

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ER ALVAREZ,

Complainant,

vs.

SEATTLE SCHOOL DISTRICT,

Respondent.

CASE 138325-U-24

DECISION 13814 - PECB

ORDER OF DISMISSAL

*ER Alvarez*, the complainant.

*Greg Narver*, General Counsel, for the Seattle School District.

On February 2, 2024, ER Alvarez (complainant) filed an unfair labor practice complaint against the Seattle School District (employer). The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on February 29, 2024, notified Alvarez that a cause of action could not be found at that time. Alvarez 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 Alvarez. The Unfair Labor Practice Administrator dismisses the complaint 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.

ISSUE

The complaint alleges the following:

Unidentified unfair labor practices

Alvarez was provided an opportunity to correct the deficiencies. Alvarez did not file an amended complaint. The complaint is dismissed because it lacks facts alleging a violation this Commission has authority to remedy.

BACKGROUND

Alvarez is an employee of the Seattle School District (employer). The complaint does not identify whether Alvarez is represented by a union. Alvarez's complaint includes an Equal Employment Opportunity Inquiry Form but does not include a statement of facts required for filings before PERC. The inquiry form alleges that Alvarez complained to the employer about job discrimination. In May 2023, Alvarez's doctoral dissertation, which was crucial to the employer, was published. In August 2023, Alvarez accepted an interim role with the same employer. For the permanent role, Alvarez was allegedly subjected to a different hiring/promotional process than others and was offered significantly less compensation. Alvarez believes the employer's actions were retaliatory. On an unidentified date, Alvarez publicly testified at a school board meeting as a whistleblower about racial and gender biases on compensation. On February 2 (it is unclear what year) Alvarez received a separation proposal.

ANALYSISApplicable Legal Standard

The role of PERC is to resolve labor relations disputes between unions, employers, and on occasion individual employees. When a complaint is filed with the agency, PERC does not investigate the filing party's claim. Rather, agency staff will review the complaint and statement of facts to determine if it states a cause of action. If it states a cause of action, the case will be forwarded to a

PERC hearing examiner who serves as an administrative law judge. When an individual employee files a complaint with PERC, the individual takes on the responsibility for presenting their case before the agency (although the individual may hire an attorney to represent them).

A complaint must comply with the agency's filing rule, WAC 391-45-050. The complaint must contain a statement of facts with numbered paragraphs. The statement of facts should include:

- Specific allegations that constitute a violation of state law and required elements. For a list of types of violations that may be raised before PERC and the required elements please visit: <https://perc.wa.gov/ulp-employee-filing/>;
- Times, dates, and places of occurrences and the names of the participants in a chronological order that explains the alleged unfair labor practices;
- Whether a related grievance has been filed and its status. If you do not know if a grievance has been filed, please indicate so;
- A description of the remedies requested.

These requirements are necessary to put the respondent on notice of the alleged unfair labor practice and to allow the respondent to reference specific allegations within the complaint when filing an answer.

Finally, it is worth noting that PERC's jurisdiction is limited to labor relations disputes. The agency does not have authority to resolve all disputes that might arise in public employment, such as allegations that an employer discriminated against an employee because of race, national origin and/or ethnicity, sex, color, or disability. Just because the complaint does not state a cause of action for an unfair labor practice, it does not necessarily mean the allegations involve lawful activity. It means that the issues are not matters within the purview of PERC. *Tacoma School District (Tacoma Education Association)*, Decision 5086-A (EDUC, 1995).

Application of Standard

In this case Alvarez only submitted an Equal Employment Opportunity Inquiry Form and alleges general discrimination violations. PERC does not have jurisdiction to remedy general discrimination violations. The Equal Employment Opportunity Commission (EEOC) is a federal agency that also has jurisdiction over general discrimination.

To determine if a violation has occurred, PERC needs to review a statement of facts. The statement of facts describes the actions that occurred that could be an unfair labor practice within PERC's jurisdiction. There was no statement of facts included in the original complaint filing. Alvarez was provided an opportunity to file and serve an amended complaint. Alvarez did not file an amended complaint. Because the complaint does not include a statement of facts alleging a violation within the Commission's jurisdiction, the 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 12th day of April.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
EMILY K. WHITNEY, 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 04/12/2024

DECISION 13814 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 138325-U-24

EMPLOYER: SEATTLE SCHOOL DISTRICT

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