

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ERIC HOOD, Complainant, vs. SOUTH WHIDBEY SCHOOL DISTRICT, Respondent.	CASE 24323-U-11-6233 DECISION 11250 - EDUC ORDER OF DISMISSAL
ERIC HOOD, Complainant, vs. SOUTH WHIDBEY EDUCATION ASSOCIATION, Respondent.	CASE 24324-U-11-6234 DECISION 11251 - EDUC ORDER OF DISMISSAL

On October 11, 2011, Eric Hood (Hood) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the South Whidbey School District (employer) and South Whidbey Education Association (union) as respondents. The filing was separated into one complaint against the employer—Case 24323-U-11-6233, and one complaint against the union—Case 24324-U-11-6234. The complaints were reviewed under WAC 391-45-110,¹ and a combined deficiency notice issued on November 9, 2011, indicated that it was not possible to conclude that causes of action existed at that time. Hood was given a period of 21 days in which to file and serve amended complaints or face dismissal of the cases.

¹ At this stage of the proceedings, all of the facts alleged in the complaints are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaints state claims for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

On November 22, 2011, Hood filed amended complaints. The Unfair Labor Practice Manager dismisses the amended complaints for failure to state causes of action.

DISCUSSION

The allegations of the complaints concern employer interference with employee rights in violation of RCW 41.59.140(1)(a), and union interference with employee rights in violation of RCW 41.59.140(2)(a), by breach of the parties' collective bargaining agreement in failing to choose an arbitrator from a list supplied by the Commission.

The deficiency notice pointed out the defects to the complaints.

Hood filed these complaints alleging that the employer and union interfered with his collective bargaining rights when they breached their collective bargaining agreement by failing to choose an arbitrator from a list supplied by the Commission. The complaints do not conform to the requirements of WAC 391-45-050(2): Hood provides inapplicable citations to various statutes, but does not give facts indicating how his employee rights were violated; Hood provides the date he learned about the alleged breach, but does not give any other dates.

Further, in a decision issued the same day Hood filed the present complaints, the Commission informed Hood that contract violations are not enforceable through the unfair labor practice process. *South Whidbey School District*, Decision 11134-A (EDUC, 2011). This order conforms to that ruling. Although Hood alleges interference violations, such claims would be derivative and thus dependent upon a cause of action existing for the breach of contract allegation. Because the breach of contract claim will not be processed, the derivative interference claim is not viable.

Amended Complaints

The amended complaints re-allege breach of contract, consist solely of argument, and do not cure the defects to the complaints.

NOW, THEREFORE, it is

ORDERED

The amended complaints charging unfair labor practices in Case 24323-U-11-6233 and Case 24324-U-11-6234 are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 12th day of December, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose", written in a cursive style.

DAVID I. GEDROSE, Unfair Labor Practice Manager

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.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 12/12/2011

The attached document identified as: **DECISION 11250 - EDUC** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY/S/ ROBBIE DUFFIELD

CASE NUMBER: 24323-U-11-06233 FILED: 10/11/2011 FILED BY: PARTY 2
DISPUTE: ER INTERFERENCE
BAR UNIT: TEACHERS
DETAILS: -
COMMENTS:

EMPLOYER: SOUTH WHIDBEY S D
ATTN: FRED MCCARTHY
721 CAMANO AVE
PO BOX 346
LANGLEY, WA 98260-0346
Ph1: 360-221-6100

PARTY 2: ERIC HOOD
ATTN:
5256 FOXGLOVE LN
LANGLEY, WA 98260
Ph1: 360-321-4011

PARTY 3: WASHINGTON EDUCATION ASSN
ATTN: AIMEE IVERSON
PO BOX 9100
FEDERAL WAY, WA 98063-9100
Ph1: 253-765-7021 Ph2: 800-622-3393

REP BY: MICHAEL GAWLEY
WASHINGTON EDUCATION ASSN
32032 WEYERHAEUSER WAY S
PO BOX 9100
FEDERAL WAY, WA 98063--910
Ph1: 253-941-6700 Ph2: 800-622-3393



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PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

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PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 12/12/2011

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: S. ROBBIE DUFFIELD

CASE NUMBER: 24324-U-11-06234 FILED: 10/11/2011 FILED BY: PARTY 2
DISPUTE: UN INTERFERENCE
BAR UNIT: TEACHERS
DETAILS: -
COMMENTS:

EMPLOYER: SOUTH WHIDBEY S D
ATTN: FRED MCCARTHY
721 CAMANO AVE
PO BOX 346
LANGLEY, WA 98260-0346
Ph1: 360-221-6100

PARTY 2: ERIC HOOD
ATTN:
5256 FOXGLOVE LN
LANGLEY, WA 98260
Ph1: 360-321-4011

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PO BOX 9100
FEDERAL WAY, WA 98063--910
Ph1: 253-941-6700 Ph2: 800-622-3393