

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PASCO SCHOOL DISTRICT, Employer.	
NATHAN COVEY, Complainant, vs. PASCO ASSOCIATION OF EDUCATORS, Respondent.	CASE 138799-U-24 DECISION 13842 - EDUC ORDER OF DISMISSAL

Nathan Covey, the complainant.

Maria Lee, President, for the Pasco Association of Educators.

On March 21, 2024, Nathan Covey (complainant) filed an unfair labor practice complaint against the Pasco Association of Educators (union). Covey was reviewed under WAC 391-45-110.¹ A deficiency notice issued on April 11, 2024, notified Covey that a cause of action could not be found at that time. Covey 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 Covey. The Unfair Labor Practice Administrator dismisses the complaint for failure to state a cause of action.

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.

ISSUE

The complaint alleges the following:

Unidentified Violations

Covey was provided an opportunity to correct the deficiencies. Covey did not file an amended complaint. The complaint is dismissed because it lacks facts alleging a violation this Commission has authority to remedy.

BACKGROUND

Nathan Covey is a Dean of Students at Pasco School District (employer) and is represented by the Pasco Association of Educators (union). Covey filed a complaint that included pictures of email correspondence from March 4, 5, 7, and 8, 2024. The complaint does not include a statement of facts alleging the types of violations that can be raised before PERC. The correspondence was between Covey and Guy Smurthwaite who is allegedly a building representative.

In reviewing the email correspondence, on March 4, 2024, Covey sent an email to five people, including Smurthwaite. The email was directed to Lacey Unseth and requested instructions on how to resign from the union, identified a desire to not pay union dues, and requested a list of alternative associations Covey could contribute to. On March 5, 2024, Smurthwaite responded to Covey's March 4 email notifying Covey that Smurthwaite was not involved in union membership or dues.

On March 7, 2024, Covey resent the same March 4 email to the same five people. On March 8, 2024, Smurthwaite responded again that Smurthwaite was not involved in union membership or dues and requested that he not be included in anymore of Covey's correspondence.

ANALYSIS

Applicable Legal Standard

The role of PERC is to resolve labor relations disputes between unions, employers, and on occasion individual employees. When a complaint is filed with the agency, PERC does not investigate the filing party's claim. Rather, agency staff will review the complaint to determine if it states a cause of action and if it does the case will be forwarded to a PERC hearing examiner who serves as an administrative law judge. When an individual employee files a complaint with PERC, the individual takes on the responsibility for presenting their case before the agency (although the individual may hire an attorney to represent them).

A complaint must comply with the agency's filing rule, WAC 391-45-050. The complaint must contain a statement of facts with numbered paragraphs. The statement of facts should include:

- Specific allegations that constitute a violation of state law and required elements. For a list of types of violations that may be raised before PERC and the required elements please visit: <https://perc.wa.gov/ulp-employee-filing/>;
- Times, dates, and places of occurrences and the names of the participants in a chronological order that explains the alleged unfair labor practice;
- Whether a related grievance has been filed and its status. If you do not know if a grievance has been filed, please indicate so;
- A description of the remedies requested.

Seattle Colleges, Decision 13762-A (CCOL, 2024).

These requirements are necessary to put the respondent on notice of the alleged unfair labor practice and to allow the respondent to reference specific allegations within the complaint when filing an answer.

Finally, it is worth noting that PERC's jurisdiction is limited to labor relations disputes. The agency does not have authority to resolve all disputes that might arise in public employment, such as allegations that an employer discriminated against an employee because of a recognized disability. Just because the complaint does not state a cause of action for an unfair labor practice, it does not necessarily mean the allegations involve lawful activity. It means that the issues are not matters within the purview of PERC. *Tacoma School District (Tacoma Education Association)*, Decision 5086-A (EDUC, 1995).

Application of Standard

In this case, Covey only submitted the ULP complaint form and the above referenced email correspondence. To determine if a violation has occurred, PERC needs to review a statement of facts. The statement of facts describes the actions that occurred that could be an unfair labor practice within PERC's jurisdiction. There was no statement of facts included in the original complaint filing. Covey was provided an opportunity to file and serve an amended complaint. Covey did not file an amended complaint. Because the complaint does not include a statement of facts alleging a violation within the Commission's jurisdiction, the complaint must be 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 14th day of May, 2024.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

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 05/14/2024

DECISION 13842 - 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 blue ink, appearing to read "Debbie Bates", is written over a horizontal line.

BY: DEBBIE BATES

CASE 138799-U-24

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