

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

DIANE MOORE,)	
)	
Complainant,)	CASE 11373-U-94-2665
)	
vs.)	DECISION 5288 - EDUC
)	
HIGHLINE SCHOOL DISTRICT,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On October 11, 1994, Diane Moore filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC.¹ The allegations appeared to fall into the following general categories:

(1) Allegations that the employer acted against the complainant for her "[A]ttempts ... to improve working conditions";

(2) Allegations that the employer violated the collective bargaining agreement by not supplying elementary librarians with defined administrative procedures, appropriate materials, or administrative support; and,

(3) Allegations that the employer violated RCW 28A.405, Sections 100-380, and regulations in Chapter 329-191 WAC, by not supplying elementary librarians with defined administrative procedures, appropriate materials, or administrative support, and did not properly observe or evaluate Moore under Chapter 329-191 WAC, or properly administer Chapter 180-46 WAC and WAC 180-16-240.

Regarding category (2) above, the Commission does not assert jurisdiction to remedy violations of collective bargaining

¹ On that same date, Ms. Moore also filed a complaint charging unfair labor practices against the Highline Education Association. That matter is being processed separately under Case 11372-U-94-2664.

agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976).

Regarding category (3) above, the Commission does not have any authority to interpret or enforce any of the cited provisions of the so-called Common School Code, or any rules adopted by the state Superintendent of Public Instruction or the State Board of Education. Thus, the complainant would need to go to the appropriate agency or to a court to pursue her claims under Chapter 28A.405 RCW, Chapter 329-191 WAC, or Chapter 180-46 WAC.

The conclusionary allegations regarding the complainant's attempts to "improve working conditions" on behalf of herself and fellow workers were not sufficient to conclude that the employer may have taken action against her in reprisal for her activity protected by Chapter 41.59 RCW. WAC 391-45-050(3) would require detailed factual allegations, including times, dates, places, and participants in occurrences, to link an employee's protected union activities to retaliatory actions by the employer.

A preliminary ruling letter issued on August 16, 1995, informed the complainant that certain problems existed with the complaint as filed.² Moore was given a period of 14 days following the date of the preliminary ruling letter in which to file and serve an amended complaint which stated a cause of action, or face dismissal of this complaint. In a letter filed on August 30, 1995, Moore explained that her receipt of the preliminary ruling letter had been delayed, and she requested additional time to amend the complaint. The due date for a response was extended, but another month has passed with nothing further heard or received from the complainant.

² At that 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.

NOW, THEREFORE, it is

ORDERED

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

DATED at Olympia, Washington, this 4th day of October, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.