

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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| FRANCIS HATSTAT, |) | |
| |) | |
| Complainant, |) | CASE 21553-U-08-5492 |
| |) | |
| vs. |) | DECISION 10031 - CCOL |
| |) | |
| BELLEVUE COMMUNITY COLLEGE |) | |
| ASSOCIATION OF HIGHER EDUCATION, |) | |
| |) | ORDER OF DISMISSAL |
| Respondent. |) | |
| _____ |) | |

On February 26, 2008, Francis A. Hatstat (Hatstat) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Bellevue Community College Association of Higher Education (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on March 5, 2008, indicated that it was not possible to conclude that a cause of action existed at that time. Hatstat was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

Hatstat has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

¹ At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

DISCUSSION

The allegations of the complaint concern union interference with employee rights in violation of RCW 28B.52.073(2)(a), and "other" unfair labor practices concerning discrimination based upon race and gender.

The deficiency notice pointed out the defects in the complaint.

One, the complaint alleges union interference with employee rights. RCW 28B.52.073(2)(a) prohibits union interference with employee rights, and threats of reprisal or force or promises of benefit associated with the union activity of employees made by union officials are unlawful. However, the alleged facts are insufficient to conclude that Hatstat engaged in protected union activity, or that the union made any threats of reprisal or force or promises of benefit toward Hatsat in violation of RCW 28B.52.073(2)(a).

Two, the complaint alleges that the union failed to intervene when the employer denied Hatstat's request to instruct a transfer law course. The complaint does not indicate whether Hatstat filed a grievance over this matter or requested the union to file one. A union owes a duty of fair representation to bargaining unit employees with respect to the processing of grievances. However, the Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. Such claims must be pursued before a court.

Three, the complaint alleges that the union has failed to represent Hatstat and other employees subjected to discrimination based on gender and race. Commission rules do not permit class action

complaints. The complaint is limited to allegations concerning Hatstat. Further, the Commission does not have jurisdiction to adjudicate claims involving race and gender discrimination. Such claims must be pursued before state or federal human rights agencies or before a court.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 21553-U-08-5492 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 4th day of April, 2008.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.