

State – School for the Blind (Washington Federation of State Employees), Decision 11643 (PSRA, 2013)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

STATE – SCHOOL FOR THE BLIND, Employer.	
VALDENE P. KNEISLY, Complainant,	CASE 25380-U-13-6497
vs.	DECISION 11643 - PSRA
WASHINGTON FEDERATION OF STATE EMPLOYEES, Respondent.	ORDER OF DISMISSAL
VALDENE P. KNEISLY, Complainant,	CASE 25379-U-13-6496
vs.	DECISION 11644 - PSRA
STATE – SCHOOL FOR THE BLIND, Respondent.	ORDER OF DISMISSAL

On January 7, 2013, Valdene P. Kneisly (Kneisly) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington Federation of State Employees (union) and State – School for the Blind (employer) as respondents. The complaint against the union was docketed as Case 25380-U-13-6497 and the complaint against the employer as Case 25379-U-13-6496. The complaints were reviewed under WAC 391-45-110,¹ and deficiency notices issued on January 14, 2013, indicated that it was not

¹ 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.

possible to conclude that causes of action existed at that time. Kneisly was given a period of 21 days in which to file and serve amended complaints or face dismissal of the cases.

Kneisly filed additional information on February 8, 2013; the information was docketed as amended complaints. The Unfair Labor Practice Manager dismisses the amended complaints for failures to state causes of action.

DISCUSSION

Case 25380-U-13-6497 – complaint against the union

The allegations of the complaint concern union interference with employee rights against Kneisly. The deficiency notice pointed out the defects to the complaint.

One, the complaint does not contain numbered paragraphs as required by WAC 391-45-050, and the statements of facts is not clear and concise in conformity with WAC 391-45-050(2).

Two, the complaint alleges union interference based upon the union's actions in disciplinary proceedings by the employer against Kneisly, including the union's alleged refusal to file and pursue a grievance on her behalf. Although the union has a duty to fairly represent its members, the Commission does not assert jurisdiction in duty of fair representation matters arising out of the processing of grievances. Kneisly must pursue a remedy through internal union procedures or the courts.

Case 25379-U-13-6496 – complaint against the employer

The allegations of the complaint concern employer interference with employee rights and discrimination against Kneisly. The deficiency notice pointed out the defects to the complaint.

One, the complaint does not contain numbered paragraphs as required by WAC 391-45-050 and does not conform to WAC 391-45-050(2). The statement of facts is not clear and concise, and

there is insufficient information related to certain dates of alleged violations, on the details of alleged employer actions as they relate to Kneisly's union activities, and on Kneisly's employment status and union activities.

Two, the complaint alleges violations of "8(a)1," apparently referring to the National Labor Relations Act (NLRA). The Commission has no jurisdiction over alleged violations of the NLRA. The employer is an agency of the State of Washington; the complaint is governed by the provisions of Chapter 41.80 RCW.

Amended Complaints

The amended complaints were due on February 4, 2013. They apparently were mailed on February 4, and were received by the agency on February 8, 2013. The amendments were untimely under WAC 391-08-120. The amended complaints allege violations of Chapter 28B.52 RCW and Chapter 49.60 RCW. Those statutes pertain respectively to community college faculty and civil discrimination claims. Chapter 28B.52 does not apply to these cases, and the Commission has no jurisdiction over Chapter 49.60 RCW. The amended complaints are procedurally defective and do not cure the defects to the complaints.

The amended statements of facts are substantially the same as the statements of facts to the complaints. Regarding claims against the union, the amended statement of facts is not clear and concise, and the Commission does not assert jurisdiction over allegations of breaches of a union's duty of fair representation arising out of the processing of grievances. Regarding claims against the employer, the amended complaint does not provide facts showing that the employer took action against Kneisly in connection with or in retaliation for her union activities. The amended statement of facts provides insufficient information regarding the employer's alleged actions, and Kneisly's employment status and union activities.

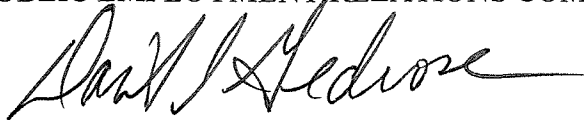
NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices in Cases 25379-U-13-6496 and 25380-U-13-6497 are DISMISSED for failures to state causes of action.

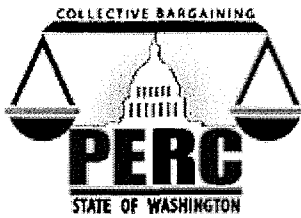
ISSUED at Olympia, Washington, this 19th day of February, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose", with a long horizontal flourish extending to the right.

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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OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 02/19/2013

The attached document identified as: **DECISION 11643 - PSRA** 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: 25380-U-13-06497 FILED: 01/07/2013 FILED BY: PARTY 2
DISPUTE: UN FAIR REP
BAR UNIT: ALL EMPLOYEES
DETAILS: Union
COMMENTS:

EMPLOYER: STATE - SCHOOL FOR THE BLIND
ATTN: RICK HALL
210 11TH AVE SW STE 331
PO BOX 43113
OLYMPIA, WA 98504-3113
Ph1: 360-725-5540

REP BY: GINA COMEAU
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7141 CLEANWATER DR SW
PO BOX 40145
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Ph1: 360-664-4167

PARTY 2: VALDENE KNEISLY
ATTN:
PO BOX 531
WASHOUGAL, WA 98671
Ph1: 360-566-3860

PARTY 3: WA FED OF STATE EMPLOYEES
ATTN: GLADYS BURBANK
1212 JEFFERSON ST SE STE 300
OLYMPIA, WA 98501-2332
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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: *[Signature]* (ROBBIE DUFFIELD)

CASE NUMBER: 25379-U-13-06496 FILED: 01/07/2013 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: ALL EMPLOYEES
DETAILS: Employer
COMMENTS:

EMPLOYER: STATE - SCHOOL FOR THE BLIND
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