

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

EAST VALLEY SCHOOL DISTRICT – SPOKANE, Employer.	
TERRY KERR, Complainant, vs. PUBLIC SCHOOL EMPLOYEES OF WASHINGTON, Respondent.	CASE 131045-U-18 DECISION 13114-A - PECB ORDER REMANDING FOR COMPLIANCE

Melissa Kerr, for Terry Kerr, the complainant.

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

This matter comes before the Commission for a ruling on the sufficiency of compliance tendered by the Public School Employees of Washington (union).

In *East Valley School District – Spokane*, Decision 13114 (PECB, 2019), Examiner Daniel Comeau concluded that the union violated its duty of fair representation by refusing to provide notes from an investigatory meeting to Terry Kerr (complainant).¹ To remedy the violation, the Examiner ordered the union to provide the requested information to the complainant, post a notice of the violation “in conspicuous places on the employer’s premises where notices to all bargaining

¹ The union did not appeal the Examiner’s decision.

unit members are usually posted,” and to read the notice at a regular meeting of the union’s governing body. Decision 13114 at 25.

On January 17, 2020, Compliance Officer Emily Whitney emailed the parties explaining the compliance process and provided the union with the formal compliance notice. The union provided the requested information to the complainant. The union read the notice at a meeting of its governing body.

On March 10, 2020, the union posted the notice in East Farms Elementary School, where the complainant worked, and in two locations at the district administrative offices. The district shut down due to the pandemic on March 17, 2020, and the notices remained posted until October 30, 2020, by which time the district had reopened.

The parties disagreed about where the union was required to post the notice. Accordingly, Compliance Officer Whitney brought the matter before the Commission at its March 16, 2021, meeting. Both the complainant and the union were present, presented their positions, and responded to questions from the Commission. Compliance Officer Whitney recommended that the union had complied with the requirements to provide the requested information and to read the notice but had not complied with the posting requirement. The Commission took the matter under advisement.

ISSUE

The issue before the Commission is whether the union complied with the requirement to “[p]ost copies of the notice provided by the compliance officer in conspicuous places on the employer’s premises where notices to all bargaining unit members are usually posted.”

The union has complied with the order to read the notice and to provide requested information. We accept the union’s tender of compliance on these matters.

After reviewing the matter, we conclude that the union has not complied with the posting order. As such, we order the union to post notices consistent with this decision. We remand the matter to the Compliance Officer for further processing.

ANALYSIS

At the Commission meeting, and in correspondence to the Compliance Officer, the union has maintained the position that it was required to post the notice only in the district offices and the complainant's work location. Further, the union asserts that it has more than complied by leaving the posting up throughout the summer until school re-opened.

The Examiner ordered the union to post notices "in conspicuous places on the employer's premises *where notices to all bargaining unit members are usually posted.*" Decision 13114 at 25 (emphasis added). By posting the notice only at East Farms Elementary School and the district administrative offices, the union has not satisfied the requirement to post the notices where notices to bargaining members are usually posted. The parties' collective bargaining agreement requires the employer to provide a bulletin board for the use of the union at each work site. *See* Art. IV, Sec. 4.4.1. To satisfy compliance, the union must at a minimum post the notice on all existing bulletin boards provided for the union's use.

Further, the posting period must begin anew. The notice was initially posted on March 10, 2020. By proclamation dated March 13, 2020, the governor ordered all schools in Washington State to close due to the coronavirus disease (COVID-19), effective March 17, 2020. Proclamation by Governor Jay Inslee, No. 20-09, at 2 (Mar. 13, 2020). The district was not operating after that date. Few, if any, employees were likely allowed in the buildings. The union cannot receive credit for a posting that employees did not have an opportunity to see. The postings must remain posted for 60 consecutive days to afford all bargaining unit employees an opportunity to review the notice.

CONCLUSION

The union provided information and read the notice to its governing body as ordered in *East Valley School District – Spokane*, Decision 13114 (PECB, 2019). The union has not complied with the order to post the notices. The union must post the notices on all existing bulletin boards available for union use for a period of 60 consecutive days.

ORDER

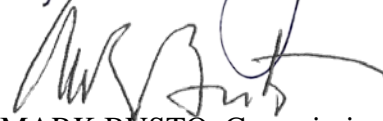
The matter is remanded to the Compliance Officer for processing consistent with this decision.

ISSUED at Olympia, Washington, this 30th day of March, 2021.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner



RECORD OF SERVICE

ISSUED ON 03/30/2021

DECISION 13114-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 131045-U-18

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