City of Mountlake Terrace, Decision 11702-A (PECB, 2014)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

MOUNTLAKE TERRACE POLICE GUILD, Complainant, vs. CITY OF MOUNTLAKE TERRACE, Respondent.	CASE 24086-U-11-6163 DECISION 11702-A - PECB DECISION OF COMMISSION

Cline and Associates, by *James M. Cline*, Attorney at Law, for the union.

Summit Law Group P.L.L.C., by *Michael C. Bolasina*, Attorney at Law, for the employer.

Initially, the Commission finds it necessary to comment on the parties' bargaining obligation in this matter. We then will turn to the nature of the allegations, the outcome of the dispute, the appeal briefs, and identify the issues on appeal.

The purpose of the Public Employees' Collective Bargaining Act is "to promote the continued improvement of the relationship between public employers and their employees. . ." The Commission achieves this goal by providing a uniform basis for public employees to join labor organizations of their own choosing and to be represented in matters concerning their employment relationship. RCW 41.56.010.

Collective bargaining is the mutual obligation of the employer and the exclusive bargaining representative to meet at reasonable times and negotiate in good faith over grievance procedures and personnel matters, including wages, hours, and working conditions. RCW 41.56.030(4).

While "neither party shall be compelled to agree," it is equally true that neither party may reduce collective bargaining to an exercise in futility. *Mason County*, Decision 3706-A (PECB, 1991); *City of Snohomish*, Decision 1661-A (PECB, 1984).

Our review of the record in this case clearly reflects a level of vitriol and antipathy between the parties which was not conducive to a productive and healthy labor relationship.

A productive labor relationship requires communication. Parties are required to communicate with one another over a variety of issues including information requests and clarifications thereof; changes to mandatory subjects of bargaining; and administration of the collective bargaining agreement. *Seattle School District*, Decision 9628-A (PECB, 2008) (necessary to raise concerns with information requests); *Lake Washington Technical College*, Decision 4712-A (PECB, 1995) (provide notice of intent to make a change prior to making the decision). The evidence before the Commission here suggests that both parties were more concerned with dominating the collective bargaining process than with engaging in productive communication.

PROCEDURAL HISTORY

The employer maintains a police force of commissioned officers, sergeants, commanders, assistant chiefs, and a police chief. Greg Wilson has been the police chief since 2008. Pete Caw was the assistant chief and has worked for the employer for 25 years. Douglas Hansen and Craig McCaul were commanders. Hansen worked for the employer for 30 years. McCaul worked for the employer for 31 years.

The union represents commissioned law enforcement officers and sergeants. Eric Jones was the union president, Daniel MacKenzie was union vice president, and Timothy Krahn was the union secretary. Jones became union president in March 2011.

On July 1, 2011, the Mountlake Terrace Police Guild (union) filed an unfair labor practice alleging that the City of Mountlake Terrace (employer) refused to bargain and interfered with employee rights. On August 26, 2011, the union filed an amended complaint. Commission staff

issued a preliminary ruling and an amended preliminary ruling adding causes of action for employer refusal to bargain, failure to provide information, and interference with employee rights.

Examiner Robin A. Romeo held a hearing on December 7, 8, and 9, 2011; January 4, 5, and 6, 2012; and March 26 and 27, 2012. The Examiner issued a decision finding that the employer made unilateral changes, failed to provide information, and interfered with employee rights. The Examiner dismissed some of the allegations. The employer appealed the adverse rulings.

Parties are afforded an opportunity to file appeal briefs to provide the Commission with insight as to what error may exist in the decision below and the relevant portion of the record and legal precedent supporting the appeal. The employer filed an appeal brief, in which it addressed the issues on appeal. In its reply brief, the union stated it did "*not* intend to present a point-by-point response" to the employer's appeal brief. Rather, the union "simply intends to present the law that applies to the pending charges and explain the actual record as it relates to those charges."

Generally, when parties file post-hearing briefs, briefing is simultaneous. Reply briefs are not commonly allowed. However, on appeal, the appealing party files an opening brief and the other party is afforded an opportunity to respond. The purpose of the response brief is to respond to arguments made in the opening brief. Repackaging a post-hearing brief to an Examiner as an appeal brief does not assist the Commission on appeal.

ISSUES

1. Did the employer refuse to bargain by changing the composition of the collision review board?
2. Did the employer refuse to bargain by changing disciplinary procedures related to the collision review board?
3. Did the employer refuse to bargain by changing the procedure for granting step increases?

4. Did the employer refuse to bargain by changing disciplinary procedures when granting a step increase?
5. Did the employer refuse to bargain by unilaterally changing how the public safety camera system would be used?
6. Did the employer refuse to bargain by failing to provide requested information about how images from the public safety camera system came to the employer's attention/be used in an internal investigation?
7. Did the employer interfere with employee rights by refusing to respond directly to the union's attorney after the attorney requested clarification?
8. Did the employer interfere with employee rights by limiting the role of union representatives in a disciplinary interview?

The employer refused to bargain when it unilaterally changed the composition of the collision review board without bargaining. The employer did not unilaterally change discipline related to the collision review board when it disciplined an employee separately for policy violations and a preventable collision after the employee requested the collision review board be convened. The employer did not unilaterally change the procedure for granting step increases when the employer applied the language of the collective bargaining agreement. The employer did not change disciplinary procedures when it did not grant step increases. The employer refused to bargain its decision to use the public safety camera system in discipline. The employer failed to provide requested information. The employer did not interfere with employee rights when it responded directly to the union president, rather than the attorney who posed the question. The employer did not interfere with employee rights by limiting the role of a union representative in a *Loudermill* hearing.

ISSUE 1: Did the employer refuse to bargain by changing the composition of the collision review board?

CONCLUSION

The employer refused to bargain when it changed the composition of the collision review board. An employer refuses to bargain when it makes changes to mandatory subjects of bargaining

without providing a union with notice of the intent to make a change and an opportunity to request and engage in meaningful bargaining. The union requested the employer change the composition of the collision review board, but did not identify who should be added to the collision review board. Following the union's request, the employer changed the composition of the collision review board without providing an opportunity to bargain. The employer presented the changes as a *fait accompli*, thus the union was excused from demanding to bargain. We affirm the Examiner.

