

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

RICHLAND SCHOOL DISTRICT,

Employer.

CHRISTINE M. JACOBS,

Complainant,

vs.

RICHLAND EDUCATION ASSOCIATION,

Respondent.

CASE 134375-U-21

DECISION 13408 - EDUC

ORDER OF DISMISSAL

Justine T. Koehle, Attorney at Law, Walker Heye, PLLC, for Christine M. Jacobs.

Ken Hays, President, for the Richland Education Association.

On August 3, 2021, Christine M. Jacobs (complainant) filed an unfair labor practice complaint alleging the Richland Education Association (union) committed an unfair labor practice in violation of RCW 41.59.140(2)(a) by interfering and discriminating against her in retaliation for her exercise of protected rights. The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice issued on August 17, 2021, notified the complainant that a cause of action could not be found at that time. Jacobs was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

¹ 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.

No further information has been filed by Jacobs and the complaint is dismissed for failure to state a cause of action.

BACKGROUND

Jacobs is a certificated teacher at the Richland School District (employer) and her position is represented by the Richland Education Association (union). The union's membership elected Jacobs to serve as president of the union for the 2020-2021 term. According to the complaint, as union president Jacobs received additional compensation as well as release time.

The complaint alleged that on February 10, 2021, Jacobs facilitated a Zoom meeting for the union's executive board. During that meeting Vice President Ken Hays verbally abused and sexually discriminated against Jacobs by screaming at her, including yelling "fuck you" to her and calling her a "fucking bitch." Hays also allegedly told Jacobs that if she did not resign as union president that she would be held responsible for ruining the union. Jacobs filed a complaint with the employer concerning Hays's behavior and the employer ultimately conducted an investigation into the events of that meeting. Jacobs included a copy of the investigators report with her complaint.

According to the report accompanying the complaint, Jacobs notified the union's executive board that she would resign under duress. The report also indicated that the executive board's meeting minutes demonstrated that an unidentified member of the board moved to accept Jacobs's verbal resignation and that motion was seconded. The report does not indicate whether the board voted to accept Jacobs's resignation, but the complaint asserted that Jacobs was forced to resign her position on April 2, 2021. The complaint asserted that following Jacobs' resignation, the union's executive board promoted Hays to union president without a vote of the membership.

Jacobs claimed that she was forced to resign her from her position in violation of chapter 41.59 RCW due to Hays's conduct. Jacobs also asserted that as a result of this forced resignation, the union precluded her from assisting the union and denied employees the right to collectively bargain through a representative of their own choosing when the union's executive board promoted Hays to president in violation of the union's voting requirements.

ANALYSIS

Employees covered by chapter 41.59 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 41.59.060(1). It is an unfair labor practice for a union to restrain or coerce public employees in the exercise of their rights guaranteed by chapter 41.59 RCW. RCW 41.59.140(2)(a).

While it is an unfair labor practice for a union to restrain or coerce an employee in the exercise of protected rights, unions are private organizations and this commission will only assert jurisdiction in limited instances. Chapter 41.59 RCW regulates relationships between employers and employees, and regulates relationships between employers and the organizations representing their employees, but does very little in the arena of regulating the internal affairs of labor organizations. The Commission has declined to assert jurisdiction to regulate the internal affairs of unions in the absence of any specific authority to do so under chapter 41.59 RCW. *See, e.g., Lewis County, Decision 464-A (PECB, 1978) and King County, Decision 4253 (PECB, 1992) (declining to assert jurisdiction to regulate unions who represent employees covered by chapter 41.56 RCW).*

Here, Jacobs' allegations strictly involve internal union matters. All of the events described in the complaint concern conduct and behavior that occurred during a private union executive board meeting. This included how the union selects members of its negotiating team. Accordingly, the allegation that the union denied employees the right to select a representative of their own choosing fails to state a cause of action because the selection process for the negotiating team is an internal union matter.

Because the events described in the complaint occurred during a private union executive board meeting, any assertion that the union violated either its own bylaw or this states laws against discrimination through Hays's conduct must be redressed through either the internal mechanisms of the union's constitution and bylaws or through the courts. *Lake Washington School District (Lake Washington School District Bargaining Council), Decision 6891 (PECB, 1999).*

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 21st day of September, 2021.

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

ISSUED ON 09/21/2021

DECISION 13408 - EDUC 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 134375-U-21

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