

answer to the interference and discrimination allegations within 21 days following the date of this decision.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.59.140(1)(a), discrimination in violation of RCW 41.59.140(1)(c), and refusal to bargain in violation of RCW 41.59.140(1)(e), by retaliatory actions of principal Peter Hodges against association building representative Michael Wellman, in reprisal for union activities protected by Chapter 41.59 RCW.

The Commission is bound by the following provisions of Chapter 41.59 RCW:

RCW 41.59.150 COMMISSION TO PREVENT UNFAIR LABOR PRACTICES--SCOPE. (1) The commission is empowered to prevent any person from engaging in any unfair labor practice as defined in RCW 41.59.140: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission.

The complaint contains information concerning events occurring more than six months before filing of the complaint. Events described in the statement of facts attached to the complaint occurring before February 5, 2005, will be considered merely as background information. The complaint is limited to allegations of employer misconduct occurring on or after February 5, 2005.

The deficiency notice indicated that a cause of action did not exist for the allegations of employer refusal to bargain in violation of RCW 41.59.140(1)(e). The complaint fails to explain how the employer's actions violated the refusal to bargain provisions of Chapter 41.59 RCW.

The deficiency notice stated that the interference with employee rights and discrimination allegations of the complaint appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had an opportunity to respond to the deficiency notice.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference and discrimination allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights in violation of RCW 41.59.140(1)(a) and discrimination in violation of RCW 41.59.140(1)(c), by retaliatory actions of principal Peter Hodges against association building representative Michael Wellman, in reprisal for union activities protected by Chapter 41.59 RCW.

The interference and discrimination allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Shoreline School District shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is

without knowledge of the fact, that statement will operate as a denial; and

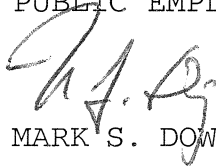
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

3. The allegations of the complaint concerning employer refusal to bargain in violation of RCW 41.59.140(1)(e), are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 26th day of September, 2005.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Unfair Labor Practice Manager

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.