

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

YVONNE CHANDLER,

Complainant,

vs.

SHORELINE COLLEGE,

Respondent.

CASE 25832-U-13-6619

DECISION 11840 - PSRA

ORDER OF DISMISSAL

SHORELINE COLLEGE,

Employer.

YVONNE CHANDLER,

Complainant,

vs.

WASHINGTON STATE FEDERATION OF  
STATE EMPLOYEES,

Respondent.

CASE 25833-U-13-6620

DECISION 11841 - PSRA

ORDER OF DISMISSAL

On July 8, 2013, Yvonne I. Chandler (Chandler) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Shoreline College (employer) and the Washington Federation of State Employees (union) as respondents. The complaint against the employer was docketed as Case 25832-U-13-6619, and the complaint against the union was docketed as Case 25833-U-13-6620. The complaints were reviewed under WAC 391-45-110,<sup>1</sup> and a combined deficiency notice issued on July 15, 2013, indicated that it was not possible to conclude that causes of action existed at that time. Chandler

<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.

was given a period of 21 days in which to file and serve amended complaints, or face dismissal of the cases.

On July 29, 2013, Chandler filed amended complaints. The cases are consolidated under WAC 10-08-085. The Unfair Labor Practice Manager dismisses the amended complaints for failures to state causes of action.

### DISCUSSION

The allegations of the complaints concern employer and union unfair labor practices in violation of Chapter 41.80 regarding Chandler. The deficiency notice pointed out the defects to the complaints.

Chapter 391-45 WAC governs unfair labor practice complaints. WAC 391-45-050 (rule) concerns the contents of complaints. Complaints that do not conform to the rule cannot be processed. The complaints do not conform to WAC 391-45-050(2), (3), and (6). The complaints do not contain statements of facts or remedy requests. Although Chapter 41.80 RCW appears to apply, since Chandler is not an academic employee, there is no indication of the portions of Chapter 41.80 allegedly violated by the employer and union.

#### Amended Complaints

##### Amended Complaint against the Employer, Case 25832-U-13-6619

Chandler's claims against the employer apparently concern employer discrimination in violation of RCW 41.80.110(1)(c) [and derivative interference in violation of RCW 41.80.110(1)(a)], by extending Chandler's probation and terminating her employment, in reprisal for union activities protected by Chapter 41.80 RCW.

Under RCW 41.80.120(1), complaints alleging unfair labor practices must be filed within six months of the alleged unlawful occurrence. Chandler alleges that her probation was extended from six months to one year on July 12, 2012. A complaint for that claim should have been filed

no later than January 12, 2013. Chandler also alleges that she was terminated from her employment effective on October 8, 2012. A complaint for that claim should have been filed no later than April 8, 2013.

In addition, the Public Employment Relations Commission has jurisdiction only over complaints alleging violations of collective bargaining statutes. Discrimination claims against employers for which the Commission can provide a remedy refer only to discrimination in reprisal for union activities. The Commission does not have jurisdiction over other claims against employers, including invidious discrimination such as age discrimination or other forms of discrimination. The Commission has no jurisdiction over Chapter 49.60 RCW. The Commission also does not have jurisdiction over the interpretation or enforcement of collective bargaining agreements, or over the provisions of Chapter 357-19 WAC.

The Commission would have jurisdiction in this case, even if it were timely, only if the facts indicated that the employer had extended probation and terminated Chandler in reprisal for union activities protected by Chapter 41.80 RCW. The statement of facts does not provide information indicating that Chandler's probation extension and termination were in reprisal for union activities. Chandler does not provide any information on union activities, other than the grievances contemplated or filed after the probation extension and termination. The amended complaint against the employer is untimely and must be dismissed; even if it were timely, the Commission would not have jurisdiction. Chandler must seek a remedy through internal union or State procedures, Federal or State human rights agencies, or the Courts.

Amended complaint against the Union, Case 25833-U-13-6620

Chandler alleges that the union failed or refused to file a grievance on her behalf for the probation extension, and failed or refused to fully pursue a grievance filed for her termination. Thus, Chandler's claims apparently concern union interference with employee rights in violation of RCW 41.80.110(2)(a), by breach of its duty of fair representation in failing or refusing to file or pursue the grievances. Based upon information provided by Chandler, she knew on August 22, 2012, that the union had filed a late grievance over the probation extension. Thus, Chandler should have filed any complaint related to that grievance on or before February 22, 2013.

Chandler indicates that the union filed a grievance for her termination and represented her through Step 3 of the grievance process, but that after she met with the union's statewide grievance committee on January 10, 2013, the union declined to proceed to Step 4 (mediation/pre-arbitration). The only information Chandler gives about the meeting is that she was "asked many questions about my position at Shoreline and the probationary period."

Chandler's claim related to the meeting of January 10, 2013, is timely; information prior to January 8, 2013, is relevant only as background information. A union has a duty to fairly represent its members under the terms of a collective bargaining agreement (CBA), but the Commission does not have jurisdiction over breach of duty of fair representation claims arising exclusively from the processing of claims under a CBA. Those are contractual matters and relief must be sought through internal union procedures or the Courts.

The Commission would have jurisdiction if the facts of the amended complaint indicated that the union's action were arbitrary, discriminatory, or made in bad faith. Discrimination claims against unions may include invidious discrimination, as well as discrimination for union activities. Chandler gives extensive information about her dealing with the union beginning in July 2012, but does not provide facts showing that the union's actions were arbitrary, discriminatory, or in bad faith, either in its failure to file the probation extension grievance, or in its decision to forego Step 4 on January 10, 2013. Chandler refers to age discrimination under RCW 49.60.180(2) in a list of statutes alleged to have been violated, but does not provide any facts indicating that the union's actions were based upon her age.

The amended complaint against the union concerning the probation extension grievance is untimely and must be dismissed. As with the complaint against the employer, even if the claim over the probation extension grievance had been timely, the Commission lacks jurisdiction. The amended complaint against the union concerning the termination grievance must be dismissed for lack of jurisdiction. Chandler must seek a remedy through internal union or State procedures, Federal or State human rights agencies, or the Courts.

NOW, THEREFORE, it is

ORDERED

The amended complaints charging unfair labor practices in Cases 25832-U-13-6619 and 25833-U-13-6620, are DISMISSED for failures to state causes of action.

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

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose", written over a horizontal line.

DAVID I. GEDROSE, Unfair Labor Practice Manager

These will be the final orders of the agency unless notices of appeal are 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 08/06/2013

The attached document identified as: **DECISION 11840 - 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: 25832-U-13-06619 FILED: 07/08/2013 FILED BY: PARTY 2  
DISPUTE: ER MULTIPLE ULP  
BAR UNIT: MIXED CLASSES  
DETAILS: -  
COMMENTS:

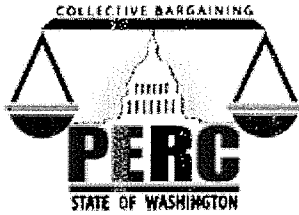
EMPLOYER: C COL DIST 7 - SHORELINE  
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