

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ANJELITA LONGORIA FORNARA

Complainant,

vs.

WASHINGTON STATE DEPARTMENT OF  
CHILDREN, YOUTH, AND FAMILIES,

Respondent.

CASE 138881-U-24c

DECISION 14191 - PSRA

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER

*Anjelita Longoria Fornara*, the complainant.

*Cheryl L. Wolfe*, Senior Counsel, and *Jessica M. Erickson*, Assistant Attorney General, Attorney General Nick Brown, for the Washington State Department of Children, Youth, and Families.

BACKGROUND

On December 6, 2023, Anjelita Longoria Fornara (complainant) filed a complaint against the Washington State Department of Children, Youth, and Families (employer). The case was docketed as case number 138047-U-23. A deficiency notice was issued on January 4, 2024. The complainant filed an amended complaint through several lengthy documents submitted January 18 and 19, 2024. The employer did not receive a copy of the amended complaint and on February 8, 2024, the employer unsuccessfully requested that the case be dismissed based on its belief that an amended complaint had not been filed within the requisite time frame. On February 9, 2024, Fornara filed a document entitled, “Request for Temporary Relief under WAC 391-45-430.” On February 13, 2024, it was clarified that this document was a notification that Fornara would be filing a motion for temporary relief, that the correspondence pertained to this case (as Fornara had several open matters with PERC at the time), and that the employer was notified. A cause of action statement was issued on February 20, 2024, finding two causes of action—employer discrimination under RCW 41.80.110(1)(c) by retaliating against the complainant for filing an unfair labor practice complaint and by retaliating against the complainant for the exercise of protected activity.

On February 26, 2024, Fornara filed a motion for temporary relief and supporting affidavit. On March 4, 2024, the employer filed its response to the motion for temporary relief, which included an affidavit and supporting evidence. On the same day, Fornara filed another motion for temporary relief and a motion for summary judgment with supporting affidavits. On April 16, 2024, the Commission issued its decision denying Fornara's motion for temporary relief. *Washington State Department of Children, Youth, and Families*, Decision 13819 (PSRA, 2024). Fornara subsequently appealed this decision to the Superior Court.

Also, on March 12, 2024, Fornara filed a new complaint against the employer, docketed as case 138765-U-24. A cause of action statement was issued on April 23, 2024, finding employer discrimination under RCW 41.80.110(1)(c) by retaliating against the complainant for filing an unfair labor practice complaint and for the exercise of protected activity.

On April 23, 2024, these two cases, 138047-U-23 and 138765-U-24, were consolidated as case 138881-U-24c, and a new cause of action statement was issued. On May 14, 2024, the employer filed its answer. On June 26, 2024, Fornara submitted a motion for temporary relief for six cases including this consolidated case. On August 6, 2024, the Commission issued its decision denying Fornara's motion for temporary relief. *Washington State Department of Children, Youth, and Families (Washington Federation of State Employees)*, Decision 13876-A (PSRA, 2024).

On August 13, 2024, I contacted the parties to begin the hearing scheduling process. Through email we tentatively decided on December 3 and 4, 2024 for our hearing. We held a pre-hearing conference on October 24, 2024, and discussed Fornara's pending public records request to the employer for materials she believed were germane to this case. Through email correspondence Fornara expressed concerns about not receiving the documents. She requested a continuance by email on November 14, 2024. The parties and I agreed to continue the hearing, and we determined that February 27 and 28, 2025, would be the new dates for our hearing.

On January 9, 2025, I sent a follow up email to the parties to ensure that we were on track to hold our hearing in February. That same day Fornara responded expressing concern about a perceived lack of response to her public records request. In its response the employer suggested a pre-hearing conference to address Fornara's concerns. I agreed and responded with several options for this

conference. The employer responded on January 15, 2025, indicating its availability. Fornara responded by email expressing continued concerns about her public records requests. On January 22, 2025, Fornara requested a continuance of three months and proposed that the hearing be moved to May 24, 2025. The parties and I held a second pre-hearing conference on February 5, 2025. The parties jointly determined that the new hearing dates would be May 20–23, 2025.

On February 10, 2025, Fornara submitted a document to PERC requesting that PERC promptly review and adjudicate five cases, including this case. On February 18, 2025, Fornara submitted a document to PERC requesting a large number of subpoenas for five different cases, including this case. This document did not comply with the process for requesting subpoenas as outlined in WAC 391-08-310 as it was for multiple cases and thus included requests for subpoenas for individuals who were not party to this case. Additionally, a request must identify the reasonable scope of testimony or evidence sought, and this was not included in the document. Finally, it is agency practice for a party requesting a subpoena to have first sought voluntary participation from the individual they would subpoena, and only if that voluntary participation is refused may the expense and administrative burden of a subpoena be appropriate. Fornara's subpoena request made no mention of a refusal by the individuals named, and in all pre-hearing discussions the employer had been accommodating of any witness requests Fornara had made.

