

**BEFORE THE CITY OF SEATTLE
PUBLIC SAFETY CIVIL SERVICE COMMISSION**

In the matter of the Complaint by

Steven Collins Complainant

v.

DISMISSAL ORDER

PSCSC No. 24-07-001C

Seattle Fire Department Respondent

BACKGROUND

This matter was initiated by a Complaint dated January 25, 2024, by former Seattle Fire Department (“SFD”) employee Steven Collins (“Complainant”). In his Complaint, the Complainant states that he is “making a complaint under 41.08.040 to the Public Safety Civil Service Commission.” Complaint, at p.1. The Complaint includes various allegations against SFD Chief Harold Scoggins as “administrator for the Seattle Fire Department.” Id. at p.1.

The Complaint does not include reference to any dates related to the alleged violations. Although the Complaint refers to “41.08.040,” which presumably is in reference to RCW 41.08.040, the Complaint does not refer to any provisions of the Public Safety Civil Service Commission (“PSCSC”) Rules of Practice and Procedure, the Seattle Municipal Code (“SMC”), or the City of Seattle Charter.

On February 21, 2024, the Public Safety Civil Service Commission Executive Director, on behalf of the Commission, issued an Order for Additional Information (“Order”). In part, the Order found that there were deficiencies in the Complaint that must be addressed, and the Executive Director provided the opportunity for the Complainant to submit an amended complaint to address those deficiencies by 4:00 PM on March 8, 2024.

On March 6, 2024, via email, the Executive Director received from the Complainant an email related to this matter. In part, the email includes an excerpt from RCW 41.08.040. The email also states, in part:

... RCW 41.08.040 requires that the PSCSC investigate citizen complaints. ... The Revised Code of Washington takes president (sic) over any rules or municipal Code that you may cite to attempt to assist Harold Scoggins in his endeavors to deprive Seattle Firefighters of their civil rights. ... Harold Scoggins has terminated Seattle Firefighters contrary to the law. Specifically RCW 41.08.080 and RCW 41.08.090. ... "The commission shall" ... Investigate as to whether Harold Scoggins terminated firefighters in violation of the Rcw (sic). ...

Similar to the Complaint, Complainant's March 6, 2024, email does not refer to any provisions of the Public Safety Civil Service Commission Rules of Practice and Procedure, the Seattle Municipal Code, or the City of Seattle Charter.

LEGAL AUTHORITY

As indicated in the previous Order, such complaints submitted to the PSCSC are governed in significant part by the PSCSC Rules of Practice and Procedure, including PSCSC Rule 6.19, which states:

- a. Any employee or department who is adversely affected by an alleged violation of Article XVI of the Charter of The City of Seattle, the Public Safety Civil Service Ordinance or the Public Safety Civil Service Commission Rules of Process and Procedure which does not fall under Rules 6.01(a) or (b), may within ten (10) days of the alleged violation, submit a written complaint to the Executive Director requesting review.
- b. The complaint shall follow the same as Appeals, described in Rule 6.02. The Executive Director will review the complaint and determine appropriate action. Such action may include investigation into the alleged violation, decision by the Executive Director, and/or referral of the matter to the Commission for decision or a hearing subject to the same rules as an appeal.

Although the Complainant asserts that the Revised Code of Washington takes precedence over any rules or municipal code provision cited by the PSCSC, that assertion is legally incorrect.

Pursuant to RCW 41.08.010:

The provisions of this chapter shall have no application to cities and towns which at the present time have provided for civil service in the fire department or which shall subsequently provide for civil service in the fire department by local charter or other regulations which said local charter or regulations substantially accomplish the purpose of this chapter.

In interpreting such text in an applicable civil service context, the court in *Seattle Police Officers' Guild v. City of Seattle*, 121 Wn.App. 453 (2004), held (internal footnotes omitted):

1 In 1935 and 1937, the Legislature required cities to provide civil service rights for
2 fire and police department employees. Chapter 41.12 RCW sets out a model civil
3 service system for city police. Chapter 41.08 RCW is the equivalent statute for
4 city fire departments, and because of the similarities between chapters 41.12 and
5 41.08, our courts have held that “decisions under either statute constitute
6 authority for both.”

