

Community College District 6 (Seattle) and Community College District 7 (Shoreline), Decision 9753-A (CCOL, 2008)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

RICCARDO GREEN,)	
)	
Complainant,)	CASE 20920-U-07-5335
)	
vs.)	DECISION 9753-A - CCOL
)	
COMMUNITY COLLEGE DISTRICT 6)	
(SEATTLE COMMUNITY COLLEGE),)	
)	
Respondent.)	DECISION OF COMMISSION
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RICCARDO GREEN,)	
)	
Complainant,)	CASE 20921-U-07-5336
)	
vs.)	DECISION 9754-A - CCOL
)	
SEATTLE COMMUNITY COLLEGE)	
FEDERATION OF TEACHERS,)	
LOCAL 1789,)	
)	
Respondent.)	DECISION OF COMMISSION
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RICCARDO GREEN,)	
)	
Complainant,)	CASE 20918-U-07-5333
)	
vs.)	DECISION 9755-A - CCOL
)	
COMMUNITY COLLEGE DISTRICT 7)	
(SHORELINE COMMUNITY COLLEGE),)	
)	
Respondent.)	DECISION OF COMMISSION
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RICCARDO GREEN,)	
)	
Complainant,)	CASE 20919-U-07-5334
)	
vs.)	DECISION 9756-A - CCOL
)	
SHORELINE COMMUNITY COLLEGE)	
FEDERATION OF TEACHERS,)	
LOCAL 1950,)	
)	
Respondent.)	DECISION OF COMMISSION

RICCARDO GREEN,)	
)	
Complainant,)	CASE 20922-U-07-5337
)	
vs.)	DECISION 9757-A - CCOL
)	
COMMUNITY COLLEGE DISTRICT 7)	
(SHORELINE COMMUNITY COLLEGE),)	
)	
Respondent.)	DECISION OF COMMISSION
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RICCARDO GREEN,)	
)	
Complainant,)	CASE 20923-U-07-5338
)	
vs.)	DECISION 9758-A - CCOL
)	
WASHINGTON FEDERATION OF STATE)	
EMPLOYEES,)	
)	
Respondent.)	DECISION OF COMMISSION
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Riccardo Green, appeared pro se.

Rob McKenna, Attorney General, by *Alan Smith*, Assistant Attorney General, for Shoreline Community College.

Schwerin, Campbell, Barnard & Iglitzin, LLP, by *Terrance M. Costello*, Attorney at Law, and *Dmitri Iglitzin*, Attorney at Law, for the Shoreline Community College Federation of Teachers, Local 1950 and Seattle Community College Federation of Teachers, Local 1789.

Gladys Burbank, Director of PERC Activities, for the Washington Federation of State Employees.

These cases come before the Commission on timely appeals filed by Riccardo Green (Green) seeking reversal of an Order of Dismissal issued by Unfair Labor Practice Manager David I. Gedrose.¹ The

¹ *Community College District 6 (Seattle) and Community College District 7 (Shoreline)*, Decision 9753 (CCOL, 2007).

Washington Federation of State Employees; Shoreline Community College Federation of Teachers, Local 1950; Seattle Community College Federation of Teachers, Local 1789; and Community College District 7 (Shoreline) support the Unfair Labor Practice Manager's decision.²

ISSUE PRESENTED

1. Do Green's complaints or amended complaints comply with the Commission's rule, WAC 391-45-050, governing the form and contents of an unfair labor practice complaint?
2. If Green's complaints comply with WAC 391-45-050, do the complaints state causes of action that could be redressed by the statutes administered by this Commission?

For the reasons set forth below, we affirm the Unfair Labor Practice Manager's decision dismissing Green's complaints in their entirety. Green's complaints³ not only fail to comply with WAC 391-45-050, but the complaints also fail to state a cause of action that can be redressed by the statutes administered by this Commission.

² All of the respondents will be collectively referred to as "respondents" unless a specifically alleged violation applies to only a specific employer or union, in which case that employer or union will be named individually. If a specifically alleged violation applies to every employer or every union, we will refer to that group as "employers" or "unions."

³ Although his filings were not entirely clear, we infer that Green intended his six complaints to be against all the parties listed.

BACKGROUND

On February 13, 2007, Green filed unfair labor practice complaints against the respondents. The Unfair Labor Practice Manager's decision accurately describes each specific violation, but generally the complaints against the employers allege interference with protected rights, discrimination for exercising protected rights, discrimination for filing charges, refusal to bargain, and other violations of Chapter 28B.52.073 RCW, and the complaints against the unions allege interference for exercising protected rights, inducing an employer to discriminate against an employee, and other unfair labor practices. Green's filings indicate that at one time he worked as an instructor in the continuing education department for both of the employers, but it appears from those filings that he was terminated in 2004.