LEGAL PRINCIPLES[1]

Duty to Bargain

A public employer has a duty to bargain with the exclusive bargaining representative of its employees. RCW 41.56.030(4). The duty to bargain in good faith encompasses a duty to engage in full and frank discussions on disputed issues and a duty to explore possible alternatives that may achieve a mutually satisfactory accommodation of the interests of both the employer and the employees. *University of Washington*, Decision 11414-A (PSRA, 2013).

The determination as to whether a duty to bargain exists is a mixed question of law and fact for the Commission to decide. WAC 391-45-550. In deciding whether a duty to bargain exists, the Commission applies a balancing test on a case-by-case basis. The Commission balances two principal considerations: (1) "the relationship the subject bears to the wages, hours, and working conditions" of employees, and (2) "the extent to which the subject lies 'at the core of entrepreneurial control' or is a management prerogative." *International Association of Fire Fighters, Local 1052 v. PERC* (*City of Richland*), 113 Wn.2d 197, 203 (1989). The decision focuses on which characteristic predominates. *Id.*

"The scope of mandatory bargaining is limited to matters of direct concern to employees," while "managerial decisions that only remotely affect 'personnel matters' and decisions that are predominately 'managerial prerogatives,' are classified as non-mandatory subjects. *City of Richland,* 113 Wn.2d at 200, *citing Klauder v. San Juan County Deputy Sheriffs' Guild*, 107

[1] The legal principles discussed in Issue 1 apply to Issues 2, 3, 4, and 5.

Wn.2d 338, 341 (1986). Mandatory subjects of bargaining include grievance procedures, wages, hours, and working conditions. RCW 41.56.030(4). Permissive subjects of bargaining are management and union prerogatives, along with the procedures for bargaining mandatory subjects, over which the parties may negotiate. *Pasco Police Association v. City of Pasco*, 132 Wn.2d 450, 460 (1997).

In determining whether an unfair labor practice has occurred, the totality of the circumstances must be analyzed. *Walla Walla County*, Decision 2932-A (PECB, 1988); *City of Mercer Island*, Decision 1457 (PECB, 1982). An employer that fails or refuses to bargain in good faith on a mandatory subject of bargaining commits an unfair labor practice. RCW 41.56.140(4) and (1). A finding that a party has refused to bargain in good faith is predicated on a finding of bad faith bargaining in regard to mandatory subjects of bargaining. *See Spokane School District*, Decision 310-B (EDUC, 1978).

Unilateral Change

The duty to bargain requires an employer considering changes that affect a mandatory subject of bargaining to give notice to the exclusive bargaining representative of its employees prior to making that decision. *City of Yakima*, Decision 11352-A (PECB, 2013); *Lake Washington Technical College*, Decision 4712-A (PECB, 1995). Formal notice is not required; however, in the absence of formal notice, the employer must show that the union had actual, timely knowledge of the contemplated change. *Washington Public Power Supply System*, Decision 6058-A (PECB, 1998).

To be timely, notice must be given sufficiently in advance of the decision or the actual implementation of a change to allow a reasonable opportunity for bargaining between the parties. *Washington Public Power Supply System*, Decision 6058-A. The notice would not be considered timely if the employer's action has already occurred when the employer notified the union (a *fait accompli*). *Washington Public Power Supply System*, Decision 6058-A. If a fait accompli is found to exist, the union will be excused from requesting bargaining. *Id*. A *fait accompli* will not be found if an opportunity for bargaining existed and the employer's behavior does not seem inconsistent with a willingness to bargain upon request. *Washington Public Power Supply*

System, Decision 6058-A, *citing Lake Washington Technical College*, Decision 4712-A. The Commission focuses on the circumstances as a whole and on whether an opportunity for meaningful bargaining existed. *Washington Public Power Supply System*, Decision 6058-A.

If bargaining unit employees are eligible for interest arbitration, an employer may not unilaterally implement its desired change to a mandatory subject of bargaining without bargaining to impasse and obtaining an award through interest arbitration. *Snohomish County*, Decision 9770-A (PECB, 2008). Interest arbitration is applicable when an employer desires to make a mid-term contract change to a mandatory subject of bargaining. *City of Yakima*, Decision 9062-A (PECB, 2006).

ANALYSIS

To determine whether the employer unilaterally changed the collision review board, we must determine whether a duty to bargain existed over changes to the collision review board. If a duty to bargain existed, then we must determine whether the employer provided the union with notice and opportunity to bargain the change or whether the employer presented the union with a *fait accompli*.

The Traffic Collision Reporting Policy outlined a collision review board procedure from a request to convene a collision review board to a final recommendation by the collision review board to the Chief. The policy allowed "any person in the review chain, including the involved employee" to request a review by the collision review board. For some time before April 2011, the collision review board was composed of four members; an Assistant Chief, who was the chair; a Field Operations Sergeant; a collision investigator from the Traffic Unit; and an officer chosen by the employee. The collision review board would vote by secret ballot as to whether a collision was preventable. The policy did not contain a procedure for a tie vote. If the collision was preventable, the result was forwarded to the Chief for disciplinary action. If the collision was unpreventable, the result was placed in a file.

The collision review board policy is a mandatory subject of bargaining. The collision review board makes a recommendation that could result in employee discipline. Discipline can impact employee wages and hours resulting in a loss of pay up to the loss of employment. Employees have a strong interest in decisions that impact discipline. The employees' interest in discipline outweighs the employer's managerial prerogative in making changes to the collision review board without bargaining.

Because the collision review board policy is a mandatory subject of bargaining, the employer was required to provide the union with notice and an opportunity to bargain before changing the composition of the collision review board.

On April 15, 2011, following a tie vote by a collision review board, the union requested the employer immediately appoint a fifth member to resolve ties. Although the union neither specified who that fifth member should be, nor specifically requested to bargain about the identity of the fifth member, it did not cede authority for the employer to unilaterally make that determination. Accordingly, the employer remained obligated to bargain the change.

The employer changed the composition of the collision review board without notice to the union. On April 27, 2011, Wilson issued a General Order changing the collision review board's composition. The collision review board would be chaired by a representative from the Command staff, rather than an Assistant Chief. It would continue to include a Field Operations Sergeant, a collision investigator from the Traffic Unit, and an officer chosen by the involved employee. Under Wilson's General Order, an Officer assigned to the Office of Professional Responsibility (or designee) was added. The employer made further revisions when, on May 4, 2011, Wilson issued General Order #2001-002 – Collision Review (Revised)., effective immediately. The Field Operations Sergeant was replaced by a Sergeant. The employer did not provide the union notice of its intent to change the policy before announcing the April 27 and May 4, 2011 changes.

