

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMALGAMATED TRANSIT UNION,  
LOCAL 1384,

Complainant,

vs.

KITSAP TRANSIT,

Respondent.

CASE 24155-U-11-6182

DECISION 11156-A - PECB

DECISION OF COMMISSION

Cline & Associates, by *James M. Cline*, for the union.

Summit Law Group, PLLC, by *Shannon E. Phillips*, for the employer.

On August 1, 2010, the Amalgamated Transit Union, Local 1384 (union) filed an unfair labor practice complaint against Kitsap Transit (employer) alleging that the employer refused to bargain by making changes to the definition of harassment and the practice of disciplinary investigations, without providing an opportunity to bargain. On August 9, 2011, Unfair Labor Practice Manager David I. Gedrose issued a deficiency notice indicating that it was not possible to conclude that a cause of action existed and that the complaint concerned evidentiary issues involving the harassment charges and the validity of the employer's investigations. The union was given 21 days to file and serve an amended complaint curing the defects.

On August 30, 2011, the union filed an amended complaint. In an attempt to cure the defects, the union explained that it objected to the employer's action because it "did not match the existing published policy or practice governing harassment." The union attached the employer's harassment policy and explained that the employer's harassment policy prohibits harassment based on legally protected status.

On September 7, 2011, the Unfair Labor Practice Manager dismissed the union's complaint for failure to state a cause of action.<sup>1</sup> The complaint alleged that past practices exist concerning the definition of harassment and disciplinary investigations. The Unfair Labor Practice Manager found that the complaint concerned evidentiary issues involving the charges of harassment.

The only issue this appeal presents is whether the union's original and amended complaints state a cause of action. When the Commission reviews an order of dismissal issued at the preliminary ruling state of case processing under WAC 391-45-110, it is confined to the assumption uniformly applied in that process: All of the facts alleged in the complaint are assumed to be true and provable. *Whatcom County*, Decision 8246-A (PECB, 2004).

The complaint does not state a cause of action. As the Unfair Labor Practice Manager stated, "Whether the harassment charges against Freer and Bauer and the investigations conducted by the employer in those cases were defective are issues that should be litigated in a grievance arbitration hearing."


NOW, THEREFORE, it is

ORDERED

The Order of Dismissal issued by Unfair Labor Practice Manager David I. Gedrose is AFFIRMED.

ISSUED at Olympia, Washington, this 12<sup>th</sup> day of January, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARILYN GLENN SAYAN, Chairperson

  
PAMELA G. BRADBURN, Commissioner

  
THOMAS W. McLANE, Commissioner

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<sup>1</sup> *Kitsap Transit*, Decision 11156 (PECB, 2011).



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

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MIKE SELLARS, EXECUTIVE DIRECTOR

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

*Majel C. Boudia*  
BY: /s/ MAJEL C. BOUDIA

CASE NUMBER: 24155-U-11-06182 FILED: 08/01/2011 FILED BY: PARTY 2  
DISPUTE: ER UNILATERAL  
BAR UNIT: TRANSIT BUS  
DETAILS: Routed Operators  
COMMENTS:

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