7 Many cities have simply adopted the procedures and policies in chapter 41.12
8 RCW. But other cities, including Seattle, have enacted an entire civil service
9 system under RCW 41.12.010, which states that “[t]he provisions of this chapter
10 shall have no application to cities and towns which ... shall ... provide for civil
11 service in the police department by local charter or other regulations which ...
12 substantially accomplish the purpose of this chapter”

13 Id. at 455-56. See also, *Seattle Police Officers Guild v. City of Seattle*, 113 Wn.App. 431, 434,
14 (2002), rev. granted, 149 Wn.2d 1009 (2003); *Local 404, Intern. Ass'n of Fire Fighters, AFL-CIO*
15 v. *City of Walla Walla*, 90 Wn.2d 828, 830 (1978).

16 Based on *Seattle Police Officers Guild v. City of Seattle*, 151 Wn.2d 823 (2004), Chapter
17 41.08 RCW, similar to Chapter 41.12 RCW, “does not require strict adherence to its prototype civil
18 service system.” Id. at 832. Furthermore, in relevant part, “... cities must accomplish only the
19 “purpose” rather than follow the particular methods prescribed by chapter 41.12 RCW.” Id. at 834.
20 Based on *Seattle Police Officers' Guild v. City of Seattle*, 121 Wn.App. 453, *supra*, the same
21 principle applies in the context of Chapter 41.08 RCW. Id. at 456. Additionally, as stated in
22 *Teamsters Food Processing Employees, Public Employees, Warehousemen and Helpers, Local*
23 *Union No. 760 v. City of Moses Lake*, (1993) 70 Wn.App. 404, 406:

24 The rules of a city civil service commission adopted pursuant to rule-making
25 powers granted by statute are presumed to be valid and will be upheld if they are
reasonably consistent with the statutes they implement.

26 Here, consistent with the holdings in the above caselaw, the provisions of Chapter 41.08
27 RCW that are relied upon by the Complainant do not apply because the City provides for civil
28 service by local charter and other regulations (including Chapter 4.08 SMC and the Public Safety
29 Civil Service Commission Rules of Practice and Procedure), those provisions substantially
30 accomplish the purpose of state law (i.e., Chapter 41.08 RCW), and those provisions are presumed
31 valid because they are reasonably consistent with the statutes they implement. See, e.g., *City of*

1 Seattle Charter, Article XVI; SMC 4.08.020 (Purpose). In the context of the Complainant's
2 allegations, PSCSC Rule 6.19 is specifically applicable and governs here, in significant part.

3 Further, to the extent the Complainant is alleging that the PSCSC is required by law in this
4 circumstance to investigate Complainant's allegations, that assertion is also legally incorrect
5 because the Complaint and the subsequent March 6, 2024 email are untimely as a matter of law.

6 Pursuant to PSCSC Rule 6.19.a., the Complainant was required to submit a written complaint
7 "within ten (10) days of the alleged violation." Relatedly, see also, SMC 4.08.100.A. (" ... Any
8 regular employee so removed, suspended, demoted, or discharged may within ten days from the
9 date of service of such statement, file with the Commission a written demand for a hearing,
10 whereupon, in due course, the Commission shall conduct such hearing. ...").

11 Pursuant to SMC 4.08.070.A., in relevant part, the Public Safety Civil Service Commission
12 has the authority to "[m]ake suitable rules to carry out the purposes of this chapter." PSCSC Rule
13 6.19 and SMC 4.08.100 are rules and requirements suitable for carrying out the purposes of
14 Chapter 4.08 SMC. Additionally, here, in the context of state law and the ten day requirement,
15 PSCSC Rule 6.19.a. and SMC 4.08.100.A. are rules and requirements suitable for carrying out the
16 purposes of Chapter 41.08 RCW, including RCW 41.08.090, which states, in part:

17 ... Any person so removed, suspended, demoted or discharged may within ten
18 days from the time of his or her removal, suspension, demotion or discharge, file
with the commission a written demand for an investigation, whereupon the
commission shall conduct such investigation.