At best, the union waived only the right to bargain over the appointment of a fifth member and not the wholesale changes that were implemented. The union's request that the employer add a

fifth member to the collision review board did not excuse the employer from providing the union notice and an opportunity to bargain prior to making changes. Thus, when the employer changed the composition of the collision review board, each change was presented as a *fait accompli*. The union was excused from demanding to bargain the changes.

ISSUE 2: Did the employer refuse to bargain by changing disciplinary procedures related to the collision review board?

CONCLUSION

An employer has a duty to notify the union when it desires to make changes to a mandatory subject of bargaining. If the union wishes to bargain, the union must request bargaining. The employer did not unilaterally change disciplinary procedures when it disciplined Officer Deslin Thomas separately for policy violations and a preventable collision. Thomas requested the collision review board determine whether the collision was preventable, after disciplinary proceedings had been initiated. When Thomas requested review by the collision review board, the employer offered to continue the disciplinary proceeding as to the policy violations and to, thereafter, consider discipline related to the collision's preventability following the board's determination. There was no past practice dealing with this situation over which the employer would have to bargain a change. Moreover, the union did not object to the employer's offer to separate the proceedings. We reverse the Examiner.

LEGAL PRINCIPLES

The legal principles for duty to bargain and unilateral change discussed on pages 5 through 7 are applicable to this issue.

Past Practice

A complainant alleging a unilateral change must establish the existence of a relevant status quo or past practice and a meaningful change to a mandatory subject of bargaining. *Whatcom County*, Decision 7288-A (PECB, 2002), *citing Municipality of Metropolitan Seattle*, Decision 2746-B (PECB, 1990); *City of Kalama*, Decision 6773-A (PECB, 2000).

A past practice is a course of dealing acknowledged by the parties over an extended period of time, becoming so well understood that its inclusion in a collective bargaining agreement is deemed superfluous. *Whatcom County*, Decision 7288-A (PECB, 2002), *citing City of Pasco*, Decision 4197-A (PECB, 1994). To be an established past practice, the practice must be consistent; all parties must have knowledge of it; and the practice must be mutually accepted. *Whatcom County*, Decision 7288-A (PECB, 2008); *Snohomish County*, Decision 8852-A (PECB, 2007).

Discipline

Discipline has been found to be a mandatory subject of bargaining. *City of Seattle*, Decision 9938-A (PECB, 2009), *citing City of Yakima*, Decision 3503-A (PECB, 1990), *aff'd on other grounds*, 117 Wn.2d 655 (1991); *Yakima County*, Decision 9062-B (PECB, 2008); *Asotin County*, Decision 9549-A (PECB, 2007); *Washington State Patrol*, Decision 4757-A (PECB, 1995). Individual disciplinary determinations are not mandatory subjects of bargaining. *City of Seattle*, Decision 9938-A, *citing City of Auburn*, Decision 4896 (PECB, 1994). Changes in disciplinary procedures are mandatory subjects of bargaining. *Community Transit*, Decision 6375 (PECB, 1998), *citing City of Spokane*, Decision 5054 (PECB, 1995).

Waiver

Waiver is an affirmative defense. *Lakewood School District*, Decision 755-A (PECB, 1980). An employer asserting that a union waived by inaction its bargaining rights bears a heavy burden of proof. The employer must prove that the union's conduct is such that the only reasonable inference is that the union has abandoned its right to negotiate. *Clover Park Technical College*, Decision 8534-A (PECB, 2004).

An employer must prove that it provided adequate notice to the union. *Washington Public Power Supply System*, Decision 6058-A. After receiving notice of a contemplated change affecting a mandatory subject of bargaining, a union desiring to influence the employer's decision must make a timely request for bargaining. Failure to make a timely request for bargaining waives a union's right to bargain by inaction. *Washington Public Power Supply System*, Decision 6058-A.

ANALYSIS

Officer Deslin Thomas was involved in a collision on November 30, 2010. On January 12, 2011, the employer issued Thomas a pre-disciplinary meeting letter in which it notified Thomas that it was considering discipline up to a 48-hour suspension for a preventable collision and policy violations connected with the November 30, 2010 collision.

On January 19, 2011, at the *Loudermill* hearing, Thomas, with a union representative, requested the employer convene a collision review board to determine the preventability of the November 30, 2011 accident, as was his right under the Traffic Collision Reporting Policy. Chief Wilson proposed bifurcating the disciplinary procedure by continuing to process the policy violations through the scheduled *Loudermill* hearing to a final determination and separately considering the collision after the collision review board's determination. Thomas and his union representative agreed to proceed with the pre-disciplinary meeting covering just the policy violations and for the employer to thereafter consider the collision.

Following the *Loudermill* hearing, on January 21, 2011, Chief Wilson issued a disciplinary letter on the policy violations, imposing a 36-hour suspension**.** After the collision review board reviewed the collision, Wilson imposed a 24-hour suspension based upon the preventability of the collision.

The Examiner concluded that the employer unilaterally changed the disciplinary procedure when it bifurcated Thomas's discipline. The employer argued it did not unlawfully change disciplinary procedures when, at Thomas's request for a collision review board made at the *Loudermill* hearing, the employer proceeded without union objection to process the policy violations, and then separately processed the preventable collision accident. The union argued that the past practice was to address all related policy violations at once. The union argued the employer bifurcated the disciplinary process and then combined the two sets of violations in the final discipline, resulting in Thomas being disciplined twice for the same violations.

The issue before the Commission is whether the employer unilaterally changed the disciplinary policy. The Commission is not deciding whether Thomas's discipline violated just cause, whether the employer imposed discipline twice, or whether the employer imposed the appropriate level of discipline. At best, the union waived only the right to bargain over the appointment of a fifth member and not the wholesale changes that were implemented. Grievance arbitration is the appropriate forum for answering those questions.

