

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEATTLE/KING COUNTY BUILDING  
AND CONSTRUCTION TRADES  
COUNCIL,

Complainant,

vs.

SEATTLE SCHOOL DISTRICT,

Respondent.

CASE 24178-U-11-6193

DECISION 11177 - PECB

ORDER OF DISMISSAL

On August 12, 2011, the Seattle/King County Building and Construction Trades Council (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Seattle School District (employer) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on August 18, 2011, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

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

DISCUSSION

The deficiency notice discussed the complaint. The allegations of the complaint concern employer discrimination (and if so, derivative interference) in violation of RCW 41.56.140(1), by

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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.

its failure to interview David Elkins (Elkins) for a General Foreperson position in reprisal for union activities protected Chapter 41.56 RCW.

The complaint was found to be defective. The statement of facts does not provide sufficient information to state a cause of action. The statement of facts does not allege that the employer refused to interview Elkins because of his specific union activities, but rather on the basis of his union affiliation.

The union alleges a violation based upon anti-union bias by the employer. The General Foreperson position is a bargaining unit position. The employer conducted interviews for the position openings at the end of July. It is not clear from the statement of facts if the employer refused to interview *any* union members for the positions and interviewed *only* non-union members, and, if the positions have been filled, whether they were filled *only* with persons previously unaffiliated with unions. The statement of facts as presented does not indicate general employer bias against union affiliation by not interviewing Elkins for a General Foreperson position.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 24178-U-11-6193 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 19th day of September, 2011.

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.



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300  
PO BOX 40919  
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON  
PAMELA G. BRADBURN, COMMISSIONER  
THOMAS W. McLANE, COMMISSIONER  
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

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PUBLIC EMPLOYMENT RELATIONS  
COMMISSION

BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 24178-U-11-06193 FILED: 08/12/2011 FILED BY: PARTY 2  
DISPUTE: ER MULTIPLE ULP  
BAR UNIT: OPER/MAINT  
DETAILS: David Elkins  
COMMENTS:

EMPLOYER: SEATTLE S D  
ATTN: SUSAN ENFIELD  
PO BOX 34165  
MS 32-151  
SEATTLE, WA 98124-1165  
Ph1: 206-252-0180

REP BY: KEVIN F ONEILL  
SEATTLE S D  
PO BOX 34165  
MS 32-151  
SEATTLE, WA 98124  
Ph1: 206-252-0110

PARTY 2: SEATTLE KING CO BUILDING AND CONST TRADES CNCL  
ATTN: LEE NEWGENT  
PO BOX 80327  
SEATTLE, WA 98108-0327  
Ph1: 206-441-0550

REP BY: DAN HUTZENBILER  
ROBBLEE DETWILER AND BLACK  
2101 4TH AVE STE 1000  
SEATTLE, WA 98121-2392  
Ph1: 206-467-6700