

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMERICAN FEDERATION OF
TEACHERS, LOCAL 1789,

Complainant,

vs.

SEATTLE COLLEGES,

Respondent.

CASE 129665-U-17

DECISION 12877 - CCOL

ORDER OF DISMISSAL

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by the American Federation of Teachers, Local 1789 (union) on September 5, 2017. The complaint alleged that the Seattle Colleges (employer) refused to bargain in violation of RCW 28B.52.073(1)(e) by unilaterally changing work hours and instructional days, without providing the union an opportunity for bargaining.

The complaint was reviewed under WAC 391-45-110.¹ A preliminary ruling and deferral inquiry was issued on September 21, 2017, finding a cause of action to exist and providing the employer with an opportunity to file an answer to the complaint. The employer was asked to specify in its answer whether deferral to arbitration was requested. In an answer filed on October 9, 2017, the employer requested that the complaint be deferred to arbitration.

The complaint and answer were reviewed under WAC 391-45-110(3). On October 16, 2017, the complaint was deferred to arbitration in a ruling that stated, in pertinent part:

4. The parties are to supply the Commission with a copy of any arbitration award resulting from the arbitration proceedings. The Commission reviews the arbitration award to determine its effect, if any, on this unfair labor practice case. The arbitrator draws his or her authority from the

¹ At this stage of the proceedings, all of the facts alleged in the 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.

collective bargaining agreement, and the question before the arbitrator is the interpretation of the contract. Assuming that the fairness standards for acceptance of an award are otherwise met, the most likely contract interpretations (and their effects on the unfair labor practice case) will be as follows:

- a. If the arbitrator finds the employer's conduct was protected by the collective bargaining agreement, then the arbitrator will likely deny the grievance. It would logically follow that the union's right to bargain the matter will have been waived by the language of the collective bargaining agreement, and the union should anticipate dismissal of the unfair labor practice allegation based on the "waiver" conclusion.

On May 29, 2018, the Commission received a copy of an arbitration award of Arbitrator Richard L. Ahearn regarding the dispute. The award denied the union's grievance, finding that the employer's actions were protected by the collective bargaining agreement.

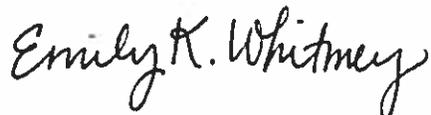
The award has been reviewed under WAC 391-45-110(3). Based upon Arbitrator Ahearn's ruling, the union's right to bargain on the contested issues was waived by the collective bargaining agreement. *City of Spokane*, Decision 2398 (PECB, 1986). The complaint must be dismissed.

ORDER

The complaint charging unfair labor practices in Case 129665-U-17 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 6th day of June, 2018.

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.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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DECISION 12877 – CCOL has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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