The collective bargaining agreement does not provide a procedure for discipline. In the absence of a procedure in the collective bargaining agreement, the union argued that a past practice existed in which the employer addressed multiple policy violations stemming from the same incident in a single disciplinary proceeding. To establish a past practice, the union would have needed to demonstrate that the employer conducted a single disciplinary proceeding for policy violations and the preventability of a collision in a single disciplinary proceeding even where an employee requested a collision review board after the disciplinary process had been initiated, that the employer consistently applied such a practice, that the union had knowledge of this practice, and that neither party objected to such a practice. The union failed to establish the existence of such a past practice.

Although the union established that multiple policy violations arising from the same incident were generally addressed in a single disciplinary proceeding, it could not show that when an employee requested a collision review board after the disciplinary process had been initiated that issues surrounding the preventability of the collision and connected policy violations were only addressed in a single disciplinary proceeding. There was simply no evidence that this had ever occurred before. Thus, the union did not show the employer made a change to an established past practice.

Moreover, even if there had been a change to an established past practice, the employer did not refuse to bargain by changing discipline related to the collision review board. Disciplinary procedures are mandatory subjects of bargaining because they affect employee wages, hours, and working conditions. At the employee's request, and without union objection, the employer

separated out issues for discipline. The union acquiesced in this action. It, therefore, cannot later claim the employer violated its duty to bargain.

ISSUES 3 AND 4: Did the employer refuse to bargain by changing the procedure for granting step increases?

Did the employer refuse to bargain by changing disciplinary procedures when granting a step increase?

CONCLUSION

The employer did not unilaterally change how step increases were granted when the employer followed the language of the collective bargaining agreement. The collective bargaining agreement makes advancement from one pay step to another dependent upon confirmation of the Police Chief. The employer did not refuse to bargain by changing disciplinary procedures when granting step increases. We reverse the Examiner's conclusion of law. Whether the Chief's denial of the step increase violated the collective bargaining agreement is not before this Commission. That is a question for an arbitrator.

LEGAL PRINCIPLES

The legal principles for duty to bargain and unilateral change discussed on pages 5 through 7 are applicable to issues 3 and 4.

The legal principles for past practice discussed on page 10 are applicable to issues 3 and 4.

The legal principles for discipline discussed on page 10 are applicable to issues 3 and 4.

ANALYSIS

The Examiner concluded that the employer refused to bargain by unilaterally changing when step increases were granted. The employer argued that under the collective bargaining agreement step increases are subject to confirmation by the Police Chief and the employer placed

the union on notice that step increases would not be granted automatically. The union argued that wage progression is a mandatory subject of bargaining. The union asserted that a past practice of granting step increases on the employee's anniversary date existed.

The collective bargaining agreement between the union and the employer provides for wage increases for certain employees. The collective bargaining agreement has five wage steps. Under Article 9.3:

> Experience Achievement – Advancement from one "PAY GROUP" to the next "PAY GROUP" within a classification shall become effective with the pay period following the anniversary date of appointment and shall be dependent upon confirmation by the Chief of Police that the employee has demonstrated his ability to satisfactorily perform the requirements of the positions.

At the time of the employee's anniversary date, the employee must fill out a personnel action form requesting their experience achievement pay (or step increase). The form is submitted through human resources. The Police Chief approves or denies the increase.

In 2011, three employees submitted personnel action forms to receive a step increase. As was noted on the personnel action form, each of the employees had received sustained discipline in the prior year. Wilson determined that the employees had not demonstrated the ability to satisfactorily perform the requirements of their positions and denied the step increases.

The union did not demonstrate a past practice of automatically granting step increases. While the employer had not previously relied on Article 9.3 to deny a bargaining unit employee's step increase, most of the employees in the bargaining unit were at the top step and not eligible for step increases. A review of the employer's disciplinary history revealed that employees who had disciplinary infractions similar to the employees at issue in this case did not remain in the employer's employ or did not have the same number of incidents. Thus, there is no evidence of a past practice of the employer automatically granting step increases when employees had sustained discipline, similar to that received by the three employees at issue here.

Article 9.3 makes receipt of a step increase "dependent upon confirmation by the Chief of Police that the employee has demonstrated his ability to satisfactorily perform the requirements of the positions." The language of the collective bargaining agreement gives the Police Chief discretion to grant or deny the step increase. The language may never have been applied; however, the failure to apply the language does not render it void. The employer did not unilaterally change the procedure for granting step increases or disciplinary procedures when it denied step increases, under its interpretation of the collective bargaining agreement.

ISSUE 5: Did the employer refuse to bargain by unilaterally changing how the public safety camera system would be used?

CONCLUSION

The employer refused to bargain by failing to provide the union notice and an opportunity to bargain. When an employer wants to make changes affecting mandatory subjects of bargaining, it must provide the union notice and an opportunity to bargain. Discipline is generally considered a mandatory subject of bargaining. The decision to begin using the public safety camera system for discipline was a mandatory subject of bargaining. The employer did not provide the union with notice and an opportunity to bargain before the employer used the cameras in employee discipline. We affirm the Examiner.

LEGAL PRINCIPLES

Duty to Bargain and Unilateral Change

The legal principles for duty to bargain and unilateral changes discussed on pages 5 through 7 are applicable to this issue.

Discipline

The legal principles for discipline discussed on page 10 are applicable to this issue.

ANALYSIS

To determine whether the employer refused to bargain by unilaterally changing how the public safety camera system would be used, we must first determine whether the change involved a mandatory subject of bargaining. If the change involved a mandatory subject of bargaining, we must determine whether the employer provided notice and an opportunity to bargain the change.

In 2010, the employer installed a public safety camera system. At the time, the employer's stated intention was not to use the surveillance cameras for discipline. The union did not object to the installation of the cameras.

In 2011, the employer began an internal affairs investigation. In the course of the investigation, the employer viewed images obtained through the public safety camera system. The images were used in employee discipline.

Discipline has a direct impact on an employee's wages, hours, and working conditions. Employees have a strong interest in maintaining their employment. On the other side of the balance is the employer's managerial prerogative to maintain a disciplined and efficient work force. The employer's managerial prerogative does not outweigh the employees' interest in maintaining their job, as discipline can ultimately result in a severance of the employment relationship. The decision to use images from the public safety camera system in disciplinary actions, including an internal affairs investigation that could lead to discipline, is a mandatory subject of bargaining.

