in cases where a union member attempts to replace the exclusive bargaining with a different one. *Andraszek v. Rochester Telephone Workers*, 246 F.Supp.2d 174 (W.D.N.Y. 2003).

Thus, the federal precedents distinguish between enforcing rules and imposing discipline upon an employee for filing an unfair labor practice complaint against the union, and enforcing rules and disciplining an employee for filing a decertification petition, with the former being a violation of Section 8 and the latter being a permissible act. The question that this Commission must answer is whether the federal precedents are applicable to cases decided under Chapter 41.56 RCW.

This Commission recognizes and may apply federal precedent where the state and federal statutes are similar. *See* Footnote 4, *supra.* Similar to Section 7, RCW 41.56.040 guarantee the "right to organize and designate representatives of their own choosing." However, Chapter 41.56 RCW lacks a provision similar to the language in Section 8(b)(1)(A) that recognizes a labor organization's right to adopt their own rules. As explained below, we nevertheless find that the federal policy announced in cases interpreting the NLRA, including the *International Modelers* decision, are sound statements of labor policy and applicable to cases decided under Chapter 41.56 RCW.

The exclusive bargaining representatives that are subject to this Commission's jurisdiction are, like their private-sector counterparts, private organizations who have a legitimate interest in securing their very existence. It is also reasonable for a public-sector union to adopt rules, including rules preventing members from engaging in dual unionism, to further that goal of self-preservation for the organization. No compelling reason has been presented as to why the standard announced in *International Modelers* should not be applied to cases decided under Chapter 41.56 RCW. We find that enforcement of union rules against dual-unionism, including enforcement of those rules in response to a member filing a decertification or change of representation petition under RCW 41.56.070, does not impinge upon a policy embedded in this state's labor laws.

The Examiner's reliance upon RCW 41.56.150(3) as supporting a conclusion that an unfair labor practice was committed is misplaced. RCW 41.56.150(3) prohibits a bargaining representative from discriminating against an employee who filed an unfair labor practice complaint against that representative. Nothing in that statute speaks to the imposition of internal union discipline

for filing a representation petition. Based upon the plain language of the statute and the reasons set forth above, RCW 41.56.150(3) is inapplicable to these cases.

Was the Rule Reasonably Enforced?

In *Seattle School District*, the Commission found that its ability to pass judgment upon the reasonableness of the application of a union rule is limited to ensuring the imposed discipline does not impair the member's status as an employee. *Seattle School District*, Decision 9135-B citing *Boeing v. NLRB*, 412 U.S. 67, 74-5 (1973). To do otherwise would exceed the scope of this Commission's statutory jurisdiction. The critical issue in these types of cases is whether union discipline has some nexus with the employer-employee relationship. *International Brotherhood of Electrical Workers Local 2321 (Verizon)*, 350 NLRB 258 (2007).

For example, in *Office Employees Local 251 (Sandia Corp.)*, 165 LRRM 1089 (2000), the NLRB held that the bargaining representative did not impact the employer-employee relationship by imposing internal discipline when it expelled members from the union for opposing certain internal union policies. Of critical importance to the Board was the fact that the sanctions were internal union sanctions, such as removal from union office or expulsion from union membership, and the relationship between the employer and the employee was not affected. *Office Employees Local 251 (Sandia Corp.)*, 165 LRRM 1089, 1091-2.

A different outcome occurred in *Healthcare Employees Local 399 (City of Hope Medical Center)*, 333 NLRB 1399 (2001), where a union was found to have interfered with protected rights when union members threatened employees circulating a decertification petition that their work would be outsourced. Therein, the Board clearly stated that while a union "may discipline employees for circulating or supporting a decertification petition, it may not threaten to take any action to affect their employment except in cases of valid enforcement of a union-security provision." *Healthcare Employees Local 399 (City of Hope Medical Center)*, 333 NLRB 1399, 1401.

With these limitations in mind, it is clear that at no time did WSNA threaten Shirey's employment when it suspended him from the union. There is no evidence that Shirey suffered a loss of wages or benefit. In fact, the evidence demonstrates that the WSNA went out of its way

to ensure that Shirey was aware that his employment would not be affected by the union's action. Consistent with *Seattle School District*, this Commission will not inject itself into what is otherwise an internal union matter.

Shirey argues that the rule and imposed discipline, including being removed from the labor-management scheduling committee, did in fact negatively impact his employment. Although Shirey admits that the imposed discipline did not impact his wages and hours of work, he argues that other work-related factors, such as job satisfaction and the effect of trust and teambuilding with co-workers should be considered. Shirey urges this Commission to adopt a standard that would not require the affects of discipline to impact wages, hours and working conditions, but would examine the affects the discipline has on the entirety of employees' working environment.[6]

We decline to extend our purview into internal union discipline matters beyond allegations that the union has directly threatened or challenged employees' employment status as in the *Healthcare Employees Local 399 (City of Hope Medical Center)* case. Unions have the right to select who will participate in labor-management committees, and while Shirey has lost a certain level of status among his peers that he may have enjoyed while serving on the labor-management committee, that loss does not equate to a direct challenge to Shirey's employment.

With respect to WSNA's censure against Shirey and the notice of Shirey's discipline that was sent to bargaining unit employees, we do not concur with the Examiner's conclusion that these actions interfered with protected employee rights under Chapter 41.56 RCW. This Commission recognizes that although the specter of a union trial and being mentioned in a union publication may make an employee uncomfortable, those acts are nevertheless legitimate actions provided the discipline does not impact the employee's employment. *Seattle School District*, Decision 9135-A. The evidence demonstrates the union sent a copy of the disciplinary panel report to union members with a cover letter written by Huntington. Although Shirey obviously disagrees with the content of the disciplinary panel's report, nothing in that report can reasonably be viewed as an attempt to impact Shirey's employment status.