ANALYSISISSUE 1 - Form of Complaint and Amended Complaint

In unfair labor practice proceedings, the ultimate burdens of pleading, prosecution, and proof all lie with the party that files the complaint. *City of Seattle*, Decision 8313-B (PECB, 2004). The Commission and its staff maintain an impartial posture as quasi-judicial decision makers in unfair labor practice proceedings.

Our rules do not require that claimants be represented by legal counsel, and we acknowledge that pro se claimants may be treading on unfamiliar ground in presenting cases on their own. *North Thurston School District*, Decision 4938-A (PECB, 1995). However, parties who choose to appear pro se are not excused from compliance with the Commission's promulgated and published rules. *North*

Thurston School District, Decision 4938-A, citing *King County*, Decision 2704-A (PECB, 1987). While leniency towards a pro se litigant is sometimes appropriate, we must also be mindful of statutory requirements and the rights of other parties. *North Thurston School District*, Decision 4938-A; see also *Port of Seattle*, Decision 4394-B (PECB, 1992). When a pro se litigant has been placed on notice of the very procedural requirements which are then disregarded, we find no greater consideration can be given to such a litigant than to a party represented by experienced counsel.

Contents of a Complaint

WAC 391-45-050(2) requires that an unfair labor practice complaint contain, in separate numbered paragraphs, a clear and concise statement of the facts constituting the alleged unfair labor practices, including the time, place, date, and participants in occurrences. WAC 391-45-050; *King County*, Decision 9075-A (PECB, 2007); *City of Seattle*, Decision 5852-C (PECB, 1998). The agency does not investigate charges or draft complaints in the manner familiar to those who practice before the National Labor Relations Board. Rather, the complainant must file and serve a complaint that is sufficiently detailed to be the basis of a formal adjudicative proceeding under the Administrative Procedure Act, Chapter 34.05 RCW. *City of Seattle*, Decision 8313-B. The facts set forth in the complaint also must be sufficient to make intelligible findings of fact in a default situation. WAC 391-45-110; *Apostolis v. City of Seattle*, 101 Wn. App. 300 (2000).

Application of Standards

Here, Green's original and amended complaints fail to comply with the WAC 391-45-050 requirements. Green's filings lack detailed information about alleged unfair labor practices, including the requisite times, dates, places, and participants which are needed

to place the respondents on notice of Green's allegations. The only relevant information in Green's complaints or amended complaints is that he was terminated sometime in 2004 from Seattle Community College and terminated sometime in 2005 from Shoreline Community College, and that in both instances individuals of a different race, gender, or both replaced him. Outside of those facts, the only other information that Green provided was copies of email communications he had with Paulette Fleming, the former Acting Vice President of Human Resources and Employees Relations at Shoreline Community College, and John Bosenburg, Director of Human Resources for the State Board of Community and Technical Colleges.⁴

ISSUE 2 - Content of the Complaints

Complaints Provide No Basis to Assert Jurisdiction

Even if we were to assume that Green had provided the requisite WAC 391-45-050 information, the Unfair Labor Practice Manager correctly concluded that Green failed to state a cause of action that this Commission could address. First, this Commission clearly lacks jurisdiction or authority under Chapter 28B.52 RCW to rule directly on allegations of discrimination on the basis of race or gender. The state law against discrimination, Chapter 49.60 RCW, which is administered by the Washington State Human Rights Commission, regulates that law and has its own policies and procedures. Second, none of Green's statements allege the employers took action based upon Green's protected rights under Chapter 28B.52 RCW. Without a nexus between Green's termination and any protected union activity, we have no basis to assert jurisdiction. With respect to Green's

⁴ The State Board for Community and Technical Colleges is responsible for administering the Community and Technical College Act and providing leadership and coordination for the community and technical college system, but is not a party or named respondent to this case.

complaints against the unions, he again fails to provide any relevant information as to how the unions allegedly committed unfair labor practices.

In conclusion, Green's complaints not only fail to comply with our rules regarding the form of a complaint, but also fail to state a cause of action that this Commission could address in a default setting through the laws it administers.⁵

NOW, THEREFORE, it is

ORDERED

The Order of Dismissal issued by Unfair Labor Practice Manager David I. Gedrose is AFFIRMED and adopted as the Order of Dismissal of the Commission.

Issued at Olympia, Washington, the 18th day of June, 2008.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



PAMELA G. BRADBURN, Commissioner



THOMAS W. McLANE, Commissioner

⁵ Because all of Green's complaints are dismissed on their merits, we need not address the statute of limitations issue.