The decision to begin using surveillance cameras for discipline when those cameras had not been used for discipline in the past is a substantial change to existing terms or conditions of employment. *King County*, Decision 9495-A (PECB, 2008). When an employer makes a significant change to an existing term or condition of employment, an employer has an obligation to announce the change and the union has the right to request bargaining. *King County*, Decision 9495-A (PECB, 2008). In *King County*, Decision 9495-A, the employer installed video cameras and communicated to the union that the cameras would not be used for

employee discipline. The employer decided to install additional cameras and use existing cameras for employee discipline. The employer's decision to begin using the cameras for discipline impacted employees' terms and conditions of employment and obligated the employer to bargain.

In this case, there is no evidence that when the employer installed the public safety camera system the employer intended to use the surveillance cameras in discipline. The public safety camera system policy states the employer installed surveillance cameras to create a safer environment. The employer's decision to use the public safety camera system in employee discipline was a substantial change to employee working conditions.

When the employer decided to make a change that impacted working conditions, the employer had an obligation to provide the union with notice and an opportunity to bargain the decision to use the surveillance cameras for discipline. The employer did not provide the union notice of the decision to begin using the public safety camera system in discipline. The employer refused to bargain when it unilaterally changed how the public safety camera system would be used.

ISSUE 6: Did the employer refuse to bargain by failing to provide requested information about how images from the public safety camera system came to the employer's attention/be used in an internal investigation?

CONCLUSION

The employer refused to bargain by failing to provide requested information about how images from the public safety camera system were used in an internal investigation. The duty to bargain includes a duty to provide relevant information for the performance of collective bargaining duties. The parties are expected to negotiate any difficulties with information requests. The union made a request for information. The employer did not provide the union with an answer to the union's question. We affirm the Examiner.

LEGAL PRINCIPLES

Duty to Provide Information

The duty to bargain includes an obligation to provide relevant information needed by the opposite party for the proper performance of its duties in the collective bargaining process. *City of Bellevue v. International Association of Fire Fighters, Local 1604*, 119 Wn.2d 373 (1992). The obligation extends not only to information that is useful and relevant to the collective bargaining process, but also encompasses information necessary to the administration of the parties' collective bargaining agreement. *King County*, Decision 6772-A (PECB, 1999). Failure to provide relevant information upon request constitutes a refusal to bargain unfair labor practice. *University of Washington*, Decision 11414-A (PSRA, 2013).

Employers and unions are expected to negotiate any difficulties they encounter with information requests. *Port of Seattle*, Decision 7000-A (PECB, 2000); *City of Yakima*, Decision 10270-B (PECB, 2011). Upon receiving a relevant information request, the receiving party must provide the requested information or notify the other party if it does not believe the information is relevant to collective bargaining activities. *Seattle School District*, Decision 9628-A (PECB, 2008). If a party perceives that a particular request is irrelevant or unclear, the party is obligated to communicate its concerns to the other party in a timely manner. *Pasco School District*, Decision 5384-A (PECB, 1996).

After receiving a response, if the requesting party does not believe the provided information sufficiently responds to the intent and purpose of the original request, the requesting party has a duty to contact the responding party and engage in meaningful discussions about what type of information the requestor is seeking. *Kitsap County*, Decision 9326-B (PECB, 2010).

ANALYSIS

The Examiner concluded that the employer refused to bargain when it failed to provide information requested by the union about how and why the public safety camera system was being used in an internal investigation. The employer argued that the union did not ask the

question the Examiner found the employer failed to respond to. The employer argued that the union did not make a specific information request triggering the employer's duty to provide information. The union argued that when it asked, "Wilson and other command staff how they came upon the camera images contained in Connor's internal investigation," the union made an information request necessary to carry out its collective bargaining obligations. The union asserts that the employer has never answered the union's question about how the surveillance camera footage was discovered.

The employer, on March 28, 2011, notified Sergeant Mark Connor that he was subject to an internal investigation. Jones learned that the employer had used images from the public safety camera system as part of disciplining certain employees. Jones asked Caw how the employer came to use the images. Caw told Jones he could not talk about the open investigation and the union would know the reason once the investigation was closed.

On March 30, 2011, the employer and union met in a labor management meeting. Jones, MacKenzie, and Krahn attended on behalf of the union. Wilson, Caw, Hansen, and McCaul attended on behalf of the employer.

During the meeting, Jones conveyed the union's concerns that the employer was reviewing the surveillance footage looking for violations. Wilson's minutes from the labor management meeting reflect that the union "asked about how Command staff members determined there was a breach of security within the department leading to the 4 employees receiving discipline for leaving their lockers containing firearms and other weapons unsecure." Wilson noted that he "explained that how these violations came to light would later be identified (Connor investigation). This was not revealed at the time due to ongoing internal." The union made a request for information, which Wilson acknowledged.

If a request for information is ambiguous, the responding party has a duty to seek clarification. *See Pasco School District*, Decision 5384-A. Wilson did not testify as to whether he thought the union's information request was unclear. His notes from the labor management meeting captured what he believed the union was requesting. Wilson told the union they would

understand how the employer learned of the security breach when the Connor investigation closed. There is no evidence that Wilson thought the request for information was ambiguous or needed clarification. If Wilson was unsure what information the union requested, he was obligated to seek clarification from the union.

If the information provided is not responsive, the requesting party has a duty to contact the other party and engage in meaningful discussion about what has been requested. *Kitsap County*, Decision 9326-B. When the employer closed the internal investigation, it provided the union a summary of the investigation. The union requested the complete internal investigation file. In response, the employer provided the union with the full internal investigation file. The union did not find the answer they thought they would receive in the internal affairs file, and subsequently filed an unfair labor practice complaint.

The union's request for information was valid and related to its collective bargaining responsibilities. The union had an interest in knowing how the employer disciplined employees and how the employer was using the public safety camera system. The employer told the union the answer would be known after the Connor investigation was closed. Upon receiving the investigation summary and subsequent full report, the union did not have an answer to its information request. The employer failed to provide requested information when it did not provide the union a response to how images came to be used to discipline employees.

ISSUE 7: Did the employer interfere with employee rights by refusing to respond directly to the union's attorney after the attorney requested clarification?

CONCLUSION

The employer did not interfere with employee rights when it responded directly to the union president rather than the union's attorney. An employer interferes with employee rights when the employer's communication or actions could reasonably be perceived as a threat of reprisal or force, or a promise of benefit. The employer answered the attorney's question when he spoke with the union president. The union's attorney did not communicate to the employer that he was

the spokesperson for the union and that responses should be directed only to him. We affirm the Examiner.

