

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON FEDERATION OF STATE
EMPLOYEES,

Complainant,

vs.

WASHINGTON STATE EMPLOYMENT
SECURITY DEPARTMENT,

Respondent.

CASE 139158-U-24c

DECISION 14236 - PSRA

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

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On June 24, 2024, the Washington Federation of State Employees (union) filed two unfair labor practice complaints against Washington State Employment Security Department (employer, ESD, or agency) that were subsequently consolidated on June 27, 2024. The union amended its complaint twice, on September 19, 2024, and March 26, 2025. The employer filed answers to the complaints on July 11, 2024, November 13, 2024, and April 11, 2025.

The parties held a hearing before the undersigned on April 16 and 17, 2025, and submitted post-hearing briefs to complete the record on June 13, 2025.

ISSUES

Two issues occurring within six months of the date the complaint was filed were certified for hearing by the April 4, 2025, second amended cause of action statement. The issues for hearing were as follows:

Did the employer discriminate against Clifford Gocha, Darius McCraney, Kimberly Pasoquen, and Ambrosia Burnett by investigating, threatening to discipline, assigning to home, transferring the work locations of, reducing the pay of, demoting, and limiting the ability of these bargaining unit members to contact other coworkers in response to raising concerns regarding working conditions? ¹

Did the employer interfere with these same bargaining unit members' rights by threat of reprisal or force or promise of benefit by investigating, assigning to home, and limiting their ability to contact other coworkers in response to raising concerns regarding working conditions?

The employer did not commit discrimination in violation of RCW 41.80.110(1)(c); that claim is dismissed. The employer did engage in independent interference in violation of RCW 41.80.110(1)(a).

BACKGROUND

The employer helps operate WorkSource job centers around the state, including a WorkSource center in Auburn (WorkSource Auburn). WorkSource centers are a collaboration between various state agencies and educational institutions to provide workforce services to members of the public, especially populations with barriers to employment. Each WorkSource center contains a resource room which is required by law to be open and physically accessible to the public.

Each WorkSource center is headed by an administrator, who oversees a team of supervisors, who then oversee the frontline staff that serve the agency's clientele. The union represents both the supervisors of WorkSource Auburn in a supervisory bargaining unit and the frontline staff in a nonsupervisory bargaining unit. Until approximately August or September 2023, Albert Garza was the WorkSource Auburn administrator. Hetal Karia then became the administrator in October 2023.

The four alleged discriminatees in this case were all members of the WorkSource Auburn "Super Team." Clifford Gocha, Darius McCraney, and Kimberly Pasoquen were supervisors assigned to WorkSource Auburn. Ambrosia Burnett was an administrative assistant who worked closely with the supervisors to support the office's functions.

¹ Kimberly Pasoquen is referred to at various points in the record by her previous legal name, Kimberly Tickner.

In 2023 and 2024, the Super Team members maintained a Microsoft Teams chat channel using their work accounts. Gocha testified at hearing that the purpose of the Super Team chat was for the four employees “to vent, to share thoughts, opinions, ideas . . . to just freely speak” with one another away from other employees and management. The record contains dozens of messages, memes, and GIFs exchanged in the Super Team chat, some of which the union’s brief called “admittedly negative” toward others in the workplace.² The employer discovered the Super Team chat and disciplined three of the four Super Team members, relying, in part, on messages sent or “liked” in the Super Team chat dating between December 6, 2023, and January 17, 2024.

Other events were occurring concurrently in the workplace related to a series of unexpected, impactful visits by a so-called “First Amendment auditor.” The union claims that the Super Team members’ involvement in a petition the union ultimately sent to the employer regarding the First Amendment auditor visits comprises at least a substantial reason for the employer’s investigation and discipline of the Super Team members.

First Amendment Auditor Visits Beginning December 5, 2023

In 2023, employer offices began receiving visits from members of the public referred to at hearing as “First Amendment auditors.” As described by an employer guidance document, First Amendment auditors are members of the public who visit government offices and film their encounters as “a form of activism and citizen journalism to test constitutional rights and to promote transparency and open government.”

On December 5, 2023, the WorkSource Auburn center received its first visit from an alleged First Amendment auditor. The individual arrived dressed in black clothing, a tactical vest, a ski mask, and sunglasses. He carried a camera into the WorkSource Auburn center and began making rounds of the space, filming. He filmed computer screens containing WorkSource clients’ personal information and attempted to access various closed doors within the office. The supervisors and staff attempted to protect client information from being filmed and kept the First Amendment auditor from accessing certain nonpublic areas of the office. After the First Amendment auditor’s first visit, he posted a video documenting his visit to WorkSource Auburn on YouTube.

² A meme is “an amusing or interesting item (such as a captioned picture or video) . . . that is spread widely online especially through social media.” *Meme*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/meme> (last visited Oct. 10, 2025). A GIF is a “computer file format for the compression and storage of visual digital information; *also*: an image or video stored in this format.” *GIF*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/GIF> (last visited Oct. 10, 2025).

The WorkSource Auburn customer phone line then began receiving angry phone calls about the YouTube video. The video had revealed the full name and contact information of McCraney, who had been shown in the video, and McCraney also began receiving threatening emails and voicemails. In some of the messages, the First Amendment auditor or his supporters threatened to return to WorkSource Auburn.³ The First Amendment auditor ultimately did return on several occasions in December 2023 and January 2024.

Events Leading to the February 23, 2024, Union Petition

It is undisputed that WorkSource Auburn employees were deeply affected by the First Amendment auditor visits and related threats. For example, Burnett credibly testified that the visits were very scary experiences that made her feel helpless. Gocha credibly testified that as a veteran with post-traumatic stress disorder he found the visits triggering, that his supervisees were fearful of coming to work, and that one employee was prescribed anxiety medication due to the stress. Several employees testified that the situation provoked fears of an active shooter.

It is also undisputed that a number of WorkSource Auburn employees became concerned and dissatisfied by the employer's responses to the First Amendment auditor visits. Evidence demonstrated that employees began raising concerns about safety and looking for solutions from the day after the first visit, on December 6, 2023.⁴

The employer presented testimony and records detailing the efforts management had taken to converse with employees about the problem and hear their concerns at a series of meetings starting in mid-December.⁵ The employer also presented evidence of its efforts to investigate and implement solutions that would not infringe on the rights of the auditor activists as the employer understood them. Employees were frustrated that the employer would not ban the First

³ Later, in February 2024, the auditors threatened more than just returning to take videos of the WorkSource Auburn office. McCraney received an overtly threatening voicemail from one of the First Amendment auditor supporters, stating, "I hope you're near a hanging tree."

⁴ For example, on December 6, 2023, Gocha noted in the Super Team chat that an employee named Rachel was "stirring up the office about the situation yesterday," with a meme depicting chef Guy Fieri stirring a pot. Burnett and McCraney clicked "laugh" in response to the message. McCraney then responded, "Throw yo salt Rachel," with a GIF depicting a person throwing salt. Burnett and Gocha both clicked "laugh" at that message.

⁵ As detailed below, the Super Team members were present at many of these meetings and engaged in a running side commentary in the Super Team chat, venting their frustrations and expressing disbelief at aspects of management's performance.

Amendment auditor from the building.⁶ Other employee frustrations included the speed of the employer's actions, the perception that management was absent from WorkSource Auburn while frontline staff and supervisors faced the First Amendment auditor threat alone, and the perception that management underestimated the visits' impact on employees.

The First Amendment auditor situation prompted supervisors Gocha, McCraney, and Pasoquen to attend union shop steward training on February 10, 2024. There was a factual dispute between the parties about when the employees officially became shop stewards and when the employer was on notice that they were stewards—whether it was just after the February 10 training or when the union furnished an official monthly list of shop stewards to the employer on March 11, 2024. Deciding between the parties' version of events on this point is not essential for the undersigned examiner's analysis of the case.

On February 23, 2024, union representative Rebekah Kissel transmitted a petition to Regional Operations Manager Teri Holme on behalf of the “concerned staff of WorkSource Auburn.” The cover letter to the petition criticized Karia's and human resources' responses to the First Amendment auditor visits. The letter demanded immediate employer action regarding “[c]ompetent leadership,” “[s]upportive and collaborative communication,” and “[u]pholding the responsibility to keep [employees] safe.” The petition was signed by frontline and supervisory employees at WorkSource Auburn, as well as union-represented employees of other state employers and partners in the building. Some individuals who could not be present to sign the petition sent in email messages indicating their support for the petition. Gocha, McCraney, and Pasoquen were the first three signatories to the petition. Burnett signed the petition at the top of the second page. Kissel assisted employees in putting together the petition, and McCraney kept the petition in his office for employees to sign.⁷

There was limited evidence about the employer's immediate reaction to the union petition. An email from Holme to the WorkSource Auburn staff on March 15, 2024, thanked the staff “for all [their] support and feedback, especially considering recent events at the Auburn WorkSource.” It encouraged employees with the following message: “Please continue sharing any ideas on how we create a safest and most welcoming environment for our team, customer and culture.” The email

⁶ The employer had received advice from the Washington State Attorney General's Office that banning the First Amendment auditor from the building would violate his constitutional rights.

⁷ There was little other detail about the organizing of the petition to substantiate the union's claim in its post-hearing brief that the Super Team members “helped spearhead” the petition in ways that employer officials would be on notice of.

provided a list of updates on security measures at the office and encouraged employees to utilize the Employee Assistance Program.

The record also shows that Marie Burrows, the employer's director of human resources, worked on a draft of a formal, joint union-management response to the petition in April 2024 with Kissel, Deputy Human Resources Director Brad McGarvie, and another union rep. Burrows sent a draft to the three collaborators on April 2, 2024. She wrote, "Let me know what you all think." Kissel provided some edits, and Burrows stated she would make those edits to the draft and send it to Holme for distribution. Kissel responded that that plan sounded good to her.

The response, entitled "Acknowledgment and Action Plan in Response to Your Petition," was sent by Holme to all WorkSource Auburn staff on April 15, 2024, and it was jointly signed by Holme, Burrows, and Kissel. The email acknowledged the receipt of the petition and stated that employees' "concerns [were] valid, and [their] voices [were] important." The email provided a list of updates the employer was actively taking "[in] partnership with the Union." The email assured that no retaliation would result from the petition, promised open communication moving forward to rebuild trust, and stated the signatories were committed to making the office "a place where [employees] feel safe, appreciated, and enjoy coming to work."

