

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

R. KEITH HOELLER, Complainant, vs. GREEN RIVER COLLEGE, Respondent.	CASE 127690-U-15 DECISION 12528-A - CCOL DECISION OF COMMISSION
R. KEITH HOELLER, Complainant, vs. GREEN RIVER UNITED FACULTY COALITION, Respondent.	CASE 127691-U-15 DECISION 12529-A - CCOL DECISION OF COMMISSION

R. Keith Hoeller, the complainant.

John Clark, Assistant Attorney General, Attorney General Robert W. Ferguson,
for Green River College.

The Green River United Faculty Coalition did not participate in the appeal.

On October 29, 2015, R. Keith Hoeller filed two unfair labor practice complaints. The first complaint alleged that Green River College (employer) discriminated against Hoeller. The second complaint alleged that the Green River United Faculty Coalition (union) interfered with employee rights by breaching its duty of fair representation. On November 17, 2015, Unfair Labor Practice Manager Jessica J. Bradley issued a deficiency notice. On December 8, 2015, Hoeller filed amended complaints. On January 6, 2016, the Unfair Labor Practice Manager dismissed Hoeller's complaint against the union in its entirety for failure to state a cause of action, dismissed part of Hoeller's complaint against the employer, and issued a partial

preliminary ruling on part of Hoeller's complaint against the employer.¹ Hoeller filed a timely appeal. Hoeller and the employer filed appeal briefs. The union did not participate in the appeal.

When we review orders of dismissal issued at the preliminary ruling stage, we assume all facts are true and provable. *Whatcom County*, Decision 8245-A (PECB, 2004). After reviewing the complaints, amended complaints, and briefs, we affirm the Unfair Labor Practice Manager's decision.

The decision presents two issues relating to the statute of limitations. First, the employer argued that the statute of limitations period under Chapter 28B.52 RCW should be six months. Chapter 28B.52 RCW does not contain a provision establishing a statute of limitations. Initially, none of the statutes administered by the Commission contained statutes of limitations. In the absence of a statute of limitations, the Commission applied a two-year statute of limitations under RCW 4.16.130. *Municipality of Metropolitan Seattle*, Decision 1356-A (PECB, 1982). The Legislature amended all statutes the Commission administers except Chapter 28B.52 RCW to provide six-month statutes of limitations. We decline to depart from established Commission precedent and alter the applicable statute of limitations when the Legislature has expressly declined to do so.

Second, the Unfair Labor Practice Manager identified limitations periods based on the dates of the complaints and amended complaints:

The original complaints were filed on October 29, 2015, and are timely for events that took place on or after October 29, 2013. The amended complaints were filed on December 8, 2015, and are timely for events that took place on or after December 8, 2013.

Filing an amended complaint does not alter the statute of limitations period unless the amended complaint contains new factual allegations. Charges in an amended complaint must either relate to the specific charges in the original complaint or they will be considered new items carrying

¹ *Green River College*, Decision 12528 (CCOL, 2016).

their own statute of limitations from the time of filing. *Fort Vancouver Regional Library*, Decision 2396-A (PECB, 1986). In this case, Hoeller did not allege new factual allegations in the amended complaints. In response to the deficiency notice, Hoeller provided dates and details related to the original complaints. Therefore, his complaints and amended complaints are timely for events that took place on or after October 29, 2013.

ORDER

The Preliminary Ruling and Order of Partial Dismissal and the Order of Dismissal issued by Unfair Labor Practice Manager Jessica J. Bradley are AFFIRMED.

ISSUED at Olympia, Washington, this 23rd day of June, 2016.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

MARK E. BRENNAN, Commissioner

Commissioner McLane did not participate in the consideration or decision in this case.