

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JERILEE ELLIS,

Complainant,

vs.

WASHINGTON STATE DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES,

Respondent.

CASE 143192-U-25

DECISION 14173 -A - PSRA

AMENDED ORDER OF DISMISSAL

*Jerilee Ellis*, the complainant.

*Gina L. Comeau*, Interim Labor Relations Manager, Office of Financial Management for the Washington State Department of Social and Health Services.

On June 2, 2025, Jerilee Ellis (complainant) filed an unfair labor practice complaint against the Washington State Department of Social and Health Services (employer). The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on June 20, 2025, notified Ellis that a cause of action could not be found at that time. Ellis was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On July 25, 2025, this matter was dismissed for timeliness and failure to state a cause of action after no amended complaint was filed. The complainant has clarified that the amended complaint filed in the companion case against the union, case 143191-U-25, should also have been filed in

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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.

this case. After reviewing that amended complaint, it is dismissed against the employer for timeliness and failure to state a cause of action.

### ISSUE

The complaint alleges the following:

#### Harassment and Bullying

The complaint is dismissed for timeliness and failure state a claim. Ellis does not allege any facts against the employer that state a cause of action.

### BACKGROUND

Jerilee Ellis filed this complaint as well as a complaint against the Washington Federation of State Employees (case 143191-U-25). Ellis' complaint against the Washington Federation of State Employees involves claims of a violation of the duty of fair representation. Ellis submitted the same statement of facts for both cases. The statement of facts contains no facts or allegations against the employer.

Ellis did amend her complaint in case 143191-U-25 and attached several emails. That amended complaint against the union was reviewed and a cause of action statement for violation of a duty of fair representation was issued. Because no amended complaint was filed in this case against the employer, this complaint was dismissed on July 25, 2025. *Washington State Department of Social and Health Services*, Decision 14173 (PSRA, 2025).

Upon receiving the dismissal, Ellis contacted this agency to clarify that the amended complaint and attachments filed in case 143191-U-25 should have also been filed in this case.

## ANALYSIS

### Applicable Legal Standards

#### *PERC Timeliness and 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.

#### *PERC Jurisdiction*

The Commission's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees, and unions. The agency does not have authority to resolve all disputes that might arise in public employment. *Tacoma School District (Tacoma Education Association)*, Decision 5086-A (EDUC, 1995). 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 the Commission. *Tacoma School District (Tacoma Education Association)*, Decision 5086-A.

The Commission only has jurisdiction over harassment or bullying allegations alleged to be in retaliation for protected union activity. It is an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their statutory rights. RCW 41.56.140(1). An employer interferes with employee rights when an employee could reasonably perceive the employer's actions as a threat of reprisal or force, or a promise of benefit, associated with the union activity of that employee or of other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996).

It is an unfair labor practice for an employer to discriminate against employees for engaging in union activity. RCW 41.56.140(1). An employer unlawfully discriminates against an employee when it takes action in reprisal for the employee's exercise of rights protected by chapter 41.80 RCW. *University of Washington*, Decision 11091-A (PSRA, 2012); *Educational Service District 114*, Decision 4361-A (PECB, 1994).

Application of Standards

The statement of facts filed with the original complaint did not include any facts or any alleged violations by the employer within six months of the date the complaint was filed. Ellis' statement of facts articulates issues she was having with her employer, but the complaint focuses on the union's representation of Ellis. Moreover, all those issues occurred prior to November 12, 2024, or six months from the date the complaint was filed.

Ellis was given the opportunity to amend the complaint against the employer but, when it appeared that she did not do so, her complaint was dismissed. Ellis's asserts that the amended complaint and attachments that were filed in case 143191-U-25 should have also been filed in this case. Ellis' filing does not make clear that the amended complaint was for both case 143191-U-25 and case 143192-U-25. Moreover, the notice of filing generated by this agency upon the filing only states the filing was for case 143191-U-25. While parties bear the responsibility to ensure that documents are appropriately filed in cases no prejudice will fall to the employer by reviewing the amended complaint in this instance to determine whether it states a cause of action.

Upon reviewing the amended complaint and attached emails, Ellis's amended complaint against the employer must still be dismissed for timeliness and failure to state a cause of action. The amended complaint alleges the employer harassed and bullied Ellis. The amended complaint does not allege any protected union activity that Ellis was engaged in that would be related to claims PERC can hear.

To state a cause of action for discrimination or interference, the facts would have to show union activity, or communication to the employer an intent to do so, prior to the harassment or bullying. Additionally, it would need to include a causal connection between the union activity and adverse action. The claim against the employer described in the amended complaint is not covered by statutes administered by PERC because it does not involve union activity or collective bargaining.

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 31st day of July, 2025.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "M. Sellars", is written over the printed name of the Executive Director.

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 7/31/2025

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DECISION 14173-A - 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 143192-U-25

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