Employer Investigation and Discipline

Genesis of the Investigation into Gocha's Conduct

The employer provided un rebutted evidence that it first began investigating Gocha's workplace conduct in late 2023. According to the employer's September 16, 2024, letter to Gocha notifying him that the employer was considering discipline, the investigation arose when Gocha contacted Amy Wear, a human resources consultant 4, in November 2023. Gocha emailed Wear about extending the probation of or terminating one of Gocha's supervisees, and the exchange led Wear to be concerned Gocha's actions against the supervisee could be retaliatory in some manner. After speaking with Gocha on December 19, 2023, Wear requested a "data-pull" of Gocha's emails and Teams conversations. According to the letter, the data pull, "among other concerns, revealed potential misconduct by [Gocha] and other members of the leadership team at the Auburn WorkSource office," which expanded the scope of the investigation.

The testimony of Ismaila Maidadi, director of the employer's WorkSource Services Division, corroborated this version of events. Maidadi explained that the investigators discovered the Super Team chat along with emails from Gocha to a former employee, in which Gocha had shared internal employer information—one of the bases for which he was ultimately disciplined.

Gocha's own remarks in the Super Team chat on December 14, 2023, likewise suggest his awareness at the time that he was under investigation for something. Gocha wrote, "This stays

with us. They are also going to bring me up on charges with EO tomorrow.” He stated that the basis for this belief was information he had received from an employee named Len. Gocha wrote that Len “got a call from EO asking if he felt that [Gocha] violated his rights and they wanted to meet with him immediately.”⁸

The employer did not initially place Gocha on leave during its investigation.

January 17—Gocha Placed on Leave

After an emotional staff meeting on January 17, 2024, regarding the First Amendment auditor visits, a staff member followed Gocha back to his office. Gocha testified that the staff member had wanted to speak with him about a sensitive personal matter and that he locked his office door for their conversation.⁹ While they were speaking, Karia knocked on Gocha’s door. Gocha opened the door and stood in the doorway. Karia said that she wanted to speak with Gocha, and he told her he would need a minute. He closed the door and finished his conversation with the staff member.

Gocha then went to Karia’s office, and Karia asked him who had been in his office and why the door was locked. He indicated only that it had been a staff member having a conversation with him about something personal. The conversation intensified, with Karia insisting that Gocha identify the staff member and Gocha refusing. At some point, Karia stated, “I’m done” and walked away.

Later that day, Karia called Gocha back to her office. Holme was with Karia. The two presented Gocha with a letter placing him on paid home assignment, pending an investigation. The letter stated that the reassignment was “[d]ue to the interactions that occurred [that] morning.” The letter contained a number of directives Gocha must follow during reassignment. For example, the letter directed Gocha not to enter employer offices unless specifically directed in writing by Karia, Holme, or McGarvie.

Subsequent Investigation Events

On February 9, 2024, Wear notified Pasoquen via email that she was being investigated for “possible agency violations due to misuse of agency resources.” The email informed Pasoquen

⁸ Based on the record, EO appears to stand for the Equal Opportunity Office.

⁹ Gocha did not provide testimony explaining what the personal matter was.

that her agency data records would be reviewed as part of the investigation. The employer did not provide further context for this event in its evidence of the investigative timeline.

On March 18, 2024, Karia issued letters to McCraney, Pasoquen, and Burnett, placing them on paid administrative home assignment. They were later instructed that they would report to Regional Director Norton Sweet during the assignment. There was testimony by Maidadi at hearing that one of the reasons the employees were assigned to work with Sweet was because a Super Team member had raised allegations of discrimination against other management officials including Karia, Holme, Maidadi, and McGarvie. Sweet had recently returned from leave, was not acting as a regional director at the time, and was commencing work on special remote assignments, which made him the “perfect person” to supervise the Super Team members.

The employer issued Gocha a similar letter advising him of his continued administrative assignment. The letters indicated that the employer had received information regarding allegations of misconduct that it was investigating.

The letters provided various directives to the employees during their administrative assignment. The employees were prohibited from entering employer offices unless specifically directed in writing or granted advance permission by certain management personnel. They were also directed “not [to] make any contact in any form with any employee of the [employer] during their regularly scheduled work shift without prior written approval . . . unless [they were] contacting a union representative regarding issues related to [their] collective bargaining rights.”

When McCraney’s letter was delivered to him in person by Wear and Karia, he asked why he was being served the letter. McCraney testified that Wear told him the concern was “insubordination.” McCraney asked when he had been insubordinate, and he testified that Wear responded, “That’s a question for Hetal.”

On March 20, 2024, Kissel sent an email to Wear on Pasoquen’s behalf regarding Pasoquen’s home assignment and investigation. Kissel sought clarification on whether Pasoquen’s home assignment was related to the allegations of misuse of agency resources, about which she’d been notified on February 9, or related to new allegations. Wear responded, “The home assignment is based [on] allegations of undermining management.”

Also on March 20, 2024, Wear sent an email seeking approval to pull additional computer and cell phone records for Gocha beginning on January 18, 2024, “due to continued allegations of undermining management.” The request was approved by McGarvie.

There was testimony that several days after the administrative home assignment letters were issued to the Super Team members, Karia resigned as the WorkSource Auburn administrator.

Through June 2024, the employer continued its investigation into these employees' conduct, while they remained on home assignment. Interviews were conducted with the two former administrators, Karia and Garza. The following "Reason for Interview" was stated at the top of the investigator notes from these two interviews:

A preliminary investigation arising from information provided to the Human Resources Division in November 2023 alleging unfair treatment of an employee by a supervisor has resulted in further inquiries and revelations of the potential violation of ESD policies and procedures 1016 (employee Conduct), 0037 (DEI) and 0038 (Fostering a Respectful and Inclusive Workplace. Expecting Respect, Dignity and Civility at Work).

In May 2024, investigators interviewed Gocha, McCraney, and Pasoquen. Burnett was also interviewed, but the investigation notes from her interview were undated. The interview notes characterized the scope of the employer's investigation as follows:

The circumstances surrounding the investigation are centered around allegations that two employees, Albert Garza, WorkSource (WS) Administrator, and Hetal Karia, WS Administrator, were treated contrary to ESD policy by some of the WS Auburn staff, specifically, 3 WorkSource supervisors and the Administrative Assistant.

The allegations brought forward allege that certain employees of the WS Auburn staff colluded together in a deliberate manner with the aim of removing both Administrators from their positions with WS Auburn. The tactics and methods used include suggestions that an administrator is not fit to continue in their position due to personal issues, disrespectful and subversive behaviors by allowing and providing information to staff to which they would otherwise not be included, ignoring an administrators directives, failing to complete assigned tasks, ignoring an administrators attempts to integrate with the team, conspiring to sabotage the administrators efforts to address safety issues, failing to be supportive and inclusive of the administrators, conducting meetings concurrent to all staff meetings and communicating in a disrespectful, non-inclusive manner and providing confidential information to a third party former ESD employee via email involving a current employees personal health information.

The following additional text at the bottom of each summary was struck through. The strike-throughs were not explained by the record.

The allegations brought forward were that tactics used against them resulted in the employees feeling harassed and bullied. It has also been alleged that a another WS employee betrayed a position of trust while a former ESD employee provided advise [sic] and encouragement and several inappropriate comments during email conversations.

Should these allegations be shown to be true, the behavior would be contrary to the Agencies strategic plan and core values.

June 27—Investigation Summary Reports

On June 27, 2024, the investigators furnished investigation summary reports to Maidadi and Burrows outlining “possible violations of conduct” by Gocha, McCraney, Pasoquen, and Burnett. Attached to the reports were investigative materials such as interview notes, emails, and printouts containing hundreds of messages sent in the Super Team chat. The investigation reports alleged that the employees all appeared to have violated employer policy 1016 (“Employee Conduct”), employer policy 0038 (“Fostering a Respectful and Inclusive Workplace”), article 27.5.C of the collective bargaining agreement (CBA) (“Investigatory Interviews”), and article 47 of the CBA (“Workplace Behavior”). The reports for Gocha, McCraney, and Pasoquen alleged that they had also violated “ESD Manager/Supervisor Responsibilities.” Finally, the report for Gocha alleged that he had violated employer policy 2016 (“Technology Acceptable Use”).

Employer policy 1016, as excerpted in the investigation letters, is a policy that “employees shall conduct themselves in a way that contributes to cooperative relationships with coworkers and customers and makes appropriate use of time and resources.” The policy has subparts describing expectations about “Courtesy and Positive Work Attitude” and “Teamwork.” Employer policy 0038 describes “creating a work environment anchored to respect, dignity and civility,” and lists the employee expectation “to set a positive example and behave in a manner that will not offend, embarrass, or humiliate others.” The policy contains examples of disrespectful behavior, such as “[o]ffensive or inappropriate remarks, jokes, gestures, material (electronic or otherwise) or behavior,” “[b]elittling,” “[d]amaging gossip or rumors,” and “[c]overt behavior (inappropriately withholding information, undermining, underhandedness).”

Article 27.5 of the CBA speaks to the role and rights of union representatives in investigatory interviews but includes the language, “Every effort will be made to cooperate in the investigation.” Article 47 of the CBA states the following:

The Employer and the Union agree that all employees should work in an environment that fosters mutual respect and professionalism. The parties agree that inappropriate behavior in the workplace does not further an agency's business needs, employee well-being or productivity. All employees are responsible for contributing to such an environment and are expected to treat others with courtesy and respect.

The "ESD Manager/Supervisor Responsibilities" listed in the investigation letters included, "Lead by example. Create and maintain a workplace that demonstrates respect and professionalism." Policy 2016 states, "ESD systems may only be used in the support of the agency mission, and for official state business."

The largest focus of the investigation summary reports was on messages found in the Super Team chat. The reports found that many of the Super Team chat exchanges had occurred during meetings, including meetings with management officials, as a form of running, private commentary.

