

Tacoma-Pierce County Health Department (Washington State Council of County and City Employees), Decision 14148 (PECB, 2025))

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TACOMA-PIERCE COUNTY HEALTH
DEPARTMENT,

Employer.

ANGELA MOORE,

Complainant,

vs.

WASHINGTON STATE COUNCIL OF
COUNTY AND CITY EMPLOYEES,

Respondent.

CASE 143107-U-25

DECISION 14148 - PECB

ORDER OF DISMISSAL

Angela Moore, the complainant.

Michael Rainey, President/Executive Director, for the Washington State Council of
County and City Employees.

On April 30, 2025, Angela Moore (complainant) filed an unfair labor practice complaint against the Washington State Council of County and City Employees (union). The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice issued on May 20, 2025, notified Moore that a cause of action could not be found at that time. Moore was given a period of 21 days in

¹ 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.

which to file and serve an amended complaint or face dismissal of the case. On May 30, 2025, Moore filed an amended complaint.²

ISSUE

The complaint and amended complaint allege the following:

Union interference in violation of RCW 41.56.150(1) within six months of the date the complaint was filed, by breaching its duty of fair representation owed to Angela Moore by failing to process a grievance submitted by Moore concerning her job classification and workplace retaliation.

The complaint and amended complaint are dismissed. Neither the complaint nor the amended complaint include facts demonstrating that the union breached its duty of fair representation.

BACKGROUND

Moore works for the Tacoma-Pierce County Health Department (employer) as a Health Promotion Technician under project status. Her position is represented by the Washington State Council of County and City Employees (WSCCCE) for purposes of collective bargaining.

According to Moore's original complaint, from 2022 through 2025, Moore performed duties outside of her job classification including leading the Idle 253 community planning, launching the Mobile Resource Vehicle program, and implementing the Street Medicine outreach program. Moore asserts that despite this work she was denied classification upgrades and passed over for permanent roles that she had been performing.

² Moore originally filed complaints against the Tacoma-Pierce County Health Department (case 143106-U-25), the respondent union (case 143107-U-25), and Teamsters Local 117 (case 143108-U-25). Moore's amended complaint indicated that Moore inadvertently identified the Teamsters sought to name the union as the defendant. Because Moore already had a complaint against the union, case 143108-U-25 was closed as withdrawn.

Moore asserted that on April 7, 2025, she submitted a formal grievance to the union regarding misclassification and workplace retaliation. Moore alleged that union representative Patrick McClanley pressured her into withdrawing her complaint and made no further contact with Moore. The original complaint asserted that McClanley later resigned, and Moore was not assigned a union representative. On April 29, 2025, Amanda Peters informed Moore of McClanley's resignation but allegedly offered no alternate support. The complaint does not describe Peters' role.

Moore's original complaint claimed that other staff who filed complaints and grievances received immediate union representation and support but Moore's original complaint did not allege facts demonstrating that the union provided employees of a different race, gender, or sexual orientation a right or benefit that Moore asked for but did not receive. Moore also did not include facts demonstrating that union processed similar grievances for employees who are full dues paying members and the union based such decisions on an employee's membership status.

Moore's amended complaint only included facts concerning the employer's alleged unfair labor practices and did not include any additional facts demonstrating the union breached its duty of fair representation.

ANALYSIS

Applicable Legal Standards

PERC's Role and the Form of the Complaint

The role of Public Employment Relations Commission (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 to determine if it states a cause of action and if it does 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).

Complainants must allege facts addressing the basic elements of a cause of action. *Kitsap County*, Decision 12022-A (PECB, 2014). A complainant must describe the facts with sufficient clarity for agency staff to determine whether a cause of action exists “and then sufficient to put the respondent on notice of the charges that it will be expected to” defend against. *Thurston Fire District 3*, Decision 3830 (PECB, 1991). Thus, for example, those facts must include the time, place, date, and participants in all occurrences. WAC 391-45-050(2)(a). The agency staff reviewing the complaint are not empowered “to fill in gaps in a complaint.” *City of Tacoma*, Decision 4053-B (PECB, 1992); *South Whidbey School District*, Decision 10880-A (EDUC, 2011) (citing *Jefferson Transit Authority*, Decision 5928 (PECB, 1997)). In other words, a complainant must connect the dots by alleging sufficient facts that would support finding a violation and identifying the violation alleged. *Seattle Colleges*, Decision 13762-A (CCOL, 2024).

