

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY, Employer.	
DAVID KIRK, Complainant,	CASE 130507-U-18
vs.	DECISION 12879 - PECB
KING COUNTY CORRECTIONS GUILD, Respondent.	ORDER OF DISMISSAL

On March 20, 2018, David Kirk (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission (PERC) under Chapter 391-45 WAC, naming the King County Corrections Guild (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on April 12, 2018, indicating that it was not possible to conclude that a cause of action existed at that time. Kirk was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

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

ISSUES

The complaint alleges:

Union restraint and coercion in violation of RCW 41.56.150(1), within six months of the date the complaint was filed, by posting on the union webpage an employer

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.

endorsement letter for James McComas who was a candidate for the treasurer position in the internal union election.

The complaint lacks paragraph numbers, cites the wrong statute, and lacks facts alleging union interference. The complaint did not describe facts that could constitute violations within the Commission's jurisdiction.

BACKGROUND

According to the complaint, David Kirk is a member of the union and works for the employer at the King County Department of Adult Detention. The union allegedly announced its election nomination period on November 29, 2017. The election included the treasurer position. The election nomination period ended on December 27, 2017. Election ballots were distributed to the union members on January 10, 2018. Four candidates were on the ballot for the treasurer position, which caused a runoff election between the top two candidates, who were Kirk and James McComas. The runoff election commenced on February 14, 2018, and ballots were counted on February 28, 2018.

During the initial election process McComas allegedly produced a campaign flyer featuring his qualifications for treasurer and an endorsement letter written by an employer representative. The union president allegedly posted McComas' endorsement letter from the employer on the union webpage on January 10, 2018.

ANALYSIS

Statutory Reference

Chapter 41.56 RCW regulates collective bargaining by all correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(9), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates. The complaints allege

violations of Chapter 41.56 RCW and Chapter 28B.52 RCW. Chapter 28B.52 RCW regulates community college academic personnel.

This case involves an employee who is a member of a bargaining unit of corrections officers and sergeants at the King County Department of Adult Detention. King County corrections officers and sergeants are covered by Chapter 41.56 RCW. The complainant was provided an opportunity to correct the defect and did not file an amended complaint.

Union Interference

Applicable Legal Standard

Employees covered by Chapter 41.56 RCW have the right to organize and designate representatives of their own choosing for purposes of collective bargaining or exercise other rights under the chapter free from interference, restraint, coercion, or discrimination. RCW 41.56.040. It is an unfair labor practice for a union to interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by Chapter 41.56 RCW. RCW 41.56.150(1).

The Commission explained the test for union interference: “Interference violation exists when an employee could reasonably perceive actions as a threat of reprisal or force or promise of benefit associated with union activity of that employee or of other employees. The employee is not required to show intention or motivation to interfere” *King County (Amalgamated Transit Union, Local 587)*, Decision 8630-A (PECB, 2005).

Application of Standard

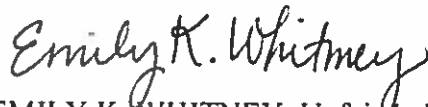
The complaint lacks facts alleging a union interference violation. The complaint alleges that Chapter 41.56 RCW covers the employee involved in the complaint. The complaint also alleges that the union posted the employer endorsement letter for McComas on the union’s webpage. The complaint lacks facts alleging that Kirk reasonably perceived the union’s actions as a threat of reprisal or force, or a promise of benefit, associated with his exercise of rights protected by the applicable collective bargaining laws. The complaint lacks facts alleging union interference. Thus the alleged union interference violation is dismissed.

ORDER

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 13th day of June, 2018.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script that reads "Emily K. Whitney".

EMILY K. WHITNEY, Unfair Labor Practice Administrator

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 06/13/2018

DECISION 12879 – PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: DEBBIE BATES

CASE NUMBER: 130507-U-18

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