Gocha Investigative Report

Some of the messages found to be attributed to Gocha in the Super Team chat included the following:

- A remark about employer Deputy Commissioner Phil White, "I just have one thing to say, and I am done with this entire thing. I want the wheels totally fall off now [sic]. Does he not see that we are in the position that we are in because of the incompetence of our current management?"
- A remark about an employee, "he is acting like he has the medal of honor and is 100% disabled. He is neither" along with a GIF of someone gesturing with an "L" hand sign and the caption "LOSER!"
- A remark about Karia during a meeting, "Don't get a hairpiece yet, we are not finished with you."
- A statement, "I am going to drop a BOMB on Hetal. I am quitting the safety team today."

The investigation report concluded that Gocha's Super Team chat activity was "unprofessional, demeaning, and derogatory" and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

In addition to the Super Team chat-related violations, the investigative report also concluded that Gocha had engaged in the following misconduct:

- Violating policy 1016 by ignoring Karia when she went to Gocha's office and said "good morning" on her first day at WorkSource Auburn on October 31, 2023.
- Violating policy 1016 by blocking the entrance to his office to prevent Karia from entering or seeing who was inside and telling Karia that she was not in a position to know whom he was speaking with on January 17, 2024.
- Violating policy 0038 by "acting in a covert manner" when asking Burnett to schedule a meeting on Garza's calendar—without Garza's knowledge—that included Gocha, McCraney, Pasoquen, and Garza.
- Violating policy 2016 by sending 29 emails containing employer business and employee personal identifying information (PII) to a person no longer employed by the employer.
- Violating article 27.5.C of the CBA by "being uncooperative with the investigation by stating 'I do not recall' (or a similar phrase) 34 times" during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by failing to turn on his laptop camera during the fact-finding meeting and stating that his camera was not working, then later stating that his camera had begun working again when the employer reached out to offer information technology (IT) assistance.

McCraney Investigative Report

Some messages attributed to McCraney in the Super Team chat included the following:

- Remarks during a meeting between WorkSource Auburn staff and management about the First Amendment auditor such as, "logged into the BAFFOONARY NOW"; "Get them Rachel"; "Hetel and Norton both have been..." followed by "EXPOSED!" appearing in a GIF; and "how many times until you are fired" followed by a GIF of someone dropping a pumpkin and saying "Oops."
- Remarks about Holme such as, "Teri is out again on Wednesday She sent an email this morning. Let the games begin. I will be adding this to my notes for sure. Of course they will tuck tail and run when they are dead wrong. If you can take the money with no questions asked, then you should be able to face the music with no problem" followed by the comment, "of course Norton and Teri are both.....RUNNERS" with a GIF of a man running.

The investigation report concluded that McCraney's Super Team chat activity was "unprofessional, demeaning, and derogatory" and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

In addition to the Super Team chat-related violations, the investigative report also concluded that McCraney had engaged in the following misconduct:

- Violating policy 1016 by ignoring Karia when she went to McCraney's office and said "good morning" on her first day at WorkSource Auburn on October 31, 2023.
- Violating policy 1016 by responding to an email from the First Amendment auditor and stating, "Hi Mark Edward Willoughby Jr. Please stop harassing me. I am sure your mother Nicole D'Alessio Willoughby wouldn't appreciate your behavior," which the report dubbed "unprofessional" on December 12, 2023.
- Violating policy 0038 by failing to follow an instruction from Garza in 2023 to increase in-person initial appointments by 35 percent and instead applying the increase to a different type of appointment without checking in with Garza.
- Violating policy 0038 by "acting in a covert manner" when asking Burnett to schedule a meeting on Garza's calendar—without Garza's knowledge—that included McCraney, Gocha, Pasoquen, and Garza.
- Violating article 27.5.C of the CBA by "being uncooperative with the investigation by stating 'I do not recall' (or a similar phrase) 21 times" during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by stating that his external camera was not working during the fact-finding meeting but then, before a scheduled IT meeting to address the issue several weeks later, stating that he had not realized his laptop had a built-in camera he could have used for the meeting and that both cameras were working fine.

Pasoquen Investigative Report

Some messages attributed to Pasoquen in the Super Team chat included the following:

- A remark about Karia during a meeting, "Think she is balding... Worry probably, nerves."
- A flame emoji sent in response to a GIF that said "Burn them all" from Gocha.
- Remarks during a meeting between WorkSource Auburn staff and management about the First Amendment auditor, including a "laugh" reaction to Gocha's message "Time to watch the song and dance" (with a GIF of a panda mascot dancing) and stating, "Oh my. Its kind of awful to watch" and "JM! Hetal and Norton failed us."

The investigation report concluded that Pasoquen's Super Team chat activity was "unprofessional, demeaning, and derogatory" and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

In addition to the Super Team chat-related violations, the investigative report also concluded that Pasoquen had engaged in the following misconduct:

- Violating policy 1016 by ignoring Karia when she went to Pasoquen's office and said "good morning" on Karia's first day at WorkSource Auburn on October 31, 2023.
- Violating policy 1016 by "failing to notify Ms. Karia in a timely manner of a staff member who had decided to retire."
- Violating policy 0038 by "acting in a covert manner" when asking Burnett to schedule a meeting on Garza's calendar—without Garza's knowledge—that included Pasoquen, Gocha, McCraney, and Garza.
- Violating article 27.5.C of the CBA by "being uncooperative with the investigation by stating 'I do not recall' (or a similar phrase) 14 times" during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by failing to turn on her camera during the fact-finding meeting and stating she had not been sent a webcam when she was on home assignment but later stating that her laptop camera was functioning when the employer followed up to offer IT assistance.

Burnett Investigative Report

Some messages attributed to Burnett in the Super Team chat included the following:

- A GIF that said "Here comes the circus," shared in conjunction with the start of an all-staff meeting attended by management.
- A message sharing screenshots of a private conversation between Burnett and Holme followed by Burnett's comment, "I don't know what the plan is but they are up to something."
- A message informing the Super Team members that Burnett was blind carbon copying them on a set of meeting notes she was sending Karia "just in case something gets removed or added" followed by a GIF captioned "Be quiet" with an image of a man making a shushing motion.

The investigation report concluded that Burnett's Super Team chat activity was "unprofessional, demeaning, and derogatory" and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

In addition to the Super Team chat-related violations, the investigative report also concluded that Burnett had engaged in the following misconduct:

- Violating policy 0038 by “acting in a covert manner” when placing a meeting on Garza’s calendar at the request of the three supervisors—without Garza’s knowledge—between Pasoquen, Gocha, McCraney, and Garza.
- Violating policy 0038 by blind carbon copying the Super Team supervisors on an email to Garza on October 10, 2023, and an email to Karia on January 3, 2024 (in conjunction with the Super Team chat message about it above).
- Violating policy 0038 by sending Gocha an email containing a video clip of a woman saying, “This Bitch is getting on my nerves.”
- Violating article 27.5.C of the CBA by “being uncooperative with the investigation by stating ‘I do not recall’ (or a similar phrase) 6 times” during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by failing to turn on her camera during the fact-finding meeting and stating that her camera was not working and that she had submitted an IT ticket to have it repaired—which turned out not to be true—then later stating that her laptop camera was working when the employer followed up to offer IT assistance.

Discipline and Reassignments

During the summer of 2024, Burnett left the employment of the employer, accepting a position with a different state agency. No discipline was therefore issued to her. The three remaining Super Team members were issued pre-disciplinary letters by Maidadi in mid-September 2024. Pre-disciplinary meetings were held with these employees and their union representatives in late September and early October 2024.

In September, the employer also notified Gocha and Pasoquen of their reassignment from WorkSource Auburn. On September 24, 2024, the employer notified Gocha that he was being reassigned to WorkSource Pierce effective October 9, 2024. The letter informed Gocha that, due to the reassignment, he would not be eligible to receive the 5 percent premium pay that employees within King County receive. That same day, the employer notified Pasoquen that she was being reassigned to WorkSource Rainier effective October 9, 2024. Pasoquen testified that she considered the reassignment to be a negative employment action because it increased her commute to one and one-half hours each way and changed her work-life balance. Gocha testified that he considered the reassignment to be adverse, in part, because it brought him under the supervision of Garza again, against whom he had previously filed complaints alleging a hostile work

environment.¹⁰ Gocha and Pasoquen had been stationed at WorkSource Auburn for approximately six years and ten years, respectively.

When asked about the reassignments at hearing, Maidadi testified that the reassignments were less about any particular person and more because of management's view that WorkSource Auburn had been "thriving" in recent months based on employee feedback and customer engagement. Maidadi claimed the reassignments were a non-disciplinary exercise of the employer's management right to reassign employee duty stations under article 36.3 of the CBA. Maidadi claimed the rationale was to move Gocha and Pasoquen to offices "similarly placed, not too far away" and keep McCraney in place at WorkSource Auburn, along with two new supervisors who'd joined the team, so as not to disturb the dynamic there. The union grieved the reassignments on September 25, 2024, claiming they were retaliatory and "given without the employer fulfilling their collective bargaining obligation." Both employees protested their reassignments via letters sent to the employer's commissioner, Cami Feek.

On November 4, 2024, Maidadi issued a disciplinary letter demoting Gocha from a WorkSource specialist 6 to a WorkSource specialist 4, a nonsupervisory position. Maidadi relied on employer policies 1016, 0038, and 2016; articles 27.5.C and 47 of the CBA; core competencies from Gocha's position description; and the "ESD core values" adopted by the agency in May 2023. Maidadi testified that he felt Gocha did not take responsibility or show remorse in his pre-disciplinary meeting. Combined with the offenses Gocha was found to have committed—which included belittling a supervisee who was a military veteran in the Super Team chat and sending employee PII to someone outside the agency—and the expectation that supervisors were supposed to be role models for staff, Maidadi agreed that demoting Gocha was the correct action to take.

On November 4, 2024, Maidadi issued a letter notifying McCraney of a disciplinary three-month 5 percent reduction in pay. Maidadi relied on employer policies 1016 and 0038; articles 27.5.C and 47 of the CBA; core competencies from McCraney's position description; and the "ESD core values" adopted by the agency in May 2023. Maidadi testified that employer policy makes supervisors, managers, and leaders responsible to lead by example and demonstrate respect and professionalism, and McCraney had "failed to do so in the way that he engaged in that Super Team chat, and in the way he treated Ms. Hetal when she started at center, and in the way that he failed to follow through on tasks assigned by Mr. Garza." Maidadi stated that the decision for disciplinary action was based on the investigation—particularly McCraney's "lack of accountability during the pre-disciplinary process" and "failure to take responsibility for [his] actions."

