

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

BOYD GRIFFIN,	)	
	)	
Complainant,	)	CASE 19008-U-04-4842
	)	
vs.	)	DECISION 8850 - PSRA
	)	
COMMUNITY COLLEGE DISTRICT 5	)	
(EVERETT),	)	PARTIAL DISMISSAL AND
	)	ORDER FOR FURTHER
Respondent.	)	PROCEEDINGS
	)	
_____	)	

On November 23, 2004, Boyd Griffin (Griffin) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Community College District 5 (Everett) (employer) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on December 15, 2004, indicated that it was not possible to conclude that a cause of action existed at that time for some of the allegations of the complaint. Griffin was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the defective allegations. An extension was granted for the filing of an amended complaint.

On January 20, 2005, Griffin filed an amended complaint. The Unfair Labor Practice Manager dismisses defective allegations of the amended complaint for failure to state a cause of action, and

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<sup>1</sup> 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.

finds a cause of action for interference and discrimination allegations of the amended complaint against the employer.

### DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.80.110(1)(a) and an unspecified "other unfair labor practice" violation, by its termination of Boyd Griffin. The complaint contained several defects. One, a question is raised by a reference in the statement of facts to Griffin's termination for engagement "in a protected activity." Allegations of retaliation taken in reprisal for union activities protected by Chapter 41.80 RCW are processed by the Commission under the provisions of RCW 41.80.110(1)(c). However, Griffin did not check the box entitled "Employer Discrimination" on the complaint form (Form U-1). The deficiency notice asked if Griffin was alleging a discrimination violation under RCW 41.80.110(1)(c). Two, in relation to the allegations of an "other unfair labor practice" violation, the complaint form contains a notation of "RCW 41.80" but fails to explain and specify what "other" rule or statute has been violated by the employer's actions.

The amended complaint cured defect one by adding an allegation of employer discrimination. The amended complaint failed to explain or specify what "other" rule or statute has been violated by the employer's actions, thus defect two was not cured. The allegations of an "other unfair labor practice" by the employer do not state a cause of action.

The amended complaint form listed two alleged violations by the employer: 1) Discrimination; and 2) Other Unfair Labor Practice. The amended complaint form did not carryover the alleged employer

interference violation from the original complaint form. However, a letter accompanying the amended complaint referenced a statement in the deficiency notice indicating that a preliminary ruling would be issued for an employer interference violation under RCW 41.80.110(1)(a). The specific reference in the letter to an interference allegation cures Griffin's failure to check the "Employer Interference" box on the amended complaint form. The amended complaint alleges both an interference and discrimination violation by the employer.

NOW, THEREFORE, it is

ORDERED

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

Employer interference with employee rights in violation of RCW 41.80.110(1)(a) and discrimination in violation of RCW 41.80.110(1)(c), by its termination of Boyd Griffin in reprisal for union activities protected by Chapter 41.80 RCW.

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

2. Community College District 5 (Everett) 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 amended 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 amended 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 amended complaint, will be deemed to be an admission that the fact is true as alleged in the amended complaint, and as a waiver of a hearing as to the facts so admitted. See WAC 391-45-210.

3. The allegations of the amended complaint concerning an "other unfair labor practice" by the employer, are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 24<sup>th</sup> day of January, 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.