

Grays Harbor College (Washington Public Employees Association), Decision 14170 (PSRA, 2025)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GRAYS HARBOR COLLEGE, Employer.	
BILLIE REESE, Complainant, vs. WASHINGTON PUBLIC EMPLOYEES ASSOCIATION, Respondent.	CASE 143137-U-25 DECISION 14170 - PSRA ORDER OF DISMISSAL

Billie Reese, the complainant.

Judy Lumm, Business Representative, for the Washington Public Employees Association.

On May 12, 2025, Billie Reese (complainant) filed an unfair labor practice complaint against the Washington Public Employees Association (union or WPEA). The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice issued on June 2, 2025, notified Reese that a cause of action could not be found at that time. Reese was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

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.

On June 23, 2025, Reese filed an amended complaint. The amended complaint is dismissed for timeliness and failure to state a cause of action.

ISSUE

The amended complaint alleges the following:

Union interference with employee rights in violation of RCW 41.80.110(2)(a) within six months of the date the complaint was filed, by breaching its duty of fair representation by failing to respond to inquiries and representing Reese arbitrarily, discriminatorily, or in bad faith.

The amended complaint is dismissed. Reese fails to allege facts occurring within the six months prior to the date the complaint was filed that state a cause of action.

BACKGROUND

Billie Reese was an office assistant at Grays Harbor College and in a bargaining unit represented by the union. Reese was hired on August 7, 2023. At some point in 2024, Reese was out for three months due to illness. Reese apparently resigned from the employer on November 12, 2024.

In October 2024, the employer attempted to schedule performance expectation meetings with Reese. Reese requested to be allowed to work from home. Her request was denied. On October 30, Reese was informed that she was being investigated. On November 7, 2024, Reese was notified that the employer wanted her to sign a performance development plan that “states that I will not call out for 30 days” and that her request to work from home was denied.

Reese alleges that she was working with a union representative during this time. She alleges that she emailed her union representative in October and November but did not receive any response. Reese informed her union representative that she had health issues and would not sign the performance development plan with the call out restrictions. At some point prior to November 12, 2024, Reese believed that there was a meeting between the employer and her union representatives without her presence or knowledge. Reese emailed her union representatives asking about the

meeting but received no response. Reese asked her representative to file a grievance upon conclusion of the investigation but received no response. Reese alleges that she resigned on November 12, 2024, due to the lack of responses from her union representatives.

After her resignation, Reese communicated with the union to complain about the representation she received. Among Reese's specific complaints was that the union met with the employer about her and without Reese present. The union informed Reese that there had been no meetings with the employer about her and without her presence. Reese ultimately requested a refund of all dues paid to the WPEA. Reese contends that she never heard a final response to that request and filed her unfair labor practice complaint on May 12, 2025.

ANALYSIS

Applicable Legal Standard

Timeliness & Filing Requirements

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 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, that individual takes on the responsibility for presenting their case before the agency (although the individual may hire an attorney to represent them).

There is a six-month statute of limitations for unfair labor practice complaints. "[A] complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission." RCW 41.56.160(1). The six-month statute of limitations begins to run when the complainant knows or should know of the violation. *City of Bellevue*, Decision 9343-A (PECB, 2007) (citing *City of Bremerton*, Decision 7739-A (PECB, 2003)). The start of the six-month period, also called the triggering event, occurs when a potential complainant has "actual or constructive notice of" the complained-of action. *Emergency Dispatch Center*, Decision 3255-B (PECB, 1990).

In unfair labor practice proceedings before the Commission, the ultimate burdens of pleading, prosecution, and proof lie with the complainant. *State – Office of the Governor*, Decision 10948-A (PSRA, 2011) (citing *City of Seattle*, Decision 8313-B (PECB, 2004)). To meet their obligation, 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;
- Times, dates, and places of occurrences and the names of the participants in a chronological order that explains the alleged unfair labor practice;
- Whether a related grievance has been filed and its status;
- 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.

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 has the 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.

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 Legal Standards

Reese's complaint is untimely and must be dismissed. Reese filed her unfair labor practice complaint on May 12, 2025. To be timely and within the six-month statute of limitation, Reese's knowledge of the alleged illegal conduct must have occurred on or after November 12, 2024. Reese is specifically complaining about the representation she received from October 2023 to November 12, 2024, when Reese resigned. Reese would have needed to file prior to November 12, 2024, for any of those complained of events to be timely.

Reese's amended complaint identifies communications with the union after November 12, 2024. That communication involved Reese complaining to the union about the representation she received while employed at the employer and sought a refund from the union. Reese alleges that the union ultimately delayed responding to her request for a refund. To the extent that communication involves events that occurred prior to November 12, 2024, those complaints are not timely. To the extent that Reese alleges that the post November 12, 2024, communication constitutes an unfair labor practice, Reese was not an employee within RCW 41.80.005(6). Because Reese was no longer an employee during that time, she cannot state a cause of action under RCW 41.80.110(2). Reese's amended complaint does not allege timely facts stating a cause of action and must be dismissed.

ORDER

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

ISSUED at Olympia, Washington, this 24th day of July.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

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 7/24/2025

DECISION 14170 - PSRA 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 143137-U-25

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