Duty of Fair Representation

It is an unfair labor practice for a union to interfere with, restrain, or coerce public employees in the exercise of their rights. RCW 41.56.150(1). The duty of fair representation originated with decisions of the Supreme Court of the United States holding that an exclusive bargaining representative has the duty to fairly represent all of those for whom it acts, without discrimination. *Steele v. Louisville and Nashville Railroad Co.*, 323 U.S. 192 (1944). The duty of fair representation arises from the rights and privileges held by a union when it is certified or recognized as the exclusive bargaining representative under a collective bargaining statute. *C-Tran (Amalgamated Transit Union, Local 757)*, Decision 7087-B (PECB, 2002) (citing *City of Seattle (International Federation of Professional and Technical Engineers, Local 17)*), Decision 3199-B (PECB, 1991)).

The Commission is vested with authority to ensure that exclusive bargaining representatives safeguard employee rights. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute and does not assert jurisdiction over breach of duty of fair representation claims arising exclusively out of the processing of contractual grievances. *Bremerton School District*, Decision 5722-A (PECB, 1997). While the Commission does not assert jurisdiction over “breach of duty of fair representation” claims arising exclusively out of the processing of contractual grievances, the

Commission does process other types of “breach of duty of fair representation” complaints against unions. *City of Port Townsend (Teamsters Local 589)*, Decision 6433-B (PECB, 2000). A union breaches its duty of fair representation when its conduct is more than merely negligent; it must be arbitrary, discriminatory, or in bad faith; or be based on considerations that are irrelevant, invidious, or unfair. *City of Redmond (Redmond Employees Association)*, Decision 886 (PECB, 1980); *Vaca v. Sipes*, 386 U.S. 171 (1967). The employee claiming a breach of the duty of fair representation has the burden of proof. *City of Renton (Washington State Council of County and City Employees)*, Decision 1825 (PECB, 1984).

In *Allen v. Seattle Police Officers’ Guild*, 100 Wn.2d 361 (1983), the Washington State Supreme Court adopted three standards to measure whether a union has breached its duty of fair representation:

1. The union must treat all factions and segments of its membership without hostility or discrimination.
2. The broad discretion of the union in asserting the rights of its individual members must be exercised in complete good faith and honesty.
3. The union must avoid arbitrary conduct.

Each of these requirements represents a distinct and separate obligation.

While an exclusive bargaining representative has the obligation to provide fair representation, the courts have recognized a wide range of flexibility in the standard to allow for union discretion in settling disputes. *Allen*, 100 Wn.2d at 375. There is no statutory requirement that a union must accomplish the goals of each bargaining unit member, and complete satisfaction of all represented employees is not expected. A union member’s dissatisfaction with the level and skill of representation does not form the basis for a cause of action, unless the member can prove the union violated rights guaranteed in statutes administered by the Commission. *Dayton School District (Dayton Education Association)*, Decision 8042-A (EDUC, 2004).

Application of Standards

Moore's original and amended complaints against the union failed to comply with WAC 391-45-050 because neither complaint included numbered paragraphs and fails to include a statement of facts should sufficiently describe the times, dates, places, and participants in all occurrences in a chronological order that explained the alleged unfair labor practices. While the failure to properly comply with WAC 391-45-050 by itself is not necessarily fatal to a complaint, Moore's original and amended complaints failed to state a cause of action for a breach of the duty of fair representation.

Moore's assertions concerned the union's failure to advance her grievance. This claim concerned the processing of a contractual grievance and Moore has not demonstrated that the union took action that was arbitrary, discriminatory, in bad faith or be based on considerations that are irrelevant, invidious, or unfair. For example, while Moore alleged that other employee grievances were processed by the union, Moore failed to allege facts demonstrating that the union provided employees of a different race, gender, or sexual orientation a right or benefit that she asked for but did not receive. Moore also failed to include facts demonstrating that union processed similar grievances for employees who are full dues paying members and the union based such decisions on an employee's membership status. absent such facts, the complaint must be dismissed.

ORDER

The original and amended complaints charging unfair labor practices in the above-captioned matter are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 1st day of July, 2025.

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

ISSUED ON 7/01/2025

DECISION 14148 - PECB has been served electronically by the Public Employment Relations Commission to the parties and their representatives listed below. If no email address was provided, a paper copy was sent to the mailing address.

BY: DEBBIE BATES

CASE 143107-U-25

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