19 Based on the Complaint and the subsequent March 6, 2024 email submitted by the
20 Complainant, the alleged violations relate directly and materially to the Complainant's assertions, in
21 relevant part, that Chief Scoggins allegedly, without cause, terminated SFD firefighters, forced SFD
22 firefighters to accept undesired retirement, and forced other firefighters to resign. Although the
23 Complainant makes other assertions, all of those allegations and assertions relate materially to the
24 allegation that unnamed firefighters were separated by the SFD without cause. Additionally,
25 although the Complainant does not specify dates on which such alleged separations occurred, the

1 Complaint refers to “the mayor’s vaccine mandate,” and Complainant’s March 6, 2024 email refers
2 to the “vaccine mandate,” so presumably the separations at issue are all in the context of the period
3 of time relating to the City’s vaccine requirement during the COVID pandemic.

4 The Complaint is untimely as a matter of law because the Complainant has failed to
5 establish that the Complaint was brought, as required by PSCSC Rule 6.19.a., within ten (10) days
6 of the alleged violation(s). The Complaint and the Complainant’s March 6, 2024 email do not
7 provide dates related to the alleged employee separations at issue, so the assertions related to
8 such alleged separations are untimely. See, e.g., *Pleuss v. City of Seattle*, 8 Wn.App. 133 (1972).

9 In *Pleuss*, the plaintiff, who was a firefighter, resigned from the fire department and later
10 contended to the Firemen’s Pension Board that his resignation was not voluntary. The city
11 contended that the resignation was voluntary, and the court agreed. In so doing, the court referred
12 to a provision in the Charter of the City of Seattle as it existed at that time which stated, in relevant
13 part: “... one who is removed must demand investigation within ten days after his removal and, in
14 the absence of such a demand, the removal is complete and, of course, will not be interfered with.”
15 *Id.* at 136.

16 In agreeing with the city’s decision, the court stated, in part: “The review must be demanded
17 ‘within ten days after his removal.’” *Id.* at 136. The court explained further that the plaintiff “knew the
18 facts when he resigned,” “he was aware of his remedies,” and “[i]nstead, 9 months later he brought
19 the action below.” *Id.* at 136-37. Similarly, here PSCSC Rule 6.19.a. provides that the Complaint at
20 issue be brought within ten (10) days of the alleged violation(s). The Complainant has failed to
21 establish compliance with PSCSC Rule 6.19.a. and, therefore, the Complaint is untimely.

22 ORDER

23 Pursuant to PSCSC Rule 6.19.b., the Executive Director has reviewed and considered the
24 Complaint and the Complainant’s March 6, 2024 email, and has determined appropriate action. It is
25 hereby ordered, pursuant to PSCSC Rule 6.19.a., that the Complaint is untimely as a matter of law
and this matter is dismissed, with prejudice.

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2 Dated this 26th day of April, 2024.
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FOR THE CITY OF SEATTLE PUBLIC SAFETY CIVIL SERVICE COMMISSION

5 *Andrea Scheele*
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10 Andrea Scheele
11 Executive Director, Public Safety Civil Service Commission
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CERTIFICATE OF SERVICE

I, Teresa R. Jacobs, declare under penalty of perjury under the laws of the State of Washington, that on the date below, I caused to be served upon the below-listed parties, via the method of service listed below, a true and correct copy of the foregoing document: **DISMISSAL ORDER**.

Party	Method of Service
Complainant: Steven Collins [REDACTED] [REDACTED]	<input checked="" type="checkbox"/> E-Mail
Respondent: Seattle Fire Department Katrina Kelly, Assistant City Attorney katrina.kelly@seattle.gov	<input checked="" type="checkbox"/> E-Mail

Dated this 26th day of April, 2024, at Seattle, Washington.

Teresa R. Jacobs

Teresa R. Jacobs, Executive Assistant
Public Safety Civil Service Commission