On May 6, 2025, I sent the parties a check-in email to ensure we were still on track to proceed with our hearing beginning May 20, 2025. On May 7, 2025, Fornara responded to this email stating that she was "writing to formally object to the continuation of proceedings" in this case. That same day I asked Fornara to please clarify if she was asking for the hearing to be postponed and if so for how long. Fornara did not respond to my email and instead submitted a document entitled "motion to stay administrative proceedings" to the general PERC email address. The employer filed its objection to Fornara's motion on May 9, 2025.

On May 14, 2025, I emailed the parties again asking Fornara if she was asking for us to postpone the hearing, at which time employer counsel pointed out Fornara's motion. On May 15, 2025, I denied Fornara's motion, as a request to stay administrative proceedings was not an appropriate request as no final order had been issued in this case. In my email denying the motion I again asked

Fornara if she was seeking to continue the hearing and if so, she must follow the procedure outlined in WAC 391-08-180.

On May 19, 2025, I emailed the parties about uploading documents for the hearing and included a reminder that the hearing was set to begin on May 20, 2025, at 9:00 a.m. I indicated that if Fornara was going to request a continuance she should do so no later than 2:00 p.m. that day and that a request must comply with WAC 391-08-180. At 3:01 p.m. Fornara sent an email stating, "I am requesting a continuance of the hearing." I responded at 3:27 p.m. denying the request for continuation as Fornara failed to comply with the requirements of WAC 391-08-180.

Fornara failed to appear at the hearing for this matter on May 20, 2025. I sent a letter by email that same day informing Fornara that we waited for a half hour after the start time of the hearing, and, as she did not appear, the hearing was cancelled, and the record was closed.

### ISSUES

The issues in this case are as follows:

Employer discrimination in violation of RCW 41.80.110(c) [and if so derivative interference in violation of RCW 41.80.110(1)(a)] within six months of the date the complaint was filed, by retaliating against Anjelita Longoria Fornara for filing an unfair labor practice complaint.

Employer discrimination in violation of RCW 41.80.110(c) [and if so derivative interference in violation of RCW 41.80.110(1)(a)] within six months of the date the complaint was filed, by retaliating against Anjelita Longoria Fornara for her exercise of protected activity.

As Fornara failed to appear at the hearing, no testimony or evidence was submitted, therefore Fornara was unable to meet the requisite burden of proof. Accordingly, the case is dismissed.

### ANALYSIS

#### Applicable Legal Standard(s)

The person filing a complaint charging unfair labor practices with the Commission bears the burden of prosecuting the complaint and the burden of proof. WAC 391-45-270; *King County*,

Decision 6592-A (PECB, 2000). Complainants are not allowed “to prosecute their cases at their own will and convenience.” *King County (ATU Local 587)*, Decision 5739-C (PECB, 1997).

#### Application of Standard(s)

Fornara was aware of all hearing dates and deadlines and was familiar with the process to request a continuance as she had successfully sought a continuance in the instant case. Fornara was informed that the hearing would not be continued and reminded when the hearing was to occur on multiple occasions.

In *King County (ATU Local 587)*, Decision 5739-C, the Commission had an analogous case. Here, the examiner found the following:

Research on agency-wide records indicates that Examiners and the Executive Director have routinely dismissed cases based on lack of prosecution. See, e.g., City of Seattle, Decision 789 (PECB, 1979); Spokane County, Decision 5146 (PECB, 1995); City of Seattle, Decision 4845-B (PECB, 1995); Wenatchee School District, Decision 5258-A (PECB, 1996). This case appears to be one of first impression before the Commission itself, as cases dismissed for lack of prosecution generally are not appealed. It is additionally unique because the complainant is coming in after failing to appear at a scheduled hearing and claiming, in essence, that it was not his intent that the case be dismissed. We cannot, however, allow parties to prosecute their cases at their own will and convenience. The record shows the complainant was provided opportunities to keep the case active, but did not avail himself of those opportunities.

Fornara had previously been granted a continuance in this case prior to her denied continuance, which was submitted the day before the hearing was set to proceed. The last continuance requested was denied as it was neither timely nor articulated a good reason for delay. By failing to appear Fornara failed to prosecute her complaint and thus was unable to meet the burden of proof required.

#### CONCLUSION

As Fornara failed to appear at the hearing, no testimony or evidence was submitted, therefore Fornara was unable to meet the requisite burden of proof. Accordingly, the case is dismissed.

FINDINGS OF FACT

1. The Washington State Department of Children, Youth, and Families (employer) is a public employer within the meaning of RCW 41.80.005(8).
2. Anjelita Longoria Fornara is a public employee as defined by RCW 41.80.005(6).
3. Fornara failed to appear at the hearing for this matter on May 20, 2025.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.80 RCW and chapter 391-45 WAC.
2. By the actions listed in finding of fact 3, the employer did not discriminate against Anjelita Longoria Fornara by retaliating against Fornara for filing an unfair labor practice or engaging in protected activity.

ORDER

The complaint[s] charging unfair labor practices filed in the above-captioned matter[s] are dismissed.

ISSUED at Olympia, Washington, this 19th day of August, 2025.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
ERIN J. SLONE-GOMEZ, Examiner

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.