

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEATTLE-KING COUNTY BUILDING  
AND CONSTRUCTION TRADES  
COUNCIL,

Complainant,

vs.

SEATTLE SCHOOL DISTRICT,

Respondent.

CASE 25668-U-13-6576

DECISION 11779 - PECB

PRELIMINARY RULING AND  
ORDER OF PARTIAL DISMISSAL

On April 29, 2013, 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 May 6, 2013, indicated that it was not possible to conclude that a cause of action existed at that time for certain allegations of the complaint. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the defective allegations.

The union has not filed any further information. The Unfair Labor Practice Manager dismisses the defective claims for failure to state a cause of action. The preliminary ruling concerning the valid claims is set forth in the Order below. The employer must file and serve its answer to the complaint within 21 days of the date of this Decision.

DISCUSSION

The allegations of the complaint concern employer discrimination (and derivative interference) in violation of RCW 41.56.140(1), by demoting Tighe Peterson and laying off Tyrone Van Brocklin

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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.

and Mike Winters, in reprisal for union activities protected by Chapter 41.56 RCW; and employer domination or assistance of a union in violation of RCW 41.56.140(2) [and derivative interference in violation of RCW 41.56.140(1)], by the aforementioned acts.

The allegations of the complaint concerning discrimination and derivative interference state a cause of action under WAC 391-45-110(2) for further unfair labor practice proceedings before the Commission.

The deficiency notice pointed out the defects to the complaint. The statement of facts specifically alleges employer violations of RCW 41.56.140(1) and RCW 41.56.140(2). However, the only facts presented concern alleged discrimination and derivative interference against Peterson, Van Brocklin, and Winters under RCW 41.56.140(1). It is an unfair labor practice in violation of RCW 41.56.140(2) for an employer to involve itself with the internal affairs or finances of a union, or attempt to create, fund, or control a company union, but the statement of facts contains no information indicating that the employer violated RCW 41.56.140(2).

NOW, THEREFORE, it is

ORDERED

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

Employer discrimination (and derivative interference) in violation of RCW 41.56.140(1), by demoting Tighe Peterson and laying off Tyrone Van Brocklin and Mike Winters, in reprisal for union activities protected by Chapter 41.56 RCW.

Those allegations will be the subject of further proceedings under Chapter 391-45 WAC.

Seattle School District 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, as set forth in Paragraph 1 of this Order, 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. WAC 391-45- 210.

2. The allegations of the complaint concerning employer domination or assistance of a union in violation of RCW 41.56.140(2) [and derivative interference in violation of RCW 41.56.140(1)], by demoting Tighe Peterson and laying off Tyrone Van Brocklin and Mike Winters, in reprisal for union activities protected by Chapter 41.56 RCW, are DISMISSED for failure to state a cause of action.

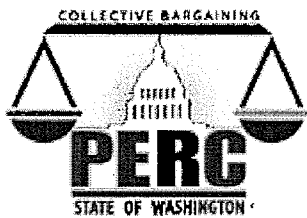
ISSUED at Olympia, Washington, this 6th day of June, 2013.

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

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  
MIKE SELLARS, EXECUTIVE DIRECTOR

### RECORD OF SERVICE - ISSUED 06/06/2013

The attached document identified as: **DECISION 11779 - 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

  
BWS/ROBBIE DUFFIELD

CASE NUMBER: 25668-U-13-06576 FILED: 04/29/2013 FILED BY: PARTY 2  
DISPUTE: ER MULTIPLE ULP  
BAR UNIT: OPER/MAINT  
DETAILS: -  
COMMENTS:

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

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