¹⁰ No context appears to have been provided at hearing about the details or disposition of those complaints.

On November 6, 2024, Maidadi issued a letter notifying Pasoquen of a disciplinary three-month 5 percent reduction in pay. Maidadi relied on employer policies 1016 and 0038; articles 27.5.C and 47 of the CBA; core competencies from Pasoquen's position description; and the "ESD core values" adopted by the agency in May 2023. Maidadi did not elaborate on the reasons for Pasoquen's discipline at hearing, but in the disciplinary letter, Maidadi emphasized Pasoquen's role as a supervisor and stated that the temporary reduction in pay was to "impress upon [Pasoquen] the seriousness of [her] actions."

On November 7, 2024, Norton Sweet, who had resumed the role as Central Sound regional director, notified Gocha via email that, effective November 20, 2024, Gocha's "alternative assignment" would end and that he would be reassigned from WorkSource Pierce to the WorkSource office on Joint Base Lewis-McChord.¹¹

Maidadi denied at hearing that the decisions to issue discipline to the Super Team members had any relation to actions the Super Team members took with their union, including signing the February 23, 2024, petition or becoming shop stewards.

ANALYSIS

Applicable Legal Standards

Discrimination

It is an unfair labor practice for an employer to discriminate against public employees for engaging in rights protected by one of the collective bargaining statutes. RCW 41.80.110(c). The complainant maintains the burden of proof in a discrimination case. To prove discrimination, the complainant must first establish a prima facie case by showing that

1. the employee participated in protected activity or communicated to the employer an intent to do so;
2. the employer deprived the employee of some ascertainable right, benefit, or status; and

¹¹ Given the remarks attributed to Gocha during a pre-disciplinary meeting on October 4, 2024—which stated that Gocha had been on home assignment for 261 days—it is unclear whether Gocha had ever actually reported to WorkSource Pierce or if Gocha's first in-person assignment following the home assignment was at WorkSource Joint Base Lewis-McChord in November. Pasoquen is noted to have made a similar comment in her pre-disciplinary meeting, stating that she remained on home assignment for 196 days, which also makes it unclear whether she ever reported to WorkSource Rainier before the final discipline against her was issued.

3. a causal connection exists between the employee's exercise of protected activity and the employer's action.

City of Vancouver v. Public Employment Relations Commission, 180 Wn. App. 333, 348–349 (2014); *Educational Service District 114*, Decision 4361-A (PECB, 1994).

To determine whether activity is protected under the statute, the Commission first looks at whether, on its face, the activity was taken on behalf of the union. *University of Washington*, Decision 11199-A (PSRA, 2013). Activities less closely related to the collective bargaining process can be protected. *Jefferson County Public Utility District No. 1*, Decision 12332-A (PECB, 2015); *Renton Technical College*, Decision 7441-A (CCOL, 2002). However, activities on behalf of coworkers to address terms and conditions of employment are typically not protected if they do not involve a union, as the statutes administered by the Commission do not contain a parallel to the 'concerted protected activities' provisions of the National Labor Relations Act (NLRA). *Teamsters Local Union No. 177 v. Department of Corrections (Cherry)*, 179 Wn. App. 110 (2014); *City of Seattle*, Decision 489 (PECB, 1978), *aff'd*, Decision 489-A (PECB, 1979); *but see Washington State Department of Children, Youth, and Families*, Decision 13647-A (PSRA, 2023) (noting that though state collective bargaining laws do not entail the same breadth of concerted activities as the NLRA, activity necessary to self-organization before a union has been selected may be included).

A union may use circumstantial evidence to establish the prima facie case because parties do not typically announce a discriminatory motive for their actions. *Clark County*, Decision 9127-A (PECB, 2007). Circumstantial evidence consists of proof of facts or circumstances that according to the common experience gives rise to a reasonable inference of the truth of the fact sought to be proved. *State – Corrections*, Decision 10998-A (PSRA, 2011). The timing of an adverse action in relation to protected activity can serve as circumstantial evidence of a causal nexus. *Kennewick School District*, Decision 5632-A (PECB, 1996); *City of Winlock*, Decision 4784-A (PECB, 1995).

If the complaining party establishes a prima facie case, the burden of production shifts to the respondent. *City of Vancouver v. Public Employment Relations Commission*, 180 Wn. App. at 349; *Port of Tacoma*, Decision 4626-A (PECB, 1995). The respondent may articulate a legitimate, nondiscriminatory reason for the adverse employment decision. *City of Vancouver v. Public Employment Relations Commission*, 180 Wn. App. at 349. The employer does not bear the burden of proof to establish the reason. *Port of Tacoma*, Decision 4626-A.

If the respondent meets its burden of production, then the complainant bears the burden of persuasion to show that the employer's stated reason was either a pretext or substantially motivated by union animus. *City of Vancouver v. Public Employment Relations Commission*, 180 Wn. App. at 349. An articulated reason is a pretext when it is not the real reason for the adverse action and

there is no legitimate business justification for the action, or when the employer's proffered explanation is unworthy of credence. *Educational Service District 114*, Decision 4361-A. Deviations in personnel policies and changes in personnel practices have been a basis for finding pretext, where an employer provides unclear or inconsistent explanations for its actions. *City of Kalama*, Decision 7448 (PECB, 2001); *Pasco Housing Authority*, Decision 6248-A (PECB, 1998).

Interference

It is an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their statutory rights. RCW 41.56.045(1). An employer may interfere with employee rights by making statements, through written communication, or by actions. *Snohomish County*, Decision 9834-B (PECB, 2008); *Pasco Housing Authority*, Decision 5927-A (PECB, 1997), *remedy aff'd*, *Pasco Housing Authority v. Public Employment Relations Commission*, 98 Wn. App. 809 (2000). 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 other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996).

To prove an interference violation, the complainant must prove by a preponderance of the evidence that the employer's conduct interfered with protected employee rights. *Grays Harbor College*, Decision 9946-A (PSRA, 2009); *Pasco Housing Authority*, Decision 5927-A. To meet its burden of proving interference, a complainant need not establish that an employee was engaged in protected activity. *State – Washington State Patrol*, Decision 11775-A (PSRA, 2014); *City of Mountlake Terrace*, Decision 11831-A (PECB, 2014). The complainant is not required to demonstrate that the employer intended or was motivated to interfere with an employee's protected collective bargaining rights. *City of Tacoma*, Decision 6793-A (PECB, 2000). Nor is it necessary to show that the employee was actually coerced by the employer or that the employer had union animus. *Id.*

Application of Standards

Despite the volume or vehemence of the evidence offered on these points, this decision does not weigh the adequacy of the employer's response to the First Amendment auditor visits or the validity of the employees' feelings regarding these incidents. Nor does it weigh whether there was "just cause," as that term is used in arbitration, to discipline the Super Team members. Rather, the questions before the undersigned are whether a preponderance of evidence shows that the employer unlawfully discriminated against Gocha, Pasoquen, McCraney, and Burnett for engaging in protected union activity or interfered with their protected rights via their investigative actions towards these employees. The union has not proven its case for discrimination but has shown that the employer committed interference.

*Discrimination**Union's Prima Facie Case*

In its complaint, the union alleged that two types of protected activity formed the basis for the employer's adverse actions: the Super Team members' support of the February 23, 2024, union petition and the Super Team chat messages, which the union alleged in the complaint were precursor protected activity to the petition. In its post-hearing brief, the union seeks to broaden the scope of the protected union activity it argues the Super Team members engaged in, and were disciplined for, to include a range of "protest" actions dating back to December 2023 such as serving on and then resigning from, an employer-run safety committee; having a closed-door conversation with supervisees; and being generally vocal about the First Amendment auditor-related concerns. However, the union did not present a motion to conform the pleadings to the evidence received at hearing and is limited to the theories advanced in its complaint. WAC 391-45-070(2)(c).¹²

With respect to the first prong of the union's prima facie case, the Super Team members' support for and signing of the February 23, 2024, union petition to the employer was clearly protected union activity. It was a petition printed on union letterhead, sent by the employees' union representative to the employer, advocating immediate workplace action on behalf of "the undersigned staff of the WorkSource Auburn office." The union has not proven, however, that the Super Team chat messages constituted protected union activity.

First, the Super Team chat messages were not activities taken on behalf of, or in conjunction with, the union. There is no evidence that the Super Team members held designated positions with the union during the timeframe of the Super Team chat messages relied on by the employer, or that the union had any contemporaneous knowledge of or connection to the Super Team chat. The chat messages were group conversations between rank-and-file colleagues where they vented, engaged in side commentary during meetings, shared opinions and memes about ongoing workplace matters, critiqued management's job performance and response to the First Amendment auditor visits, and at times, engaged in name-calling of management personnel and one supervisee.

The Super Team chat messages are akin to the email messages sent by an alleged discriminatee found not to be protected in *State – Corrections*. *State – Corrections*, Decision 10998-A (PSRA, 2011), *aff'd*, *Teamsters Local Union No. 177 v. Department of Corrections (Cherry)*, 179 Wn.

¹² The Commission is typically confined to adjudicating cases based on facts alleged within the four corners of a complaint. *Bellevue School District*, Decision 10868-A (PECB, 2011). The purpose of the notice pleading requirement is to place a respondent party on notice of the specific allegations to which it must respond or defend. *Bethel School District (Public School Employees of Washington)*, Decision 6847-A (PECB, 2000).

App. 110. In *State – Corrections*, an employee had her email account suspended and was disciplined for sending emails to colleagues that the employer deemed unprofessional. *Id.* One of the emails drew attention to a new hire made by the employer and told employees to “look at her salary.” *Id.* The other drew employees’ attention to a program involving inmates in a way that the employer initially took to be critical. *Id.* The Commission reversed an examiner who found the emails to be protected. *Id.* The Washington State Court of Appeals, Division II, affirmed the Commission, finding that although the employee was a shop steward, the emails lacked a nexus to union business. *Teamsters Local Union No. 177 v. Department of Corrections (Cherry)*, 179 Wn. App. 110, 120–123. The Court of Appeals rejected the argument that the emails ought to be protected as concerted activity, stating, “RCW 41.80.050 plainly does not protect ‘concerted activities.’” *Id.* at 120.

