

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY, Employer.	
SAMNANG PENH, Complainant, vs. WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, Respondent.	CASE 127302-U-15 DECISION 12400 - PECB ORDER OF DISMISSAL

On June 17, 2015, Samnang Penh (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Council of County and City Employees (union) as respondent. The employer, King County Public Health, is not a party to the issues directly before the Commission. However, every case processed by the Commission must arise out of an employment relationship that is subject to the Commission's jurisdiction, and the Commission's docketing procedures require the name of the employer in each case. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on June 30, 2015, indicated that it was not possible to conclude a cause of action existed at that time. The complainant was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

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.

No further information has been filed by the complainant. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

Allegations Against Union

The complainant's job position is included in the Medical Examiner's Office Bargaining Unit represented by the union. The complaint alleges that the union took actions that violated "the Bill of Rights for Union Members" contained in the union's International Constitution. The complaint also describes a variety of concerns with the way the union has scheduled and run its internal union membership meetings, alleging that the union changes the location or time of meetings without providing adequate notice to its membership. Such matters of internal union affairs are not within the jurisdiction of the Commission.

The Commission Doesn't Enforce Union Constitutions or Bylaws

Chapter 41.56 RCW regulates relationships between employers and employees and between employers and the organizations representing their employees, but it does very little in the arena of regulating the internal affairs of labor organizations.

Although unions can acquire the statutory status of exclusive bargaining representative of public employees under Chapter 41.56 RCW, and then have a statutory duty of fair representation toward the employees in the bargaining unit(s) they represent under that statute, unions are fundamentally private organizations. The constitutions and bylaws of unions are the contracts among their members that control how their private organizations are to be operated. Because the Commission generally lacks jurisdiction over disputes concerning violations of union constitutions and bylaws, those claims must be adjudicated under procedures internal to those organizations or through the courts. *Lake Washington School District*, Decision 6891 (PECB, 1999); *King County (Washington State Nurses Association)*, Decision 10389-A (PECB, 2011); *Seattle School District*, Decision 9359-A (EDUC, 2007).

Discrimination Must be Related to Union Activity for the Commission to Have Authority

The Commission doesn't have authority to address general allegations of discrimination, unequal treatment, or hostile work environment. The only type of discrimination that the Commission can address is discrimination for engaging in (or refraining from) protected union activity. The complaint does not allege that any of the adverse actions taken by the union had a causal connection to the complainant's protected union activities.

The facts in the complaint do not state a cause of action under Chapter 41.56 RCW. The complainant can seek to remedy non-union related discrimination and hostile work environment claims through the courts, the Equal Employment Opportunity Commission, or the Washington State Human Rights Commission.

Timeliness and Six-Month Statute of Limitations

The Commission only has the power and authority to evaluate and remedy an unfair labor practice if an unfair labor practice complaint is filed within six months of the occurrence. RCW 41.56.160(1). The complaint was filed on June 17, 2015, and therefore is only timely with regard to triggering events that took place on or after December 17, 2014.

The requirements for filing a complaint charging unfair labor practices are described in WAC 391-45-050. WAC 391-45-050(2) requires the complainant to include "[c]lear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences." The complaint is vague and doesn't include dates. The complaint also lacks numbered paragraphs.

CONCLUSION

The Public Employment Relations Commission does not have authority to resolve all disputes that arise in public employment. The complaint alleges that the union is not following its own constitution and bylaws. The Commission does not have jurisdiction to enforce union constitutions and bylaws. Disputes concerning violations of union constitutions and bylaws must

be adjudicated under procedures internal to those organizations or through the courts. *Lake Washington School District*, Decision 6891; *King County (Washington State Nurses Association)*, Decision 10389-A; *Seattle School District*, Decision 9359-A.

Regarding allegations of discrimination, the complaint does not allege that any of the adverse actions taken by the union had a causal connection to the complainant's protected union activities. The complaint does not state a cause of action for discrimination for union activity or interference under Chapter 41.56 RCW. The complaint also lacks required details, including dates of events, and appears to be untimely.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above-captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 20th day of August, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



JESSICA J. BRADLEY, 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

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RECORD OF SERVICE - ISSUED 08/20/2015

DECISION 12400 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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