



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

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September 3, 2010

Mary Verner
City of Spokane
808 West Spokane Falls Blvd
Spokane, Washington 99201

Christopher Vick
Aitchison & Vick
5701 Sixth Avenue South, Suite 491A
Seattle, Washington 98108-2568

Re: PRELIMINARY RULING
AND DEFERRAL INQUIRY
City of Spokane
Case 23454-U-10-5981
Filed August 18, 2010

Dear Parties:

The complaint charging unfair labor practices filed in this matter has been reviewed under WAC 391-45-110. The allegations concern:

Employer refusal to bargain in violation of RCW 41.56.140(4) [and if so, derivative interference in violation of RCW 41.56.140(1)], by its unilateral change in its disciplinary procedures through expanding the powers of the Office of Police Ombudsman (OPO) and changing the requirements to which the OPO was subject, without providing an opportunity for bargaining the change or the effects of the change.

Assuming for purposes of this preliminary ruling that all of the facts alleged in the complaint are true and provable, it appears that an unfair labor practice violation could be found.

WAC 391-45-110(2) **requires the filing of an answer** in response to a preliminary ruling which finds a cause of action to exist. Cases are reviewed after the answer is filed, to evaluate the propriety of a settlement conference under WAC 391-45-260, deferral to arbitration under WAC 391-45-110(3), priority processing, or other special handling.

PLEASE TAKE NOTICE that the person or organization charged with an unfair labor practice in this matter (the "respondent") shall:

**File and serve its answer to the complaint within
21 days following the date of this letter.**

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. An answer shall:



1. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial.
2. Specify whether "deferral to arbitration" is requested and, if so:
 - a. Indicate whether a collective bargaining agreement was in effect between the parties at the time of the alleged unilateral change;
 - b. Identify the contract language requiring final and binding arbitration of grievances;
 - c. Identify the contract language which is claimed to protect the employer conduct alleged to be an unlawful unilateral change;
 - d. Provide information (and copies of documents) concerning any grievance being processed on the matter at issue in this unfair labor practice case; and
 - e. State whether the employer is willing to waive any procedural defenses to arbitration.
3. Assert any other affirmative defenses that are claimed to exist in the matter.

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

An examiner will be designated to conduct further proceedings in this matter pursuant to Chapter 391-45 WAC. Until an examiner is assigned, all correspondence and motions should be directed to the undersigned.

Very truly yours,

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

DIG:dlt

cc: Ernie Wuthrich