While the union pleaded that the Super Team chat was precursor activity to the petition, there is no mention of the petition effort or petition organizing apparent in the Super Team messages. The union argues that the Super Team chat had “the appearance of having roots in the employees’ protest of the agency’s failure to provide a safe workplace,” but fails to connect this loose argument via any specific facts or caselaw to the Commission’s standard for protected union activity.

The union satisfies the second prong of its prima facie case. The employer’s disciplinary actions toward the three Super Team supervisors, including permanently demoting Gocha and issuing three-month 5 percent reductions in pay to Pasoquen and McCraney, clearly constituted adverse deprivations. Both are forms of discipline expressly recognized by article 27 of the parties’ CBA, and both negatively impact employee compensation, among other adverse effects. Following the Commission’s decision in *City of Seattle*, Decision 13735-A (PECB, 2024), I also find that the employer’s lengthy investigative home assignment, which removed all four Super Team members from the workplace and impacted their working conditions, constituted a deprivation.

Despite the testimony that the employer had a management right to reassign employee duty stations under article 36.3 of the CBA, I also find that the reassignments of Gocha and Pasoquen constituted a type of deprivation that, if proven retaliatory, would result in a finding of unlawful discrimination. First, there was evidence that for Gocha, the duty station reassignments deprived him of the 5 percent pay premium state employees receive for working in King County. Pasoquen provided testimony that the reassignment led her to have a significantly lengthier commute and altered her work-life balance. The moves also deprived Gocha and Pasoquen of their involvement in their long-time workplace communities, including the shop steward roles at WorkSource Auburn that they had assumed in early 2024.

The union primarily bases its argument for a causal nexus between the protected union activity and the adverse employer actions on timing. The union argues that four employees who had no

prior discipline were suddenly placed on leave and investigated after being involved in a union petition, creating a suspicious circumstantial inference. Timing does not support the union's prima facie case with respect to Gocha's home assignment, as Gocha was placed on home assignment January 17, 2024, well before the petition was submitted to the employer on February 23, 2024. Pasoquen was notified that she was under investigation on February 9, 2024, which also predates the petition, but she was not placed on home assignment until March 18, 2024, along with McCraney and Burnett. The disciplines issued to Gocha, McCraney, and Pasoquen all postdated the petition effort.

While not the strongest circumstantial case, the absence of prior discipline, the seriousness of the discipline ultimately issued, and the timing nexus suggesting that the employee's participation in the petition could have heightened the employer's interest in continuing to investigate and discipline them suffices to meet the union's prima facie burden.

Employer's Burden of Producing Legitimate, Nondiscriminatory Reason

The employer satisfied its burden of producing legitimate, nondiscriminatory reasons that are unrelated to the union's February 23, 2024, petition for its investigation, discipline, and reassignment of the Super Team members. The employer provided evidence of the genesis of its investigation against Gocha and the broadening of that investigation to include the other Super Team members upon the discovery of the Super Team chat. The discipline was supported by the evidence of the employer's investigation and findings and by the accompanying testimony of the disciplinary decision-maker, Maidadi. Maidadi also testified to the employer's right to reassign the duty stations of employees per the CBA and shared the thinking behind the decision to reassign two of the three Super Team members away from WorkSource Auburn.

Union's Burden of Proving Pretext or Substantial Motivating Factor

The union argues both that the employer's asserted nondiscriminatory reasons were pretext for discrimination and that the Super Team members' participation in the February 23, 2024, petition was a substantial motivating factor for the employer's actions. The union fails to make its case.

Notably, there are a number of things not argued by the union. First, the union does not appear to argue that the Super Team members failed to engage in the acts found to be misconduct by the employer. For example, the authenticity of the Super Team chat messages and other electronic messages relied on by the employer in its investigation reports was not challenged, and the union offered no rebuttal or even contextual evidence about Gocha sending emails containing employer business and employee PII to a former employee.

The union also does not challenge the validity of, or employees' notice of, any of the policies relied upon by the employer for the discipline. The union cites no direct evidence of any anti-union

animus from management officials in this case or a negative reaction by management officials to receiving the union's petition. And while the union accuses the employer in its post-hearing brief of failing "to justify the severity of the discipline" by providing evidence "of similar disciplines for similar conduct (similar policy violations) by other employees," the union offers no evidence of its own to help the undersigned assess its argument that the level of discipline imposed by the employer was anomalous in the context of these parties' relationship for the types of offenses at issue, especially when found to be committed by supervisors.

Instead, the union offers a patchwork of circumstantial factors that fail to stand up upon scrutiny. The union first takes aim at the employer's reassignment of the Super Team members to Sweet for remote work during their investigative home assignment. The union argues that Maidadi's testimony was inconsistent about the reasons Sweet became the Super Team members' temporary manager and thus showed pretext. The undersigned does not find the testimony of Maidadi on direct examination or on cross-examination to be the "gotcha" moment the union alleges.

On direct examination, Maidadi explained two reasons why Sweet was the "perfect person" to oversee the Super Team members during that time: first, that a discrimination allegation against Karia, Holme, McGarvie, and Maidadi had been filed "by some of the supervisors," and the employer had a practice of not having someone involved in an investigation supervise a staff member that filed an allegation against them; and two, that Sweet had just returned from medical leave and was going to be working on special projects on which he required assistance.

On cross-examination, Maidadi was asked which of the Super Team members reassigned to Sweet had filed a discrimination allegation against the other management figures, and he readily admitted just McCraney. The union makes much of this in its brief—though it appeared to the examiner that "some" was a colloquial and accurate description, not a commitment to a hard number of employees that Maidadi was then proven to be false about.¹³ Maidadi also remained consistent on direct and cross-examination that Sweet's work on a special assignment was another factor in the perfectness of the reassignment, from his perspective, which the union's argument fails to address.

The union also argues that the March 20, 2024, email from Wear seeking approval for a data pull of Gocha's records proves the employer "did not ask for the data pull that contained the chats the employees were supposedly disciplined for until after starting the investigation process." That

¹³ Two of the dictionary definitions for "some" are "being of an unspecified amount or number" and "being at least one → used to indicate that a logical proposition is asserted of only a subclass or certain members of the class denoted by the term which it modifies." *Some*, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/some> (last visited Oct. 12, 2025).

argument does not appear supported by the evidence and may even defy logic. Wear's March 20, 2024, email specifically asked for records dated January 18, 2024, to current. The union fails to explain how the employer would have obtained the December 6, 2023, to January 17, 2024, Super Team chat messages if this had been its only data pull. The union also failed to rebut the testimony of Maidadi and the statements in the employer's September 16, 2024, pre-disciplinary letter that the employer had pulled data records about Gocha as early as December 2023, leading to the Super Team chat and evidence that he had sent emails containing employer business and employee PII to a former employee.

The union also claims that the discipline issued was disproportionate to the offenses found. As discussed earlier, the union offered no evidence at hearing that the employer had issued lesser discipline to anyone else in the past, including supervisors, for similar types of offenses. The only elaboration on this argument by the union in its brief is the contention that a permanent demotion would be a disproportionate offense for failing to wish a manager "good morning." Gocha was not, however, permanently demoted just for failing to wish Karia "good morning." Maidadi was asked about that offense on cross-examination, and he agreed that, by itself, he would not consider failing to wish someone "good morning" a punishable offense.

The only argument with any merit is the thin timing connection discussed in the union's prima facie case. While sufficient to force the employer to produce legitimate, nondiscriminatory justifications for its actions, the union's timing nexus is not compelling enough to overcome the employer's narrative of events, which was comprehensive, sensical, and well-supported by documents and Maidadi's testimony. Because the union has failed to prove with direct or circumstantial evidence that the employer's stated nondiscriminatory justifications were pretext, or that the Super Team members' participation in the February 23, 2024, petition was still a substantial motivating factor for its actions toward the Super Team members, the union's discrimination claim fails.

Interference

The union argued that by investigating, assigning to work from home, and issuing directives limiting the communications of the Super Team members, the employer effectively imposed a gag order on the employees, three of whom were shop stewards. The employer denied engaging in interference in its answers.

Employers can commit interference by providing overly restrictive instructions to employees that they could reasonably perceive to bar protected activity. *King County*, Decision 12582-B (PECB, 2018); *Washington State Patrol*, Decision 11863-A (PECB, 2014). In *King County*, an employer sent an email to employees in advance of an unfair labor practice hearing with their union. Among other instructions, the email told the employees that, "In order to ensure a comfortable work

environment for everyone and protect confidentiality of a related [Internal Investigation Unit] investigation, please maintain the confidentiality of substantive testimony, and avoid unnecessary discussion of these matters that may make co-workers uncomfortable.” The instruction included the caveat that, “This does not preclude you from discussing the case with a legal representative in this ULP process, or appropriate command staff or legal advisor.” Despite the caveat, the Commission ruled that the email interfered with employee rights by directly prohibiting employees from discussing the unfair labor practice proceedings amongst themselves. *Id.*

As in *King County*, the employer here went too far in its admonitions to the Super Team members when placing them under investigation. While the employer made clear to the employees that they could contact their union representative during the administrative leave, it prohibited the employees from entering employer workspaces without explicit permission or contacting fellow bargaining unit members during work hours. Speaking with a union representative is one form of union activity protected by Chapter 41.80 RCW, but not the only form, especially whereas three of the four Super Team members had become union shop stewards by the time the letters were issued and could be called upon to serve as other employees’ union representatives in workplace matters. Even if done unintentionally, because the employer’s directives could be reasonably perceived by the employees to prohibit protected activity, these directives constituted interference.

REMEDY

Washington State law grants the Commission and its examiners the authority to issue appropriate orders to remedy unfair labor practices. RCW 41.80.120. The standard remedy for an unfair labor practice violation includes ordering the offending party to cease and desist and, if necessary, to restore the status quo; post notice of the violation; and publicly read the notice if led by a board or commission. *State – Corrections*, Decision 11060-A (PSRA, 2012); *City of Anacortes*, Decision 6863-B (PECB, 2001).

