

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ROBERT CALDWELL,

Complainant,

vs.

HIGHLINE SCHOOL DISTRICT,

Respondent.

CASE 25591-U-13-6563

DECISION 11746 - PECB

ORDER OF DISMISSAL

On March 22, 2013, Robert Caldwell (Caldwell) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Highline School District as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on April 3, 2013, indicated that it was not possible to conclude that a cause of action existed at that time. Caldwell was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On April 8, 2013, Caldwell filed a document requesting to amend the complaint. The Unfair Labor Practice Manager dismisses the amended complaint for failure to state a cause of action.

On April 15, 2013, the employer filed a response to Caldwell's complaint of March 22; however, that response was premature and unnecessary and was not reviewed or considered in this Order of Dismissal.

### DISCUSSION

The allegations of the complaint concern employer discrimination (and if so, derivative interference) in violation of RCW 41.56.140(1), by actions toward Caldwell under the Americans with Disabilities Act.

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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.

The deficiency notice pointed out the defects to the complaint.

The Public Employment Relations Commission has authority under Chapter 41.56 RCW to resolve collective bargaining disputes, including unfair labor practice complaints filed under that statute. The Commission has no jurisdiction over claims concerning the Americans with Disabilities Act. The complaint contains no information about possible violations of Caldwell's collective bargaining rights. The Commission does not have jurisdiction in this case; Caldwell must seek relief through human rights agencies and/or the courts.

Amended Complaint

The document filed by Caldwell on April 8, 2013, requesting to amend the complaint consists of one paragraph alleging that the employer violated a collective bargaining agreement (contract) between Caldwell's union and the employer. The paragraph does not conform to the requirements of WAC 391-45-050. Caldwell does not have standing as an individual employee to bring a breach of contract action against the employer. The Commission does not have jurisdiction over breach of contract disputes. The April 8 document is both procedurally and substantively deficient and does not cure the defects to the complaint.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 25591-U-13-6563 is DISMISSED for failure to state a cause of action.

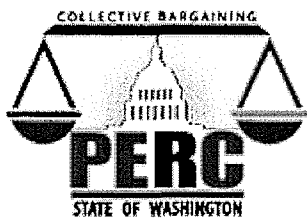
ISSUED at Olympia, Washington, this 7th day of May, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

This 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

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MIKE SELLARS, EXECUTIVE DIRECTOR

### RECORD OF SERVICE - ISSUED 05/07/2013

The attached document identified as: **DECISION 11746 - PECB** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS  
COMMISSION

  
BY: / ROBBIE DUFFIELD

CASE NUMBER: 25591-U-13-06563 FILED: 03/22/2013 FILED BY: PARTY 2  
DISPUTE: ER DISCRIMINATE  
BAR UNIT: MIXED CLASSES  
DETAILS: -  
COMMENTS:

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