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[6] Cross-Appeal Brief at 20, citing *Parisot v. California School Employees Association*, California Public Employment Relations Board Decision No. 280.

Furthermore, we reject Shirey's argument that the imposed discipline is punitive in nature. Shirey cites *Tawas Tube Products, Inc.*, 151 NLRB 46 (1965), as standing for the proposition that a union may only expel a member for filing a decertification petition as a defensive measure during a time of crisis. Shirey argues that by waiting until after the question concerning representation had been resolved, WSNA's action was clearly retaliatory and not a defensive reaction as contemplated under *Tawas Tube Products*.

Although *Tawas Tube Products* suggests that a union may only expel a member as a "defensive reaction" to a decertification petition, NLRB precedents strongly suggest that a union may impose discipline for dual-unionism even when the threat of the decertification petition ceases to exist. In *Tool & Die Makers Lodge No. 113*, 207 NLRB 795 (1973), a bargaining unit employee and union member filed a petition with the NLRB to de-authorize the collective bargaining agreement's union-security provision.[7] An election was held and the employees voted to retain the union-security provision. Two weeks after the NLRB issued its final certification, the union brought charges against the petitioner for attempting to undermine the union, and ultimately suspended the petitioner from the union and stripped him of the union office that he had been elected to hold. The NLRB, relying upon *Tawas Tube Products,* held that expelling the petitioner from the union was not a punitive act, and therefore dismissed the charge that the internal union discipline violated Section 8. *But Cf. International Modelers*, 442 F. 2d at 94-5 (the imposition of a fine does not serve a defensive purpose, and its only effect is to punish). Based upon these precedents, we decline to find that WSNA's internal discipline was punitive and not in furtherance of a legitimate union interest.

Was the Employee Free to Leave WSNA to Avoid Discipline?

Finally, Shirey was free at all times leading up to WSNA's disciplinary hearing to resign his membership from WSNA, thus going beyond the reach of the organization's internal disciplinary procedures. While this Commission recognizes that resigning membership in a labor organization may limit an employee's ability to participate in certain union activities, such as

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[7] Under section 9(e) of the NLRA, employees may petition the NLRB to hold a vote to rescind the union security provision of the collective bargaining agreement. Although Chapter 41.56 RCW does not contain a similar provision, the *Tool & Die Makers* decision states that both "de-authorization and decertification petitions represent serious threats to a union" and each should be analyzed in a similar fashion. *Tool & Die Makers Lodge No. 113*, 207 NLRB 795, 797.

labor-management committees or a negotiating team, this Commission must also recognize that labor organizations are private entities that have the right to select their bargaining agents and participants on labor-management committees. An employee or group of employees who are members of a labor organization and decide that they no longer wish to be represented by that particular labor organization must reasonably expect that there may be certain negative consequences if they retain their membership in that organization. The fact that WSNA may not have informed Shirey that he could resign his WSNA membership in order to avoid discipline is not a violation of the statute, as unions are under no legal obligation to inform employees of their right to resign to avoid discipline. *See Seattle School District*, Decision 9135-B.

Shirey's Argument that the WSNA Disciplinary Process Was Tainted

Before the Examiner and this Commission, Shirey argues that WSNA disciplinary procedures did not provide adequate due process protections, as Shirey was not allowed to confront his accusers and that there was no evidence of Shirey's guilt. Therefore, according to Shirey, any imposed discipline should not be enforceable.

Shirey's claims that WSNA's hearing procedure did not afford him due process, that he was not allowed to confront his accusers, and that WSNA failed to provide evidence of his guilt, are internal union matters that this Commission lacks jurisdiction to redress. A union trial is a purely internal union matter that is governed by the union's constitution and by-laws. Disputes concerning alleged violations of a union constitution and bylaws must be resolved through internal union procedures or the courts. *Enumclaw School District*, Decision 5979 (PECB, 1997). . Accordingly, these allegations must be dismissed.

Conclusion

In sum, WSNA's rules against dual-unionism were reasonably adopted, did not impact Shirey's employment, and were reasonably enforced against Shirey at times when he was free to leave the union and could have avoided punishment. Accordingly, the Examiner's conclusion that WSNA interfered with Shirey's protected rights by expelling him from the union for engaging in dual-unionism is reversed, and the complaint is dismissed.[8]

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[8] Because the complaint is dismissed, it is unnecessary to address Shirey's request for extraordinary remedies.

NOW THEREFORE, it is

ORDERED

I. The Findings of Fact issued by Examiner Terry Wilson are AFFIRMED and adopted as the Findings of Fact of the Commission.

II. The Conclusions of Law issued by Examiner Terry Wilson are VACATED and replaced with the following Conclusion of Law:

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

2. By its actions in Findings of Facts 8 and 9, the WSNA did not interfere with Shirey's rights in violation of RCW 41.56.150(1) by disciplining him for engaging in dual-unionism as prohibited by the WSNA's constitution.

III. The Order issued by Examiner Terry Wilson is VACATED and replaced with the following Order:

1. The complaint charging unfair labor practices in the above-captioned matter is dismissed.

ISSUED at Olympia, Washington, this 12th day of April, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

PAMELA G. BRADBURN, Commissioner

THOMAS W. McLANE, Commissioner

PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY /S/ ROBBIE DUFFIELD

CASE NUMBER:	21779-U-08-05558	FILED:	06/16/2008	FILED BY:	PARTY 2
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DETAILS:	-				
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