

August 9, 2022

The Honorable Curtis King, Senator
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14th Legislative District
PO Box 40414
Olympia, WA 98504

The Honorable Timm Ormsby, Representative
3rd Legislative District
315 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504

The Honorable Jamie Pedersen, Senator
43rd Legislative District
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The Honorable Christine Rolfes, Senator
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The Honorable Drew Stokesbary, Representative
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434 John L. O'Brien Building
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The Honorable Pat Sullivan, Representative
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The Honorable J.T. Wilcox
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The Honorable Lynda Wilson, Senator
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David Schumacher, OFM Director
P.O. Box 43113
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To the Members of the Joint Committee on Employment Relations:

We are writing to inform the Joint Committee on Employment Relations that on July 29, the Washington Public Employees Association, UFCW Local 365, filed an unfair labor practice against the Office of Financial Management's Higher Education negotiating team for failing to bargain in good faith. We did so because, we are concerned about OFM's commitment to completing bargaining in time to have a ratified contract by October 1, 2022.

OFM has significantly delayed the bargaining process by scheduling fewer bargaining dates than are necessary, cancelling bargaining sessions at the last minute, arriving to bargaining sessions late and unprepared, and refusing to provide counteroffers to most of our proposals. We have repeatedly communicated our concerns about the timeline to OFM, beginning in March. While there was some improvement in OFM's approach during the month of July, OFM is still on a path that will prevent us from completing bargaining on time. We filed the Unfair Labor Practice charge in order to encourage them to take the problem more seriously. We are writing this letter to the members of the Joint Committee on Employment Relations in the interest of transparency, and in the hope that the JCER will encourage OFM to meet their obligation to bargain in good faith.

Though we are confident in our case, we do not want to litigate this Unfair Labor Practice complaint. We want the Office of Financial Management to bargain in good faith with our negotiating team.

Failure to schedule bargaining sessions

In late March 2022, WPEA informed Melanie Schwent, the lead negotiator for the OFM team, that we wanted to make sure we did not go past the October 1 deadline and that we would prefer to begin bargaining in April. OFM refused, offering us our first negotiation date on May 12. On May 11, OFM unilaterally cancelled the May 12 bargaining date, causing significant inconvenience to our bargaining team members, who must schedule time off from their state jobs to participate in negotiations. OFM preferred to cancel this date and begin bargaining on June 8; it took some cajoling to convince them to reschedule for May 24. On the May 24 date, OFM cancelled the June 8 bargaining date.

Due to our constitutional responsibilities to our members, WPEA must conclude negotiations by September 10 in order to return a ratified contract by October 1. We have consistently explained this to OFM. Yet OFM scheduled two bargaining sessions after September 10. When we pointed out that these dates would be useless, OFM cancelled them and has not rescheduled.

Failure to respond to proposals

The OFM Higher Education team has not responded to the significant majority of our proposals. Since bargaining began in late May, the WPEA team has offered initial proposals on more than 30 articles. As of July 29, the OFM Higher Education team has offered only 11 counterproposals.

If OFM continues to respond to our proposals at this rate, there is simply no way that we will reach agreement by September 10.

As of July 29, the two teams have met for 7 formal bargaining dates, for a total of 37 hours of scheduled bargaining time. Of those 37 hours, approximately 10 hours have been spent in joint session. Much of the time spent in joint session has been WPEA presenting our proposals. OFM has failed to respond at all to a significant majority (roughly 2/3) of WPEA's initial proposals. Most of the counteroffers they have provided have merely been to reassert current contract language. In one case, OFM described their counteroffer, but have failed to provide their offer in writing after several bargaining sessions.

Conduct during bargaining sessions

When they have successfully attended our scheduled bargaining sessions, OFM's negotiating team has been unprepared and unprofessional. The WPEA team has arrived at each bargaining session on time, prepared to negotiate. The OFM team has had to start most sessions by caucusing among themselves, sometimes spending most of the scheduled bargaining session in their caucus, without negotiating. On multiple scheduled full-day bargaining sessions (scheduled from 9:00 a.m. to 4:00 p.m.), OFM has not been prepared to meet in a joint session until late in the afternoon, with not enough time to present their proposals.

On June 29, WPEA proposed contract language that matched the language in another collective bargaining agreement with the state. Ms. Schwent told us that our proposal would be a problem for management to implement due to the state's payroll system. WPEA responded by pointing out that the state already implements identical contract language, Ms. Schwent suggested that we break early for lunch and come back with answers. After lunch, OFM merely said that they felt that current contract language was working and that they were not interested in changing the language. To date, OFM has not explained why the contract language was working for one union but would be difficult for the same employers to implement for WPEA members.

On July 7, when a member of WPEA's negotiating team referenced the way that Clark College addressed a particular circumstance, Gerald Gabbard, the management representative from Clark, interrupted by twice loudly accusing our negotiator of making false & unsubstantiated allegations. When WPEA's negotiator provided documentation of what she had described, signed by Mr. Gabbard himself, Mr. Gabbard did not respond, apologize, or provide any explanation.

On July 27, multiple members of the OFM Higher Education team made derisive comments about the physical appearance of a member of the WPEA team. Stating that the faces she made while they were speaking were hurting negotiations. To be clear, the faces she was making, were not out of the norm for

negotiations: she was silently frowning or shaking her head to express her skepticism or disagreement with what management was saying.

We expect negotiations to be contentious, even heated at times; however, we also expect that all parties will be honest, show up on time, to be prepared, and pursue negotiations in good faith as required by law.

As we told the OFM negotiators upon filing this Unfair Labor Practice, though we are confident in our case, we have no desire to litigate this ULP. We simply want our OFM counterparts to take these negotiations seriously so that we can complete negotiations in time for the October 1 deadline. We will continue to urge OFM to agree to enough bargaining dates, and to respond to our proposals.

Signed,

A handwritten signature in black ink, appearing to read "Dana Spain". The signature is fluid and cursive, with a large initial "D" and "S".

Dana Spain, WPEA President

A handwritten signature in black ink, appearing to read "Seamus Petrie". The signature is cursive and stylized, with a large initial "S" and "P".

Seamus Petrie, WPEA Legislative Specialist

A handwritten signature in black ink, appearing to read "Amanda Hacker". The signature is cursive and clear, with a large initial "A" and "H".

Amanda Hacker, WPEA Contract Administration Director