

assistance of a union in violation of RCW 28B.52.073(1)(b), discrimination in violation of RCW 28B.52.073(1)(c), discrimination for filing charges in violation of RCW 28B.52.073(1)(d), and "other" unspecified unfair labor practices, by its actions toward Craven.

The deficiency notice pointed out the defects to the complaint. One, the Commission lacks jurisdiction over the claims involving interference and discrimination. The complaint alleges employer interference, discrimination, and discrimination for filing charges. The complaint concerns employer discipline given to Craven and related employer actions toward Craven, which Craven alleges to be improper. The Commission does not have general jurisdiction over disciplinary issues between employers and employees, including enforcement of the constitutional due process rights involved in Loudermill hearings. The Commission has jurisdiction only over allegations concerning violations of employees' collective bargaining rights. The statement of facts does not indicate that the employer took actions against Craven in connection with or in reprisal for his union activities.

Two, the remedies requested are not within the Commission's jurisdiction to grant. Absent an indication of reprisal for union activities, the Commission has no jurisdiction regarding the division chair position, or over other charges made against Craven. The Commission also has no jurisdiction over alleged criminal activities. Craven must pursue remedies through the courts.

Three, regarding the allegation of employer domination or assistance of a union, none of the facts alleged in the complaint suggest that the employer has involved itself in the internal affairs or finances of the union, or has attempted to create, fund, or control a company union.

Four, regarding the allegation of "other" unfair labor practices, Craven does not explain the nature of the alleged violations or specify a statute.

The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency by statute. The agency does not have authority to resolve each and every dispute that might arise in public employment, but only has jurisdiction to resolve collective bargaining disputes between employers, employees, and unions. The Commission has no authority to expand its jurisdiction to include employment disputes involving allegations of unfair employment practices, unjust discipline, and violations of federal or state constitutional rights or statutes, including matters involving public records requests. Unlike the National Labor Relations Board, the Commission does not investigate allegations concerning unfair labor practice violations. The Commission issues preliminary rulings based solely on the statements of facts filed with complaints. For this reason, the statement of facts must specifically identify the union activities of the complainant, as well as the collective bargaining rights allegedly violated. This deficiency notice is restricted to determining whether the facts presented indicate violations of Chapter 28B.52 RCW. Craven has failed to show that the Commission has jurisdiction in this case.

Amended Complaint

The amended complaint does not re-allege "other" unfair labor practices; that allegation is considered withdrawn. The complaint re-alleges domination or assistance of a union, interference, discrimination, and discrimination for filing charges.

Regarding allegations of employer domination or assistance of a union, the amended complaint does not provide facts indicating that the employer has involved itself in the internal affairs or finances of the union, or attempted to create, fund, or control a company union.

Regarding the allegations concerning interference and discrimination, Craven states that evidence of his union activities can be

determined from his service as division chair, since the position has duties related to collective bargaining. Although only a union has standing to enforce the provisions of a collective bargaining agreement, in doing so it may appoint bargaining unit members as its agents. However, Craven does not present sufficient evidence to indicate that the union had designated him as its agent concerning collective bargaining issues, or that the employer was aware that he was acting as a union agent, rather than as division chair. Craven's assertion that as a union member and division chair he had disputes with the employer over faculty work issues, without more evidence of union involvement, does not provide sufficient facts to conclude that a cause of action could be found for employer interference and discrimination in violation of Chapter 28B.52 RCW.

Craven also alleges employer discrimination for filing charges. The union filed an unfair labor practice complaint against the employer on March 25, 2008, alleging that the employer had refused to bargain by failing to provide information related to an investigation of employee complaints against Craven (those complaints originated in 2007).² Craven alleges that discrimination for filing charges is shown by yet another *employee* complaint filed against him shortly after the union filed the unfair labor practice action. However, Craven does not present sufficient evidence indicating that the *employer* retaliated against him for filing charges.

The amended complaint does not cure the defects of the original complaint. Craven must pursue his objections to the employer's actions through the grievance procedure or the courts. The Commission has no jurisdiction in this case.

² *Community College District 14 - Clark, Decision 10221 (CCOL, 2008).*

Addendum to Amended Complaint

On June 11, 2009, Craven filed an addendum to the amended complaint. The addendum is included in the amended complaint. The addendum does not provide sufficient facts indicating employer domination or assistance of a union, Craven's union activity and employer discrimination for such activity, or employer discrimination for filing charges. The addendum does not cure the defects of the amended complaint.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 22431-U-09-5727 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 12th day of June, 2009.

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.