

Mead School District (Mead Classified Public Employees Association), Decision 12208 (PECB, 2014)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PAMELA AMELL, Complainant, vs. MEAD SCHOOL DISTRICT, Respondent.	CASE 26778-U-14-6824 DECISION 12208 - PECB ORDER OF DISMISSAL
MEAD SCHOOL DISTRICT, Employer.	CASE 26779-U-14-6825
----- PAMELA AMELL, Complainant, vs. MEAD CLASSIFIED PUBLIC EMPLOYEES ASSOCIATION, Respondent.	DECISION 12209 - PECB ORDER OF DISMISSAL

On October 13, 2014, Pamela Amell (complainant) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Mead School District (employer) and Mead Classified Public Employees Association (union or MCPEA) as respondents. The complaints were reviewed under WAC 391-45-110,¹

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.

and a deficiency notice issued on October 29, 2014, indicated that it was not possible to conclude that a cause of action existed at that time. The complainant was given a period of 21 days in which to file and serve amended complaints, or face dismissal of the cases.

No further information has been filed by the complainant. The Unfair Labor Practice Manager dismisses the complaints for failure to state a cause of action.

DISCUSSION

The complaint against the Mead School District, case 26778-U-14-6824, alleges that the employer is bargaining with a union executive board that was not duly elected, and that Kenneth Bolles, the union president, lied to union members and cancelled all labor and management meetings five months ago without informing the union membership.

The complaint against the MCPEA, case 26779-U-14-6825, alleges failure of the union to disclose internal officer election results and board minutes to one of its members, concerns about the union's use of MCPEA association leave, and unanswered financial inquires about the status of the MCPEA bank account.

The complaints fail to state a cause of action and raise issues that fall outside of the jurisdiction of this Commission.

Complaint against the Employer

With regard to the complaint filed against the employer, none of the facts alleged in the complaint suggest that the employer is engaged in domination or assistance of a union, involved itself in the internal affairs or finances of the union, or that the employer has attempted to create, fund, or control a "company union." The Commission provided a detailed description of direct dealing and circumvention in *University of Washington*, Decision 11600-A (PSRA, 2013):

It is an unfair labor practice for an employer to circumvent its employees' exclusive bargaining representative and negotiate directly with bargaining unit employees concerning mandatory subjects of bargaining. *Royal School District*, Decision 1419-A (PECB, 1982). In order for a circumvention violation to be found, the complainant must establish that it is the exclusive bargaining representative of the

employees and that the employer engaged in direct negotiations with one or more employees concerning a mandatory subject of bargaining. *City of Seattle*, Decision 3566-A (PECB, 1991).

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Sharing information or listening to employee concerns does not rise to the level of circumvention. *See Kitsap Transit*, Decision 11098-A (PECB, 2012), *aff'd on other grounds*, Decision 11098-B (PECB, 2013) (employer memorandum to employees announcing a unilateral change was not circumvention); *Vancouver School District*, Decision 10561 (EDUC, 2009), *aff'd*, Decision 10561-A (EDUC, 2011)(employer communication of the employer's bargaining proposal to bargaining unit employees was not circumvention or direct dealing); *University of Washington*, Decision 10490-C (employer did not circumvent the union when it met with bargaining unit employees and listened to their concerns).

The facts in the complaint do not show that the employer has engaged in direct negotiations with one or more employees concerning a mandatory subject of bargaining. The complaint does not state a cause of action for an employer unfair labor practice.

Complaint against the Union

With regard to the complaint filed against the union, the union's elections and information about the union's elections and finances all concern internal union processes. The Commission has no authority to intervene in internal union affairs. The union's administration of its internal elections, financial decisions, or records is a matter of the union's own creation. Matters related to a union's constitution or by-laws are contracts between the union and its members. Disputes concerning alleged violations of such contracts are beyond the jurisdiction of the Commission and must be resolved through internal union procedures or the courts. *Community College District 8 - Bellevue (Bellevue Community College Association of Higher Education)*, Decision 10032 (CCOL, 2008); *citing Seattle School District*, Decision 9359-A (EDUC, 2007). The complaint does not state a cause of action for a union unfair labor practice.

CONCLUSION

The Public Employment Relations Commission has jurisdiction over certain employer-employee relationships. The Commission's jurisdiction is limited to the resolution of collective bargaining

disputes between employers, employees, and unions. The agency does not have authority to resolve all disputes that might arise in public employment. *Tacoma School District*, Decision 5086-A (EDUC, 1995). Unions are private organizations. The Commission generally does not get involved in internal union affairs. *Western Washington University (Washington Public Employees Association)*, Decision 8849-B (PSRA, 2006). If the allegations do not rise to the level of an unfair labor practice, that does not necessarily mean the allegations involve lawful activity. It means that the issues are not matters within the purview of the Commission. *Tacoma School District*, Decision 5086-A.

NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices in the above captioned matters are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 4th day of December, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

JESSICA J. BRADLEY, 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.