

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SERVICE EMPLOYEES INTERNATIONAL  
UNION LOCAL 925,

Complainant,

vs.

MARYSVILLE SCHOOL DISTRICT,

Respondent.

CASE 136356-U-23

DECISION 13667 - PECB

ORDER OF DISMISSAL

*Ed Washington*, Internal Organizer, for Service Employees International Union Local 925.

*Charles Leitch and Adam G. Cuff*, Attorneys at Law, Patterson Buchanan Fobes & Leitch, Inc., P.S. for the Marysville School District.

On March 31, 2023, the Service Employees International Union Local 925 (union) filed an unfair labor practice complaint against the Marysville School District (employer). The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on April 19, 2023, notified the union that a cause of action could not be found at that time. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

No further information has been filed by the union. The complaint is dismissed for failure to state a cause of action.

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaint or amended 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.

## BACKGROUND

The complaint lacked detailed information identifying the bargaining unit of employees the union represents.<sup>2</sup> The complaint also lacked any information about the individuals involved for either the employer or the union. What could be gleaned from the complaint is that the employer allegedly violated the parties' collective bargaining agreement when filling a new position. The complaint also appeared to allege that the employer violated the collective bargaining agreement when it disciplined an employee.

## ANALYSIS

### *Applicable Legal Standard*

The rules for contents of complaint are contained in WAC 391-45-050. WAC 391-45-050(2)(a) requires the complainant to submit “[c]lear and concise statements of the facts constituting the alleged unfair labor practices, including the times, dates, and places of occurrences and the names of the participants” including bargaining unit employees, union representatives, and employer officials. The failure to identify employer officials who are alleged to have committed unfair labor practice violations is especially problematic as the identity of the employer officials is information that the respondent needs to respond to the complaint. In order to attribute an action to the employer, the complainant needs to identify who was acting on behalf of the employer. The complaint must also include a statement of the remedy sought by the complainant.

### *Application of Standard*

The union's complaint set forth a timeline of events and made general statements about the employer's actions, including how those actions violated the parties collective bargaining agreement. The complaint did not identify the names of individuals employees involved or the

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<sup>2</sup> While not fatal, the complainant also failed to include a copy of the parties most recent collective bargaining agreement which could have been used to help identify the at-issue bargaining unit.

names of the individuals who acted on behalf of the employer. The identity of the employer officials is information that the respondent needed to properly respond to the complaint.

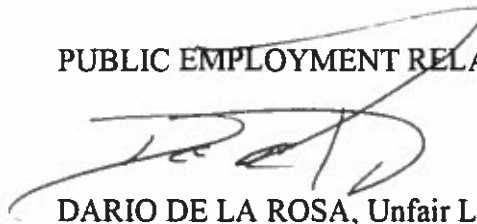
Furthermore, the complaint failed to state how any of the employer's actions are unfair labor practices within the jurisdiction of this Commission. This agency has consistently refused to resolve "violation of contract" allegations or attempts to enforce a provision of a collective bargaining agreement through the unfair labor practice provisions it administers. *Anacortes School District*, Decision 2464-A (EDUC, 1986) (citing *City of Walla Walla*, Decision 104 (PECB, 1976)). The agency has also consistently held that any remedy for a contract violation will have to come through the grievance and arbitration machinery of that contract, or through the superior courts. *South Whidbey School District*, Decision 11134-A (EDUC, 2011) (citing *Tacoma School District*, Decision 5722-E (EDUC, 1997)). Accordingly, the allegations in the complaint claiming the employer violated the parties' collective bargaining agreement are not properly before this agency. Based upon these defects, the union's complaint must be dismissed.

ORDER

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

ISSUED at Olympia, Washington, this 23rd day of May, 2023.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DARIO DE LA ROSA, Unfair Labor Practice Administrator

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.



# RECORD OF SERVICE

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ISSUED ON 05/23/2023

DECISION 13667 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

A handwritten signature in blue ink, appearing to read "Debbie Bates", is written over a horizontal line.

BY: DEBBIE BATES

CASE 136356-U-23

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PARTY 2: SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 925

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