Here, the standard remedy is appropriate for the interference violation. The employer shall be ordered to cease and desist from interfering with employees’ protected rights and shall post notice of its violation.

CONCLUSION

The employer did not commit discrimination in violation of RCW 41.80.110(1)(c); that claim is dismissed. The employer did engage in independent interference in violation of RCW 41.80.110(1)(a).

FINDINGS OF FACT

1. The Washington State Employment Security Department (employer, ESD, or agency) is a public employer within the meaning of RCW 41.80.005(8).
2. The Washington Federation of State Employees (union) is a bargaining representative within the meaning of RCW 41.80.005(7).
3. The employer helps operate WorkSource job centers around the state, including a WorkSource center in Auburn (WorkSource Auburn). WorkSource centers are a collaboration between various state agencies and educational institutions to provide workforce services to members of the public, especially populations with barriers to employment. Each WorkSource center contains a resource room which is required by law to be open and physically accessible to the public.
4. The union represents a bargaining unit of nonsupervisory employees and a bargaining unit of supervisory employees, each containing employees who work at the employer's WorkSource Auburn job center.
5. Each WorkSource center is headed by an administrator, who oversees a team of supervisors, who then oversee the frontline staff that serve the agency's clientele. Until approximately August or September 2023, Albert Garza was the WorkSource Auburn administrator. Hetal Karia then became the administrator in October 2023.
6. The four alleged discriminatees in this case were all members of the WorkSource Auburn "Super Team." Clifford Gocha, Darius McCraney, and Kimberly Pasoquen were supervisors assigned to WorkSource Auburn. Ambrosia Burnett was an administrative assistant who worked closely with the supervisors to support the office's functions.
7. In 2023 and 2024, the Super Team members maintained a Microsoft Teams chat channel using their work accounts. Gocha testified at hearing that the purpose of the Super Team chat was for the four employees "to vent, to share thoughts, opinions, ideas . . . to just freely speak" with one another away from other employees and management. Dozens of messages, memes, and GIFs were exchanged in the Super Team chat, some of which were admittedly negative, according to the union, toward others in the workplace.
8. The employer discovered the Super Team chat and disciplined three of the four Super Team members, relying, in part, on messages sent or "liked" in the Super Team chat dating between December 6, 2023, and January 17, 2024.

9. In 2023, employer offices began receiving visits from members of the public referred to at hearing as “First Amendment auditors.” As described by an employer guidance document, First Amendment auditors are members of the public who visit government offices and film their encounters as “a form of activism and citizen journalism to test constitutional rights and to promote transparency and open government.”
10. On December 5, 2023, the WorkSource Auburn center received its first visit from an alleged First Amendment auditor. The individual arrived dressed in black clothing, a tactical vest, a ski mask, and sunglasses. He carried a camera into the WorkSource Auburn center and began making rounds of the space, filming.
11. He filmed computer screens containing WorkSource clients’ personal information and attempted to access various closed doors within the office. The supervisors and staff attempted to protect client information from being filmed and kept the First Amendment auditor from accessing certain nonpublic areas of the office.
12. After the First Amendment auditor’s first visit, he posted a video documenting his visit to WorkSource Auburn on YouTube. The WorkSource Auburn customer phone line then began receiving angry phone calls about the YouTube video.
13. The video had revealed the full name and contact information of McCraney, who had been shown in the video, and McCraney also began receiving threatening emails and voicemails. In some of the messages, the First Amendment auditor or his supporters threatened to return to WorkSource Auburn.
14. The First Amendment auditor ultimately did return on several occasions in December 2023 and January 2024.
15. WorkSource Auburn employees were deeply affected by the First Amendment auditor visits and related threats. For example, Burnett credibly testified that the visits were very scary experiences that made her feel helpless. Gocha credibly testified that as a veteran with post-traumatic stress disorder he found the visits triggering, that his supervisees were fearful of coming to work, and that one employee was prescribed anxiety medication due to the stress. Several employees testified that the situation provoked fears of an active shooter.
16. A number of WorkSource Auburn employees became concerned and dissatisfied by the employer’s responses to the First Amendment auditor visits. Employees began raising concerns about safety and looking for solutions from the day after the first visit, on December 6, 2023.

17. The employer presented testimony and records detailing the efforts management had taken to converse with employees about the problem and hear their concerns at a series of meetings starting in mid-December.
18. The employer also presented evidence of its efforts to investigate and implement solutions that would not infringe on the rights of the auditor activists as the employer understood them.
19. Employees were frustrated that the employer would not ban the First Amendment auditor from the building. Other employee frustrations included the speed of the employer's actions, the perception that management was absent from WorkSource Auburn while frontline staff and supervisors faced the First Amendment auditor threat alone, and the perception that management underestimated the visits' impact on employees.
20. The First Amendment auditor situation prompted supervisors Gocha, McCraney, and Pasoquen to attend union shop steward training on February 10, 2024.
21. On February 23, 2024, union representative Rebekah Kissel transmitted a petition to Regional Operations Manager Teri Holme on behalf of the "concerned staff of WorkSource Auburn." The cover letter to the petition criticized Karia's and human resources' responses to the First Amendment auditor visits. The letter demanded immediate employer action regarding "[c]ompetent leadership," "[s]upportive and collaborative communication," and "[u]pholding the responsibility to keep [employees] safe."
22. The petition was signed by frontline and supervisory employees at WorkSource Auburn, as well as union-represented employees of other state employers and partners in the building. Some individuals who could not be present to sign the petition sent in email messages indicating their support for the petition. Gocha, McCraney, and Pasoquen were the first three signatories to the petition. Burnett signed the petition at the top of the second page.
23. Kissel assisted employees in putting together the petition, and McCraney kept the petition in his office for employees to sign.
24. There was limited evidence about the employer's immediate reaction to the union petition. An email from Holme to the WorkSource Auburn staff on March 15, 2024, thanked the staff "for all [their] support and feedback, especially considering recent events at the Auburn WorkSource." It encouraged employees with the following message: "Please continue sharing any ideas on how we create a safest and most welcoming environment for our team, customer and culture." The email provided a list of updates on security measures at the office and encouraged employees to utilize the Employee Assistance Program.

25. Marie Burrows, the employer's director of human resources, worked on a draft of a formal, joint union-management response to the petition in April 2024 with Kissel, Deputy Human Resources Director Brad McGarvie, and another union rep.
26. Burrows sent a draft to the three collaborators on April 2, 2024. She wrote, "Let me know what you all think." Kissel provided some edits, and Burrows stated she would make those edits to the draft and send it to Holme for distribution. Kissel responded that that plan sounded good to her.
27. The response, entitled "Acknowledgment and Action Plan in Response to Your Petition," was sent by Holme to all WorkSource Auburn staff on April 15, 2024, and it was jointly signed by Holme, Burrows, and Kissel. The email acknowledged the receipt of the petition and stated that employees' "concerns [were] valid, and [their] voices [were] important."
28. The email provided a list of updates the employer was actively taking "[in] partnership with the Union." The email assured that no retaliation would result from the petition, promised open communication moving forward to rebuild trust, and stated the signatories were committed to making the office "a place where [employees] feel safe, appreciated, and enjoy coming to work."
29. The employer first began investigating Gocha's workplace conduct in late 2023. According to the employer's September 16, 2024, letter to Gocha notifying him that the employer was considering discipline, the investigation arose when Gocha contacted Amy Wear, a human resources consultant 4, in November 2023. Gocha emailed Wear about extending the probation of or terminating one of Gocha's supervisees, and the exchange led Wear to be concerned Gocha's actions against the supervisee could be retaliatory in some manner.
30. After speaking with Gocha on December 19, 2023, Wear requested a "data-pull" of Gocha's emails and Teams conversations. According to the letter, the data pull, "among other concerns, revealed potential misconduct by [Gocha] and other members of the leadership team at the Auburn WorkSource office," which expanded the scope of the investigation.
31. The testimony of Ismaila Maidadi, director of the employer's WorkSource Services Division, corroborated this version of events. Maidadi explained that the investigators discovered the Super Team chat along with emails from Gocha to a former employee, in which Gocha had shared internal employer information—one of the bases for which he was ultimately disciplined.
32. Gocha's own remarks in the Super Team chat on December 14, 2023, likewise suggest his awareness at the time that he was under investigation for something. Gocha wrote, "This

stays with us. They are also going to bring me up on charges with EO tomorrow.” He stated that the basis for this belief was information he had received from an employee named Len. Gocha wrote that Len “got a call from EO asking if he felt that [Gocha] violated his rights and they wanted to meet with him immediately.”

33. The employer did not initially place Gocha on leave during its investigation.
34. After an emotional staff meeting on January 17, 2024, regarding the First Amendment auditor visits, a staff member followed Gocha back to his office. Gocha testified that the staff member had wanted to speak with him about a sensitive personal matter and that he locked his office door for their conversation.
35. While they were speaking, Karia knocked on Gocha’s door. Gocha opened the door and stood in the doorway. Karia said that she wanted to speak with Gocha, and he told her he would need a minute. He closed the door and finished his conversation with the staff member.
36. Gocha then went to Karia’s office, and Karia asked him who had been in his office and why the door was locked. He indicated only that it had been a staff member having a conversation with him about something personal. The conversation intensified, with Karia insisting that Gocha identify the staff member and Gocha refusing. At some point, Karia stated, “I’m done” and walked away.
37. Later that day, Karia called Gocha back to her office. Holme was with Karia. The two presented Gocha with a letter placing him on paid home assignment, pending an investigation. The letter stated that the reassignment was “[d]ue to the interactions that occurred [that] morning.” The letter contained a number of directives Gocha must follow during reassignment. For example, the letter directed Gocha not to enter employer offices unless specifically directed in writing by Karia, Holme, or McGarvie.
38. On February 9, 2024, Wear notified Pasoquen via email that she was being investigated for “possible agency violations due to misuse of agency resources.” The email informed Pasoquen that her agency data records would be reviewed as part of the investigation. The employer did not provide further context for this event in its evidence of the investigative timeline.
39. On March 18, 2024, Karia issued letters to McCraney, Pasoquen, and Burnett, placing them on paid administrative home assignment. They were later instructed that they would report to Regional Director Norton Sweet during the assignment. The employer issued Gocha a similar letter advising him of his continued administrative assignment. The letters indicated

that the employer had received information regarding allegations of misconduct that it was investigating.

