

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

RIVERVIEW SCHOOL DISTRICT, Employer.	
WILLIAM SCHLEGEL, Complainant, vs. PUBLIC SCHOOL EMPLOYEES OF WASHINGTON, Respondent.	CASE 132833-U-20 DECISION 13214-A - PECB DECISION OF COMMISSION

William Schlegel, the complainant.

Elyse B. Maffeo, General Counsel, for Public School Employees of Washington.

Lester "Buzz" Porter Jr. and *Tevon F. Edwards Jr.*, Attorneys at Law, Porter Foster Rorick LLP, for the Riverview School District.

On June 11, 2020, William Schlegel (complainant) filed an unfair labor practice complaint against Public School Employees of Washington (union). Schlegel neither served the union nor included a certificate of service with the complaint. An Unfair Labor Practice Administrator issued a deficiency notice on June 18, 2020. The complainant filed an amended complaint on June 18, 2020, but did not serve the union with the amended complaint or include a certificate of service with the amended complaint. After reviewing the filings, the Unfair Labor Practice Administrator dismissed the complaint on July 14, 2020, for failure to state a cause of action. *Riverview School District (Public School Employees of Washington)*, Decision 13214 (PECB, 2020).

On August 3, 2020, the complainant filed a timely appeal. The complainant did not serve the union with the notice of appeal. On August 5, 2020, the union filed a motion to dismiss for failure to serve in compliance with WAC 391-08-120(3). On August 14, 2020, the complainant filed a motion to review the motion to dismiss arguing the union's counsel could not serve as the union's

counsel because she had represented the union in other matters. On August 19, 2020, the complainant responded to the union's motion to dismiss. On September 8, 2020, the union responded to the complainant's motion to review the ability of the union's general counsel to represent the union and requested attorney fees.

ISSUES

There are two issues before the Commission. First, should the appeal be dismissed for failure to properly serve all parties as required by the rule? Second, should the Commission review whether the union's attorney had authority to file the motion to dismiss? We dismiss the appeal because the complainant did not comply with WAC 391-08-120(3) when he did not serve the union with the complaint, amended complaint, and notice of appeal. We dismiss the complainant's motion and decline to rule on whether the union's attorney had authority to file the motion. We deny the union's request for attorney fees.

ANALYSIS

Applicable Legal Standard

A party filing documents with the agency shall serve "all parties on the same day the documents are filed. Service shall be upon counsel and representatives of record, or upon unrepresented parties or upon their agents designated by them or by law." WAC 391-08-120(3). Failure to serve other parties is grounds for dismissal. *Clover Park School District*, Decision 377-A (EDUC, 1978). The agency has applied its service rules equally to parties represented by counsel and those representing themselves. *See State – Administrative Hearings*, Decision 12328 (PSRA, 2015), and *State – Fish and Wildlife*, Decision 11748 (PSRA, 2013).

Application of Standard

The complainant has not disputed that he has not served the union with the complaint, amended complaint, or notice of appeal. The complainant did not submit a notice of service demonstrating that he served the union at any stage of the proceedings. Further, in response to the union's motion, the complainant has not submitted an affidavit or statement disputing the union's allegation that

he did not serve the union. Therefore, we dismiss the appeal for the complainant's noncompliance with WAC 391-08-120(3).

Further, we dismiss the complainant's motion to review the authority of the union's counsel to file the motion to dismiss under the union's bylaws. The Commission does not have general jurisdiction over alleged violations of a union's constitution and bylaws. *King County (Washington State Nurses Association)*, Decision 10389-A (PECB, 2011); *City of Seattle*, Decision 3470-A (PECB, 1990).

We deny the union's request for attorney fees.

CONCLUSION

We dismiss the complainant's appeal because the complainant did not serve the union with the notice of appeal as required by WAC 391-08-120(3). We further dismiss the complainant's motion to review whether the union's attorney could file the motion to dismiss.

ORDER

The complaint charging unfair labor practices filed in the above-captioned matter is DISMISSED.

ISSUED at Olympia, Washington, this 24th day of September, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



RECORD OF SERVICE

ISSUED ON 09/24/2020

DECISION 13214-A - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 132833-U-20

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