LEGAL PRINCIPLES

Interference

It is an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their statutory rights. RCW 41.56.140(1).

To prove interference, the complainant must prove, by a preponderance of the evidence, the employer's conduct interfered with protected employee rights. *Grays Harbor College*, Decision 9946-A (PSRA, 2009); *Pasco Housing Authority*, Decision 5927-A (PECB, 1997), *aff'd*, 98 Wn. App. 809 (2000)(remedy affirmed). An employer interferes with employee rights when an employee could reasonably perceive the employer's actions as a threat of reprisal or force, or a promise of benefit, associated with the union activity of that employee or of other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996).

An employer may interfere with employee rights by making statements, through written communication, or by actions. *Snohomish County*, Decision 9834-B (PECB, 2008); *Pasco Housing Authority*, Decision 5927-A (PECB, 1997), *aff'd*, 98 Wn. App. 809 (2000)(remedy affirmed).

The complainant is not required to demonstrate that the employer intended or was motivated to interfere with employees' protected collective bargaining rights. *City of Tacoma*, Decision 6793-A (PECB, 2000). Nor is it necessary to show that the employee involved was actually coerced by the employer or that the employer had union animus for an interference charge to prevail. *City of Tacoma*, Decision 6793-A.

ANALYSIS

Wilson provided Connor a notice of pre-disciplinary meeting on August 12, 2011. Jones requested to reschedule Connor's pre-disciplinary meeting. Wilson agreed to reschedule the pre-disciplinary meeting. In his response, Wilson included guidelines for the pre-disciplinary meeting.

James Cline (Cline), the union's attorney, sent Wilson an e-mail. Cline sought clarification as to whether the meeting was a "pre-disciplinary *hearing* or is simply a *meeting*" with Connor. Cline sought to clarify the role of Connor's union representatives at the meeting.

Wilson did not respond to Cline's e-mail. Instead, Wilson had a conversation with Jones. Wilson told Jones he would not respond to Cline's e-mail. Wilson told Jones he would talk to Jones, but not Cline.

The standard for proving employer interference is not particularly high. An employee must reasonably be able to perceive the employer's words or actions as a threat of reprisal or force or promise of benefit. Wilson offered an explanation of how he wanted the pre-disciplinary meeting to proceed. Wilson did not seek to persuade the union to not have legal counsel attend the *Loudermill* hearing or cease his communications with Wilson. An employee could not reasonably perceive Wilson's action of responding to Jones, the union president, to answer the questions raised by Cline as interfering with employee rights.

As union president, Jones would have been responsible for having conversations about bargaining with the employer. Jones did not request Wilson to respond to Cline's e-mail in lieu of discussing the matter with Jones. There is no evidence that the union designated Cline as the sole contact for communication from the employer to the union.

The employer did not interfere with employee rights when Wilson responded directly to Jones, and not Cline, when answering a question posed by Cline.

ISSUE 8: Did the employer interfere with employee rights by limiting the role of union representatives in a disciplinary interview?

CONCLUSION

We reverse the Examiner. The employer did not interfere with employee rights. The Commission does not assert jurisdiction over *Loudermill* hearings.

LEGAL PRINCIPLES

Interference

The legal principles for interference, discussed on page 21, are applicable to this issue.

Representation Rights

An employee has a right to union representation at an "investigatory" interview which the employee reasonably believes could result in discipline. *City of Bellevue*, Decision 4324-A (PECB, 1994), *citing N.L.R.B. v. Weingarten*, 420 U.S. 251 (1975); *Okanogan County*, Decision 2252-A (PECB, 1986). Those rights are not without limitation. *Seattle School District*, Decision 10732-A (PECB, 2012).

The Commission does not assert jurisdiction through the unfair labor practice procedures to enforce "due process" rights guaranteed by the federal and state constitutions. *Okanogan County*, Decision 2252-A (PECB, 1986); *City of Tacoma*, Decision 3346 (PECB, 1989). Indeed, an employee's constitutional property rights protected by a *Loudermill* hearing are a distinct legal issue from an employee's Weingarten rights. *Southwest Snohomish County Public Safety Communications Agency*, Decision 11149 (PECB, 2011), *aff'd*, Decision 11149-C (PECB, 2013).

ANALYSIS

The Examiner concluded that the employer interfered with employee rights when it violated Connor's *Weingarten* rights by limiting the role of Connor's union representative. The employer

argued the meeting was a *Loudermill* hearing, to which *Weingarten* rights do not attach. The employer argued the investigation had concluded and the meeting was not a compulsory investigatory interview. The union argued *Weingarten* rights apply at any investigatory interview where the employee reasonably believes discipline could result, including *Loudermill* hearings. The union argued the employer violated Connor's *Weingarten* rights when it would not allow anyone to advocate on Connor's behalf. In its appeal brief, the union admitted that the August 23, 2011 meeting was a pre-disciplinary meeting and asserted that *Weingarten* rights apply to any investigatory meeting, including pre-disciplinary meetings, while also disputing that the August 23, 2011 meeting was a *Loudermill* hearing.

The first issue that must be addressed is whether the August 23, 2011 meeting was a pre-disciplinary *Loudermill* hearing or an investigatory interview. If the meeting was not a *Loudermill* hearing, then we must determine whether the employer interfered with employee rights.

A *Loudermill* hearing is a hearing to enforce the employee's due process rights stemming from the federal and state constitutions. *Loudermill* requires a pre-termination hearing prior to the discharge of an employee possessing a constitutionally protected property interest in his employment. *Cleveland Bd. Of Education v. Loudermill*, 470 U.S. 532, 542 (1985). The "hearing" need not be formal and can be less than a full evidentiary hearing. *Id*. at 545. An employee is entitled to oral or written notice of the charges against the employee, an explanation of the employer's evidence, and an opportunity for the employee to present his side of the story. *Id*. at 546.