40. One of the reasons the employees were assigned to work with Sweet was because a Super Team member had raised allegations of discrimination against other management officials including Karia, Holme, Maidadi, and McGarvie. Sweet had recently returned from leave, was not acting as a regional director at the time, and was commencing work on special remote assignments, which made him the “perfect person” to supervise the Super Team members.
41. The letters provided various directives to the employees during their administrative assignment. The employees were prohibited from entering employer offices unless specifically directed in writing or granted advance permission by certain management personnel. They were also directed “not [to] make any contact in any form with any employee of the [employer] during their regularly scheduled work shift without prior written approval . . . unless [they were] contacting a union representative regarding issues related to [their] collective bargaining rights.”
42. When McCraney’s letter was delivered to him in person by Wear and Karia, he asked why he was being served the letter. McCraney testified that Wear told him the concern was “insubordination.” McCraney asked when he had been insubordinate, and he testified that Wear responded, “That’s a question for Hetal.”
43. On March 20, 2024, Kissel sent an email to Wear on Pasoquen’s behalf regarding Pasoquen’s home assignment and investigation. Kissel sought clarification on whether Pasoquen’s home assignment was related to the allegations of misuse of agency resources, about which she’d been notified on February 9, or related to new allegations. Wear responded, “The home assignment is based [on] allegations of undermining management.”
44. Also on March 20, 2024, Wear sent an email seeking approval to pull additional computer and cell phone records for Gocha beginning on January 18, 2024, “due to continued allegations of undermining management.” The request was approved by McGarvie.
45. Several days after the administrative home assignment letters were issued to the Super Team members, Karia resigned as the WorkSource Auburn administrator.
46. Through June 2024, the employer continued its investigation into these employees’ conduct, while they remained on home assignment. Interviews were conducted with the two former administrators, Karia and Garza.

47. The “Reason for Interview” stated at the top of the investigator notes from these two interviews was as follows:

A preliminary investigation arising from information provided to the Human Resources Division in November 2023 alleging unfair treatment of an employee by a supervisor has resulted in further inquiries and revelations of the potential violation of ESD policies and procedures 1016 (employee Conduct), 0037 (DEI) and 0038 (Fostering a Respectful and Inclusive Workplace. Expecting Respect, Dignity and Civility at Work).

48. In May 2024, investigators interviewed Gocha, McCraney, and Pasoquen. Burnett was also interviewed but the investigation notes from her interview were undated. The interview notes characterized the scope of the employer’s investigation as follows:

The circumstances surrounding the investigation are centered around allegations that two employees, Albert Garza, WorkSource (WS) Administrator, and Hetal Karia, WS Administrator, were treated contrary to ESD policy by some of the WS Auburn staff, specifically, 3 WorkSource supervisors and the Administrative Assistant.

The allegations brought forward allege that certain employees of the WS Auburn staff colluded together in a deliberate manner with the aim of removing both Administrators from their positions with WS Auburn. The tactics and methods used include suggestions that an administrator is not fit to continue in their position due to personal issues, disrespectful and subversive behaviors by allowing and providing information to staff to which they would otherwise not be included, ignoring an administrators directives, failing to complete assigned tasks, ignoring an administrators attempts to integrate with the team, conspiring to sabotage the administrators efforts to address safety issues, failing to be supportive and inclusive of the administrators, conducting meetings concurrent to all staff meetings and communicating in a disrespectful, non-inclusive manner and providing confidential information to a third party former ESD employee via email involving a current employees personal health information.

49. The following additional text at the bottom of each summary was struck through, and the strike-throughs were not explained by the record:

The allegations brought forward were that tactics used against them resulted in the employees feeling harassed and bullied. It has also been alleged that a another WS employee betrayed a position of trust while a former ESD

employee provided advise [sic] and encouragement and several inappropriate comments during email conversations.

Should these allegations be shown to be true, the behavior would be contrary to the Agencies strategic plan and core values.

50. On June 27, 2024, the investigators furnished investigation summary reports to Maidadi and Burrows outlining “possible violations of conduct” by Gocha, McCraney, Pasoquen, and Burnett. Attached to the reports were investigative materials such as interview notes, emails, and printouts containing hundreds of messages sent in the Super Team chat.
51. The investigation reports alleged that the employees all appeared to have violated employer policy 1016 (“Employee Conduct”), employer policy 0038 (“Fostering a Respectful and Inclusive Workplace”), article 27.5.C of the collective bargaining agreement (CBA) (“Investigatory Interviews”), and article 47 of the CBA (“Workplace Behavior”). The reports for Gocha, McCraney, and Pasoquen alleged that they had also violated “ESD Manager/Supervisor Responsibilities.” Finally, the report for Gocha alleged that he had violated employer policy 2016 (“Technology Acceptable Use”).
52. Employer policy 1016, as excerpted in the investigation letters, is a policy that “employees shall conduct themselves in a way that contributes to cooperative relationships with coworkers and customers and makes appropriate use of time and resources.” The policy has subparts describing expectations about “Courtesy and Positive Work Attitude” and “Teamwork.” Employer policy 0038 describes “creating a work environment anchored to respect, dignity and civility,” and lists the employee expectation “to set a positive example and behave in a manner that will not offend, embarrass, or humiliate others.” The policy contains examples of disrespectful behavior, such as “[o]ffensive or inappropriate remarks, jokes, gestures, material (electronic or otherwise) or behavior,” “[b]elittling,” “[d]amaging gossip or rumors,” and “[c]overt behavior (inappropriately withholding information, undermining, underhandedness).”
53. Article 27.5 of the CBA speaks to the role and rights of union representatives in investigatory interviews but includes the language, “Every effort will be made to cooperate in the investigation.” Article 47 of the CBA states the following:

The Employer and the Union agree that all employees should work in an environment that fosters mutual respect and professionalism. The parties agree that inappropriate behavior in the workplace does not further an agency’s business needs, employee well-being or productivity. All employees are responsible for contributing to such an environment and are expected to treat others with courtesy and respect.

54. The “ESD Manager/Supervisor Responsibilities” listed in the investigation letters included, “Lead by example. Create and maintain a workplace that demonstrates respect and professionalism.” Policy 2016 states, “ESD systems may only be used in the support of the agency mission, and for official state business.”
55. The largest focus of the investigation summary reports was on messages found in the Super Team chat. The reports found that many of the Super Team chat exchanges had occurred during meetings, including meetings with management officials, as a form of running, private commentary.
56. Some of the messages found to be attributed to Gocha in the Super Team chat included the following:
- A remark about employer Deputy Commissioner Phil White, “I just have one thing to say, and I am done with this entire thing. I want the wheels totally fall off now [sic]. Does he not see that we are in the position that we are in because of the incompetence of our current management?”
 - A remark about an employee, “he is acting like he has the medal of honor and is 100% disabled. He is neither” along with a GIF of someone gesturing with an “L” hand sign and the caption “LOSER!”
 - A remark about Karia during a meeting, “Don’t get a hairpiece yet, we are not finished with you.”
 - A statement, “I am going to drop a BOMB on Hetal. I am quitting the safety team today.”
57. The investigation report concluded that Gocha’s Super Team chat activity was “unprofessional, demeaning, and derogatory” and that it violated policies 1016 and 0038 as well as article 47 of the CBA.
58. In addition to the Super Team chat-related violations, the investigative report also concluded that Gocha had engaged in the following misconduct:
- Violating policy 1016 by ignoring Karia when she went to Gocha’s office and said “good morning” on her first day at WorkSource Auburn on October 31, 2023.
 - Violating policy 1016 by blocking the entrance to his office to prevent Karia from entering or seeing who was inside and telling Karia that she was not in a position to know whom he was speaking with on January 17, 2024.
 - Violating policy 0038 by “acting in a covert manner” when asking Burnett to schedule a meeting on Garza’s calendar—without Garza’s knowledge—that included Gocha, McCraney, Pasoquen, and Garza.

- Violating policy 2016 by sending 29 emails containing employer business and employee personal identifying information (PII) to a person no longer employed by the employer.
- Violating article 27.5.C of the CBA by “being uncooperative with the investigation by stating ‘I do not recall’ (or a similar phrase) 34 times” during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by failing to turn on his laptop camera during the fact-finding meeting and stating that his camera was not working, then later stating that his camera had begun working again when the employer reached out to offer information technology (IT) assistance.

59. Some messages attributed to McCraney in the Super Team chat included the following:

- Remarks during a meeting between WorkSource Auburn staff and management about the First Amendment auditor such as, “logged into the BAFFOONARY NOW”; “Get them Rachel”; “Hetel and Norton both have been...” followed by “EXPOSED!” appearing in a GIF; and “how many times until you are fired” followed by a GIF of someone dropping a pumpkin and saying “Oops.”
- Remarks about Holme such as, “Teri is out again on Wednesday She sent an email this morning. Let the games begin. I will be adding this to my notes for sure. Of course they will tuck tail and run when they are dead wrong. If you can take the money with no questions asked, then you should be able to face the music with no problem” followed by the comment, “of course Norton and Teri are both.....RUNNERS” with a GIF of a man running.

60. The investigation report concluded that McCraney’s Super Team chat activity was “unprofessional, demeaning, and derogatory” and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

61. In addition to the Super Team chat-related violations, the investigative report also concluded that McCraney had engaged in the following misconduct:

- Violating policy 1016 by ignoring Karia when she went to McCraney’s office and said “good morning” on her first day at WorkSource Auburn on October 31, 2023.
- Violating policy 1016 by responding to an email from the First Amendment auditor and stating, “Hi Mark Edward Willoughby Jr. Please stop harassing me. I am sure your mother Nicole D’Alessio Willoughby wouldn’t appreciate your behavior,” which the report dubbed “unprofessional” on December 12, 2023.

- Violating policy 0038 by failing to follow an instruction from Garza in 2023 to increase in-person initial appointments by 35 percent and instead applying the increase to a different type of appointment without checking in with Garza.
- Violating policy 0038 by “acting in a covert manner” when asking Burnett to schedule a meeting on Garza’s calendar—without Garza’s knowledge—that included McCraney, Gocha, Pasoquen, and Garza.
- Violating article 27.5.C of the CBA by “being uncooperative with the investigation by stating ‘I do not recall’ (or a similar phrase) 21 times” during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by stating that his external camera was not working during the fact-finding meeting but then, before a scheduled IT meeting to address the issue several weeks later, stating that he had not realized his laptop had a built-in camera he could have used for the meeting and that both cameras were working fine.

