

Richland School District, Decision 7388 (PECB, 2001)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SCHOOL EMPLOYEES)	
OF WASHINGTON,)	
)	
Complainant,)	CASE 15601-U-01-3954
)	
vs.)	DECISION 7388 - PECB
)	
RICHLAND SCHOOL DISTRICT,)	PARTIAL DISMISSAL AND
)	ORDER FOR FURTHER
Respondent.)	PROCEEDINGS
)	
)	

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by Public School Employees of Washington (union) on January 25, 2001. The complaint alleged that Richland School District (employer) interfered with employee rights and discriminated in violation of RCW 41.56.140(1), dominated or assisted the union in violation of RCW 41.56.140(2), and discriminated against an employee for filing unfair labor practice charges in violation of RCW 41.56.140(3), by placing union president Jay Schenck on suspension with pay, by stating that "we would pay to have him [Schenck] leave," by attempting to dictate the union's choice of representatives by preventing Schenck from contacting employees during work hours as allowed by the parties' collective bargaining agreement, by requiring Schenck to receive clearance from the employer before conducting any union business, all in reprisal for his union activities protected by Chapter 41.56 RCW, by its hostile and intimidating treatment of union field representative Debra Mayo-Kelley, and by its refusal to provide relevant collective

bargaining information requested by the union concerning the suspension of Schenck.

The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice was issued on March 14, 2001, indicating that it was not possible to conclude that a cause of action existed at that time for the allegations of employer refusal to provide information. The deficiency notice stated that the complaint alleges that the employer's refusal to provide information violates RCW 41.56.140(2). Allegations of refusal to provide relevant collective bargaining information requested by a union state a cause of action under the refusal to bargain provisions of RCW 41.56.140(4). The deficiency notice indicated that the union would be given an opportunity to file an amended complaint alleging a violation of RCW 41.56.140(4).

The deficiency notice indicated that the interference, discrimination, domination, and discrimination for filing charges allegations of the complaint under RCW 41.56.140(1), (2), and (3) all state cause of actions, and would be the subject of a preliminary ruling after the union had an opportunity to respond to the deficiency notice.

The deficiency notice advised the union that an amended complaint could be filed and served within 21 days following such notice, and that any materials filed as an amended complaint would be reviewed under WAC 391-45-110 to determine if they stated a cause of action.

¹ At this stage of the proceedings, all of the facts alleged in the 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.

The deficiency notice further advised the union that in the absence of a timely amendment stating a cause of action, the allegations concerning employer refusal to provide information would be dismissed. Nothing further has been received from the union.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference, discrimination, domination, and discrimination for filing charges allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights and discrimination in violation of RCW 41.56.140-(1), domination or assistance of the union in violation of RCW 41.56.140(2), and discrimination against an employee for filing unfair labor practice charges in violation of RCW 41.56.140(3), by placing union president Jay Schenck on suspension with pay, by stating that "we would pay to have him [Schenck] leave," by attempting to dictate the union's choice of representatives by preventing Schenck from contacting employees during work hours as allowed by the parties' collective bargaining agreement, by requiring Schenck to receive clearance from the employer before conducting any union business, all in reprisal for his union activities protected by Chapter 41.56 RCW, and by its hostile and intimidating treatment of union field representative Debra Mayo-Kelley.

The interference, discrimination, domination, and discrimination for filing charges allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Richland School District shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny, or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. See, WAC 391-45-210.

3. The allegation of the complaint concerning employer refusal to provide information in violation of RCW 41.56.140(2) is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 9th day of May, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.