After the employer had concluded its internal affairs investigation, Wilson provided Connor notification of a pre-disciplinary meeting on August 12, 2011. The letter was titled "Notification of Pre-Disciplinary Meeting." The letter identified the incidents involved in two internal investigations, identified the policies found to be violated, notified Connor discipline would be recommended, detailed the background of the allegations, and explained the reasons Wilson was recommending discipline up to and including termination. On page 1 of the letter Wilson wrote:

"**A pre-disciplinary meeting is scheduled for August 17, 2011, at 1400 hours in my office for you to present information as to why this action should not be taken.**"

On August 17, 2011, Jones sent Wilson an e-mail to reschedule Connor's pre-disciplinary meeting. On August 17, 2011, Wilson responded via e-mail and agreed to reschedule the pre-disciplinary meeting. Wilson included guidelines for the pre-disciplinary meeting.

The pre-disciplinary meeting:

- Is not intended to be an adversarial or formal hearing;
- Is not to accommodate the presentation of testimony or witnesses;
- Is not an opportunity for persons joining Sergeant Connor to be an advocate;
- Is an opportunity for Sergeant Connor to provide supplemental documentation; and
- Is an opportunity for Sergeant Connor to present in writing or verbally his side of the story or present reasons the decision to take disciplinary action should not occur.

On August 23, 2011, the employer conducted a pre-disciplinary meeting. Wilson, Caw, and Hansen were present for the employer. Connor was represented by Kelly Turner, the union's attorney, and union representatives Jones and Krahn. At the end of the interview, Wilson asked Turner if she had anything to add. Turner did not.

The *Loudermill* hearing was held after the investigation concluded. The meeting was not a compulsory investigatory interview. The August 23, 2011 meeting was a *Loudermill* pre-disciplinary hearing.

A *Loudermill* hearing enforces the employee's due process rights stemming from the federal and state constitutions. Those rights do not flow from Chapter 41.56 RCW. The employer did not interfere with employee rights when it outlined guidelines for the pre-disciplinary meeting. We reverse the Examiner.

CONCLUSION

The employer refused to bargain when it unilaterally changed the composition of the collision review board, changed how the public safety camera system was used, and failed to provide requested information. The remaining allegations are dismissed.

NOW, THEREFORE, it is

ORDERED

The Findings of Fact are substituted:

FINDINGS OF FACT

1. The City of Mountlake Terrace (employer) is a public employer within the meaning of RCW 41.56.030(12).

2. Mountlake Terrace Police Guild (union) is a bargaining representative within the meaning of RCW 41.56.030(2), and is the exclusive bargaining representative of a unit of police officers and sergeants employed by the employer.

3. The employer's Traffic Collision Reporting policy provides for a collision review board to determine whether a collision was preventable or not. If the collision review board concluded that the collision was preventable, the finding went to the Police Chief who then determined the appropriate level of discipline to impose and whether to commence an internal investigation. If the finding was that the collision was not preventable, the conclusion was sent from the collision review board to the Police Chief and then to the file. The collision review board's conclusion was made by majority vote.

4. The policy described in Finding of Fact 3 provides that any person in the review chain, including the officer involved in the collision, can request a review by the collision review board to determine whether the collision was preventable or not.

5. Delsin Thomas is a police officer employed by the employer. On January 19, 2011, during a pre-disciplinary interview, he asked for the collision review board to review a collision in which he was involved.

6. Following Thomas's request on January 19, 2011, for the collision review board to review his collision, the Chief bifurcated the discipline procedure. The Chief pursued the issue of a policy violation and deferred the decision of the collision being preventable to the collision review board.

7. Subsequent to the bifurcation on January 19, 2011, Thomas received two notices of discipline and two disciplinary penalties of 36 hours and 24 hours of suspension without pay, for the same incident; one for a policy violation and one for the collision.

8. From 2008 to April 27, 2011, the collision review board was comprised of the assistant chief, a field operations sergeant, a collision investigator from the traffic unit, and an officer chosen by the involved employee.

9. On April 27, 2011, the Police Chief issued a revised policy. The composition of the collision review board was a member of the command staff to chair the collision review board, a Field Operations Sergeant, an officer assigned to the Office of Professional Responsibility, a collision investigator from the traffic unit, and an officer chosen by the involved employee. On May 4, 2011, the employer revised the policy changing the field operations sergeant to a sergeant and allowed for a designee from the Office of Professional Responsibility.

10. The collective bargaining agreement between the union and the employer provides for wage increases for certain employees. The collective bargaining agreement has five steps. Under Article 9.3:

> Experience Achievement – Advancement from one "PAY GROUP" to the next "PAY GROUP" within a classification shall become effective with the pay period following the anniversary date of appointment and shall be dependent upon confirmation by the Chief of Police that the employee has

> demonstrated his ability to satisfactorily perform the requirements of the positions.

11. Prior to 2011, the employer had not used the language in Article 9.3 to deny an employee a step increase.

12. Officer Brian Moss is a police officer employed by the employer. In the 12-month period preceding his anniversary date in 2011, he received disciplinary penalties totaling 72 hours of suspension without pay. In January 2011, the Chief denied an annual step increase for Moss on his anniversary date. He later received the increase in June 2011.

13. Officer Trent Chapel is a police officer employed by the employer. In the 12-month period preceding his anniversary date in 2011, he received disciplinary penalties of a written reprimand and a 36-hour suspension without pay. In January 2011, the Chief denied an annual step increase for Chapel on his anniversary date. He later received the increase in November 2011.

14. In the 12-month period preceding his anniversary date in 2011, Officer Delsin Thomas received a verbal reprimand, two written reprimands, and a suspension without pay. In April 2011, the Chief denied an annual step increase for Thomas on his anniversary date. Thomas later received the increase in November 2011.

15. Officers Moss, Chapel, and Thomas were not told that they could not appeal the denial of their step increases as described in Findings of Fact 12 through 14 above.

16. In February 2010, the employer installed a public safety camera system. The Chief issued a policy on the public safety camera system. The policy explained that the cameras would be used for improving the safety of personnel and the public who visit the department. The policy did not state that it may be used for employee discipline. When the system was installed, the union was told that it would not be used for employee discipline.

17. Mark Connor is a sergeant employed by the employer.

18. On March 28, 2011, the employer initiated an internal investigation of Connor.

19. Recordings used by the camera system were included in the employer's investigation to determine if Connor should be disciplined.

20. During the March 30, 2011 labor management meeting, the union inquired why the employer initiated the Connor investigation and how the employer determined there had been a security breach that led to employee discipline.