62. Some messages attributed to Pasoquen in the Super Team chat included the following:

- A remark about Karia during a meeting, “Think she is balding... Worry probably, nerves.”
- A flame emoji sent in response to a GIF that said “Burn them all” from Gocha.
- Remarks during a meeting between WorkSource Auburn staff and management about the First Amendment auditor, including a “laugh” reaction to Gocha’s message “Time to watch the song and dance” (with a GIF of a panda mascot dancing) and stating, “Oh my. Its kind of awful to watch” and “JM! Hetal and Norton failed us.”

63. The investigation report concluded that Pasoquen’s Super Team chat activity was “unprofessional, demeaning, and derogatory” and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

64. In addition to the Super Team chat-related violations, the investigative report also concluded that Pasoquen had engaged in the following misconduct:

- Violating policy 1016 by ignoring Karia when she went to Pasoquen’s office and said “good morning” on Karia’s first day at WorkSource Auburn on October 31, 2023.
- Violating policy 1016 by “failing to notify Ms. Karia in a timely manner of a staff member who had decided to retire.”

- Violating policy 0038 by “acting in a covert manner” when asking Burnett to schedule a meeting on Garza’s calendar—without Garza’s knowledge—that included Pasoquen, Gocha, McCraney, and Garza.
- Violating article 27.5.C of the CBA by “being uncooperative with the investigation by stating ‘I do not recall’ (or a similar phrase) 14 times” during an investigative fact-finding meeting.
- Violating article 27.5.C of the CBA by failing to turn on her camera during the fact-finding meeting and stating she had not been sent a webcam when she was on home assignment but later stating that her laptop camera was functioning when the employer followed up to offer IT assistance.

65. Some messages attributed to Burnett in the Super Team chat included the following:

- A GIF that said “Here comes the circus,” shared in conjunction with the start of an all-staff meeting attended by management.
- A message sharing screenshots of a private conversation between Burnett and Holme followed by Burnett’s comment, “I don’t know what the plan is but they are up to something.”
- A message informing the Super Team members that Burnett was blind carbon copying them on a set of meeting notes she was sending Karia “just in case something gets removed or added” followed by a GIF captioned “Be quiet” with an image of a man making a shushing motion.

66. The investigation report concluded that Burnett’s Super Team chat activity was “unprofessional, demeaning, and derogatory” and that it violated policies 1016 and 0038 as well as article 47 of the CBA.

67. In addition to the Super Team chat-related violations, the investigative report also concluded that Burnett had engaged in the following misconduct:

- Violating policy 0038 by “acting in a covert manner” when placing a meeting on Garza’s calendar at the request of the three supervisors—without Garza’s knowledge—between Pasoquen, Gocha, McCraney, and Garza.
- Violating policy 0038 by blind carbon copying the Super Team supervisors on an email to Garza on October 10, 2023, and an email to Karia on January 3, 2024 (in conjunction with the Super Team chat message about it above).
- Violating policy 0038 by sending Gocha an email containing a video clip of a woman saying “This Bitch is getting on my nerves.”

- Violating article 27.5.C of the CBA by “being uncooperative with the investigation by stating ‘I do not recall’ (or a similar phrase) 6 times” during an investigative fact-finding meeting.
 - Violating article 27.5.C of the CBA by failing to turn on her camera during the fact-finding meeting and stating that her camera was not working and that she had submitted an IT ticket to have it repaired—which turned out not to be true—then later stating that her laptop camera was working when the employer followed up to offer IT assistance.
68. During the summer of 2024, Burnett left the employment of the employer, accepting a position with a different state agency. No discipline was therefore issued to her.
69. The three remaining Super Team members were issued pre-disciplinary letters by Maidadi in mid-September 2024. Pre-disciplinary meetings were held with these employees and their union representatives in late September and early October 2024.
70. In September, the employer also notified Gocha and Pasoquen of their reassignment from WorkSource Auburn. On September 24, 2024, the employer notified Gocha that he was being reassigned to WorkSource Pierce effective October 9, 2024. The letter informed Gocha that, due to the reassignment, he would not be eligible to receive the 5 percent premium pay that employees within King County receive.
71. The employer notified Pasoquen that she was being reassigned to WorkSource Rainier effective October 9, 2024. Pasoquen testified that she considered the reassignment to be a negative employment action because it increased her commute to one and one-half hours each way and changed her work-life balance.
72. Gocha testified that he considered the reassignment to be adverse, in part, because it brought him under the supervision of Garza again, against whom he had previously filed complaints alleging a hostile work environment.
73. Gocha and Pasoquen had been stationed at WorkSource Auburn for approximately six years and ten years, respectively.
74. When asked about the reassignments at hearing, Maidadi testified that the reassignments were less about any particular person and more because of management’s view that WorkSource Auburn had been “thriving” in recent months based on employee feedback and customer engagement. Maidadi claimed the reassignments were a non-disciplinary exercise of the employer’s management right to reassign employee duty stations under article 36.3 of the CBA. Maidadi claimed the rationale was to move Gocha and Pasoquen to offices “similarly placed, not too far away” and keep McCraney in place at WorkSource

Auburn, along with two new supervisors who'd joined the team, so as not to disturb the dynamic there.

75. The union grieved the reassignments on September 25, 2024, claiming they were retaliatory and “given without the employer fulfilling their collective bargaining obligation.” Both employees protested their reassignments via letters sent to the employer’s commissioner, Cami Feek.
76. On November 4, 2024, Maidadi issued a disciplinary letter demoting Gocha from a WorkSource specialist 6 to a WorkSource specialist 4, a nonsupervisory position. Maidadi relied on employer policies 1016, 0038, and 2016; articles 27.5.C and 47 of the CBA; core competencies from Gocha’s position description; and the “ESD core values” adopted by the agency in May 2023.
77. Maidadi based his decision, in part, on his perception that Gocha did not take responsibility or show remorse in his pre-disciplinary meeting. Combined with the offenses Gocha was found to have committed—which included belittling a supervisee who was a military veteran in the Super Team chat and sending employee PII to someone outside the agency—and the expectation that supervisors were supposed to be role models for staff, Maidadi agreed that demoting Gocha was the correct action to take.
78. On November 4, 2024, Maidadi issued a letter notifying McCraney of a disciplinary three-month 5 percent reduction in pay. Maidadi relied on employer policies 1016 and 0038; articles 27.5.C and 47 of the CBA; core competencies from McCraney’s position description; and the “ESD core values” adopted by the agency in May 2023.
79. Maidadi testified that employer policy makes supervisors, managers, and leaders responsible to lead by example and demonstrate respect and professionalism, and McCraney had “failed to do so in the way that he engaged in that Super Team chat, and in the way he treated Ms. Hetal when she started at center, and in the way that he failed to follow through on tasks assigned by Mr. Garza.” Maidadi’s decision for disciplinary action was based on the investigation—particularly McCraney’s “lack of accountability during the pre-disciplinary process” and “failure to take responsibility for [his] actions.”
80. On November 6, 2024, Maidadi issued a letter notifying Pasoquen of a disciplinary three-month 5 percent reduction in pay. Maidadi relied on employer policies 1016 and 0038; articles 27.5.C and 47 of the CBA; core competencies from Pasoquen’s position description; and the “ESD core values” adopted by the agency in May 2023. Maidadi did not elaborate on the reasons for Pasoquen’s discipline at hearing, but in the disciplinary letter, Maidadi emphasized Pasoquen’s role as a supervisor and stated that the temporary reduction in pay was to “impress upon [Pasoquen] the seriousness of [her] actions.”

81. On November 7, 2024, Norton Sweet, who had resumed the role as Central Sound regional director, notified Gocha via email that, effective November 20, 2024, Gocha's "alternative assignment" would end and that he would be reassigned from WorkSource Pierce to the WorkSource office on Joint Base Lewis-McChord.
82. Maidadi denied at hearing that the decisions to issue discipline to the Super Team members had any relation to actions the Super Team members took with their union, including signing the February 23, 2024, petition or becoming shop stewards.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under chapter 41.80 RCW and chapter 391-45 WAC.
2. Based upon findings of fact 3–82, the employer did not discriminate against employees Clifford Gocha, Darius McCraney, Kimberly Pasoquen, or Ambrosia Burnett in violation of RCW 41.80.110(1)(c).
3. Based upon findings of fact 3–41, the employer interfered with protected employee rights in violation of RCW 41.80.110(1)(a).

ORDER

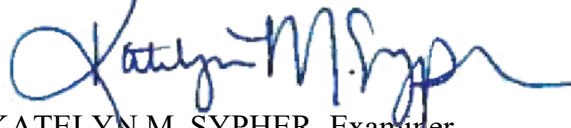
The Employment Security Department, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:
 - a. Unlawfully interfering with employee rights by issuing directives to employees that could be reasonably perceived to prohibit them from engaging in protected union activity.
 - b. In any other manner interfering with, restraining, or coercing its employees in the exercise of their collective bargaining rights under the laws of the State of Washington.
2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of chapter 41.80 RCW:

- a. Contact the compliance officer at the Public Employment Relations Commission to receive official copies of the required notice for posting. Post copies of the notice provided by the compliance officer in conspicuous places on the employer's premises where notices to all bargaining unit members are usually posted. These notices shall be duly signed by an authorized representative of the respondent and shall remain posted for 60 consecutive days from the date of initial posting. The respondent shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.
- b. Notify the complainant, in writing, within 20 days following the date of this order as to what steps have been taken to comply with this order and, at the same time, provide the complainant with a signed copy of the notice provided by the compliance officer.
- c. Notify the compliance officer, in writing, within 20 days following the date of this order as to what steps have been taken to comply with this order and, at the same time, provide the compliance officer with a signed copy of the notice the compliance officer provides.

ISSUED at Olympia, Washington, this 7th day of November, 2025.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in blue ink, appearing to read "Katelyn M. Syphe", is written over the printed name.

KATELYN M. SYPHER, 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.