

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF BELLINGHAM,  Employer.	
WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES,  Complainant,	CASE 133031-U-20
vs.	DECISION 13267 - PECB
GUILD OF PACIFIC NORTHWEST EMPLOYEES,  Respondent.	ORDER OF DISMISSAL

*Ed Stemler*, General Counsel, for the Washington State Council of County and City Employees.

*Dean Tharp*, Staff Representative, for the Guild of Pacific Northwest Employees.

On September 22, 2020, the Washington State Council of County and City Employees (WSCCCE or complainant) filed an unfair labor practice complaint alleging the Guild of Pacific Northwest Employees (Guild or respondent) committed an unfair labor practice by interfering with protected employee rights and by attempting to induce the City of Bellingham (employer) into committing an unfair labor practice. The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on October 6, 2020, notifying the WSCCCE that a cause of action could not be found

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaint or amended 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.

at that time. The WSCCCE 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 the WSCCCE. The complaint is dismissed as untimely and for failing to state a cause of action.

### BACKGROUND

The Washington State Council of County and City Employees (WSCCCE or complainant) represented a bargaining unit of employees at the City of Bellingham (employer) until May 21, 2020. Prior to this date, bargaining unit members had authorized payroll deductions in favor of the WSCCCE and the complainant and the employer paid the complainant monthly dues purpose to those authorizations.

According to the complaint, this agency certified the Guild of Pacific Northwest Employees (Guild or respondent) as the exclusive bargaining representative of the bargaining unit that the WSCCCE formerly represented. The WSCCCE's complaint quotes a separate unfair labor practice complaint that the Guild filed against the employer where the Guild alleged that it made "inquiries about the advance preparation the [respondent] needed to initiate dues deductions for the Guild members upon certification" and the employer failed to answer those inquiries. The WSCCCE asserts that the employer did not answer the Guild's letter because they knew the Guild was trying to induce the employer into committing an unfair labor practice.

The WSCCCE's complaint references the Guild's complaint a second time where the Guild asserted that it attempted contact the employer concerning due deductions after the election but prior to the issuance of the certification.

ANALYSIS*Union Interference*

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). An 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 the employee or other employees. The complainant is not required to show intention or motivation to interfere . . . ." *King County (Amalgamated Transit Union Local 587)*, Decision 8630-A (PECB, 2005).

The WSCCCE's complaint fails to state a cause of action for union interference because the complaint does not allege any facts demonstrating that one or more employees reasonably perceived the Guild's actions as a threat of reprisal or force or promise of benefit associated with the exercise of rights protected by chapter 41.56.RCW. The complaint only alleges the Guild made "inquiries" to the employer about dues deductions and did not include facts alleging the Guild requested the employer take any specific action. Absent facts demonstrating how one or more employees reasonably perceived the Guild's actions as a threat of reprisal or force or promise of benefit associated with the exercise of rights protected by chapter 41.56.RCW, the WSCCCE's interference allegations must be dismissed.

*Inducing an Employer to Commit an Unfair Labor Practice*

RCW 41.56.150(2) makes it an unfair labor practice for a union to "induce the public employer to commit an unfair labor practice." To induce an employer to commit an unfair labor practice, a union must be requesting that the employer do something in violation of the unfair labor practice statutes administered by this agency. For example, a union cannot demand that an employer discharge an employee for non-payment of a union political action fee or based upon the employee's race, sex, religion, or national origin. *Municipality of Metropolitan Seattle (Amalgamated Transit Union Local 587)*, Decision 2746-A (PECB, 1989). A classic scenario occurs when a union induces the employer to discriminate against an employee based upon union membership. *See State – Natural Resources*, Decision 8458-B (PSRA, 2005).

The WSCCCE's complaint fails to state an "inducement" cause of action because the complaint does not contain facts alleging the Guild actually asked the employer to take any act in violation of chapter 41.56 RCW. For example, paragraph 5 of the complaint quotes the Guild's complaint and the allegation that the Guild made "inquiries" about initiating dues deductions in anticipation of the results of the election. Importantly, nowhere in paragraph 5 of the WSCCCE's are facts demonstrating the Guild actually requested the employer take action that was potentially in violation of chapter 41.56 RCW. Absent specific facts alleging the Guild actually requested the employer take action in violation of chapter 41.56 RCW, the WSCCCE's inducement allegation must be dismissed.

ORDER

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

ISSUED at Olympia, Washington, this 1st day of December, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DARIO DE LA ROSA, 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.



# RECORD OF SERVICE

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ISSUED ON 12/01/2020

DECISION 13267 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

A handwritten signature in black ink, appearing to read "Debbie Bates", is written over a horizontal line.

BY: DEBBIE BATES

CASE 133031-U-20

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