21. In response to the union's request for information in Finding of Fact 20, the Chief stated, "when the investigation is closed and we turn over the file you will – you will know exactly how that came about and what the reasoning behind it was." The employer never provided the information to the union.

22. On November 29, 2010, Thomas submitted a request to attend Collision Investigation - Technical training. He resubmitted that request on February 3, 2011. On February 17, 2011, he submitted a request for Designated Marksman training. On February 22, he submitted a request for Instructor Development training. On March 31, 2011, he submitted a request for Graham Combat Operator training. On April 23, 2011, he submitted a request for Line Employee's Academy. On May 20, 2011, he submitted two new requests, a second request for Instructor Development training and a second request for Collision Investigation - Technical training.

23. The employer denied the training requests in Finding of Fact 22 for Thomas based upon cost and lack of need.

24. On March 30, 2011, the parties engaged in a labor management meeting. The agenda included the Chief's procedure for an investigatory interview and pre-disciplinary meeting with an employee. The Chief communicated what he viewed the role of a union representative to be at a pre-disciplinary meeting.

25. On August 12, 2011, Connor was given notice of a pre-disciplinary meeting concerning events that occurred on March 16, 2011. In the notice, the Chief recommended a penalty

of termination. The notice stated that the meeting was not an opportunity for persons joining Connor to act as an advocate.

26. On August 17, 2011, the union was provided with a copy of the internal investigation report. On that same day, the Chief sent the union an e-mail stating that the interview was not intended to be an adversarial or formal hearing, was not to accommodate the presentation of testimony or witnesses, was not an opportunity for persons joining Connor to be an advocate, and was merely an opportunity for Connor to present his side of the story.

27. On August 22, 2011, the union's attorney, James Cline, sent an e-mail to the Chief asking for clarification on Connor's pre-disciplinary meeting. Specifically, he asked about the nature of the meeting and the union representative's role at the interview. The Chief told Eric Jones, the union president, that he would not respond to Cline and reiterated to Jones the parameters of the interview.

28. On August 23, 2011, the pre-disciplinary meeting occurred. Connor, his union attorney and two union representatives were present. One union representative did not ask any questions.

29. In 2011, Assistant Chief of Police Pete Caw and former union president Pat Lowe had two conversations concerning changing the union's legal representation to Cline and Associates. Caw stated, "I had some bad experiences during several - in interviews with Mr. Cline's attorneys were either present or influencing how the shop steward represented employees. [I] indicated to him that was not what I was used to. It was very abrasive and argumentative at times." Later Caw stated, "I was concerned about that. I thought it would maybe change the relationship to something more akin I had seen in other places." Lowe and Hatchel were not intimidated by Caw's remarks.

CONCLUSIONS OF LAW

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

2. By changing the positions that make-up the collision review board as described in Finding of Fact 9, the employer refused to bargain in violation of RCW 41.56.140(4) and (1).

3. By separating the disciplinary process at an employee's request as described in Findings of Fact 5, 6, and 7, the employer did not refuse to bargain in violation of RCW 41.56.140(4) and (1).

4. By denying step increases as described in Findings of Fact 12 through 14, the employer did not refuse to bargain in violation of RCW 41.56.140(4) and (1).

5. By changing when step increases are granted as described in Findings of Fact 10 through 14, the employer did not refuse to bargain in violation of RCW 41.56.140(4) and (1).

6. By changing the use of the video camera system to monitor employees for discipline as described in Finding of Fact 19, the employer refused to bargain in violation of RCW 41.56.140(4) and (1).

7. By refusing to provide relevant information requested by the union concerning video footage and its use during the discipline of Sergeant Connor as described in Findings of Fact 20 and 21, the employer refused to bargain in violation of RCW 41.56.140(4) and (1).

8. By its actions described in Findings of Fact 24 through 26, the employer did not interfere with employee rights in violation of RCW 41.56.140(1).

9. By refusing to respond to the union's legal representative's request for clarification and selecting the union representative to respond to, as described in Finding of Fact 27, the

employer did not interfere with employee rights in violation of RCW 41.56.140(4) and (1).

10. By not telling Officers Chapel, Moss, and Thomas that they could not appeal the denial of their step increases as described in Finding of Fact 15, the employer did not circumvent the union or interfere with employee rights in violation of RCW 41.56.140(4) and (1).

11. By denying Delsin Thomas's training requests as described in Finding of Fact 23, the employer did not interfere with employee rights in violation of RCW 41.56.140(1).

12. By making statements to union representatives about choosing Cline and Associates as their legal representative, as described in Finding of Fact 29, the employer did not interfere with employee rights in violation of RCW 41.56.140(1).

13. By imposing two disciplinary penalties as described in Finding of Fact 7, the employer did not discriminate against Delsin Thomas in violation of RCW 41.56.140(1).

ORDER

The City of Mountlake Terrace, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:

   a. Failing to bargain over changes in positions that make up the collision review board.

   b. Failing to bargain over using a video camera system in the disciplinary process.

   c. Refusing to provide the union with information requested concerning the use of a video camera system and its use in employee discipline.

d. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights under by the laws of the state of Washington.

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

a. Restore the *status quo ante* by:

i. Restore the collision review board policy as it existed, as described in Finding of Fact 3, prior to the changes made on or about April 27, 2011, as described in Finding of Fact 9;

ii. Delete any and all reference to video camera images concerning Sergeant Mark Connor, except for the purpose of compliance with this order.

b. Give notice to and, upon request, negotiate in good faith with the Mountlake Terrace Police Guild before making unilateral changes to the collision review board policy and changes in the use of the video camera system for monitoring employee discipline.

c. Post copies of the notice provided by the Compliance Officer of the Public Employment Relations Commission in conspicuous places on the employer's premises where notices to all bargaining unit members are usually posted. These notices shall be duly signed by an authorized representative of the respondent, and shall remain posted for 60 consecutive days from the date of initial posting. The respondent shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.

d. Read the notice provided by the Compliance Officer into the record at a regular public meeting of the Mountlake Terrace City Council and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.

e. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice provided by the Compliance Officer.

f. Notify the Compliance Officer, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide him with a signed copy of the notice he provides.

ISSUED at Olympia, Washington, this 20th day of March, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

THOMAS W. McLANE, Commissioner

MARK E. BRENNAN, Commissioner