

EXHIBIT 3

EEB COMPLAINT, 2022-051

Bryant, Ruthann C (ATG)

From: ethics@atg.wa.gov
Sent: Tuesday, June 6, 2023 9:12 AM
To: [16b]
Cc: ATG WWW Ethics Board Mailbox
Subject: Thank You for Contacting the WA State Ethics Board

[EXTERNAL]

The following message has been submitted to staff at the WA Ethics Board.

Your contact information:

You are not required to provide your name. However, if you choose not to provide your name, we are unable to keep you updated on the progress of our investigation, or to consult with you regarding the details of your complaint.

As of July 28, 2013, under RCW 42.52.410

(3)(a) A state employee who files a complaint with the appropriate ethics board shall be afforded the protection afforded to a whistleblower under RCW 42.40.050 and 49.60.210(2), subject to the limitations of RCW 42.40.035 and 42.40.910. An agency, manager, or supervisor may not retaliate against a state employee who, after making a reasonable attempt to ascertain the correctness of the information furnished, files a complaint with the appropriate ethics board. (b) A state employee may not be denied the protections in chapter 42.40 RCW even if the ethics board denies an investigation of the complaint.

(4) If a determination is made that a reprisal or retaliatory action has been taken against the state employee, the retaliator may be subject to a civil penalty of up to five thousand dollars.

Further, under RCW 42.52.420(4), the identity of a person filing a complaint under RCW 42.52.410(1) is exempt from public disclosure, as provided in RCW 42.56.240.

Name:

Agency:

Division:

Current Position:

Day Phone:

Night Phone:

Best time and number to call:

Email Address: [16b]

Home or mailing address:

WA

Subject's contact information:

Please file a separate form for each state employee or officer who you believe has violated the Ethics in Public Service Act.

Name: Abraham D Flaxman

Agency: University of Washington

Division: Department of Global Health

Position: Associate Professor
Phone: 206-897-2802
Location:
Subject's Supervisor(s):
Supervisor's Position(s):
Supervisor's Phone:

1. What type of ethics violation(s) are you reporting?

Activities incompatible with public duties Use of public resources for political campaigns

2. When and where did the ethical violation(s) occur?

Jun 5, 2023, 10:53 AM on AAUP faculty listserv aaup@u.washington.edu>

3. Please describe the ethical violation(s) in detail The more detailed information you provide us, the better we will be able to assess your concerns.

Use of public resources for political campaigns. Posted the following message to large faculty listserv. Importantly this message included hyperlinks to the following sites advocating helping an outside organizations:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgivebutter.com%2F4121-pdrsestrikessup&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000%7C%7C%7C&sdata=JyvYFQaNG8oKw6s7bLQuwh78006Gp171Gnt8wRe%2B3ac%3D&reserved=0>

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdocs.google.com%2Fforms%2Fd%2Fe%2F1FAIpQLSfxSX1N9kaPzN2u5uNfUep25BDzbVNeCilCoL3TgvZyI8NwEQ%2Fviewform&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000%7C%7C%7C&sdata=OmrPB6fiyw3rjSsdf88GjQpNmbButpLEWjpHMjcZjEA%3D&reserved=0>

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdocs.google.com%2Fdocument%2Fd%2F1etz89HsXmHkFTIFvUWWwLVeh3GLhbla_PwRP0eUpd_s%2Fedit&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000%7C%7C%7C&sdata=bV3KkA71%2FpxevybaYkCOO4%2FPaFc9iSl6np40zSSBKtl%3D&reserved=0

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdocs.google.com%2Fforms%2Fd%2Fe%2F1FAIpQLSffg8Mmm_L1jFU3LBzuftjozsy1X6ESEUICD6pBT-kDpJ69ug%2Fviewform&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000%7C%7C%7C&sdata=PWLRJzycjUpn8ctpgPZRshqYq%2BP1xrtt5PMelDXe4g%3D&reserved=0

[AAUP] Information about Potential Research Scientist and Postdoc Strike June 7th Abraham D Flaxman <abie@uw.edu>
Mon, Jun 5, 2023 at 9:05 AM

Reply-To: Faculty Issues and Concerns <aaup@u.washington.edu>

To: Faculty Issues and Concerns <aaup@u.washington.edu>

Cc: test KO <kosterhage@gmail.com>, "lkim@uaw4121.org" <lkim@uaw4121.org> Dear List Members,

I am passing on some information about the potential strike, from the Post Doc & RSE Bargaining Committees.

--Abie

Subject: Information about Potential Research Scientist and Postdoc Strike June 7th

As you are likely aware, Research Scientist/Engineers A-4 (RSEs) and Postdoctoral Scholars have each voted to strike starting June 7th if we have not reached agreement in collective bargaining. These were extremely difficult decisions, but followed several months of negotiations with the UW Administration in which both units experienced bad faith bargaining and filed Unfair Labor Practice charges. Additional bargaining dates are scheduled for June 6th and 13th for Postdocs and June 5th for RSEs, and we have communicated our availability every day and evening in the interest of reaching agreement.

We deeply appreciate the support we've received from our faculty colleagues! Here are several things you can do to support RSEs and Postdocs:

- Make a donation to our hardship fund; this will help the most financially vulnerable workers making the choice to strike
- Join us for a picket line shift
- Send an email to President Cauce and team; here is a template you can use.
- If you supervise postdocs, please sign on to this Dear Colleague Letter that 100+ faculty have already signed urging the President to agree to living wage standards
- Talk to your colleagues about what is going on and urge them to do the same
- Respond to request emails by asking admin to share details about what they are doing to avert a strike

We are happy to answer any questions you might still have about our positions after reading the summaries below the signatures.

Please feel free to contact our bargaining committees at: contact@uwresearchersunited.org or uwpubargaining@uaw4121.org Also you can find links for all things related to our campaign for fair contracts here: <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flinktr.ee%2Fuwfaircontractsnow&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFPbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Iklha>

WwiLCJXVCI6Mn0%3D%7C1000%7C%7C%7C&sdata=6J%2F6w%2FfnGz9aICU1QZo0tCgJk8hp3esO1fS330RxDyY%3D&reserved=0

With gratitude and solidarity,

UW Postdocs United / UAW Bargaining Committee

Luci Baker, Mechanical Engineering

Rebecca Bluett, Biochemistry

Brant Bowers, Electrical and Computer Engineering

Tucker Burgin, Chemical Engineering

Pat Erickson, Institute for Protein Design

Jer Steeger, Philosophy

UW Researchers United / UAW Bargaining Committee

Thaddeus Armstrong, Department of Lab Medicine and Pathology

Jai Broome, Internal Medicine

Erin Carll, Center for Evaluation & Research for STEM Equity

Morgan Crotta, Department of Comparative Medicine

Iván Cruz, Biological Structure

Abby Gambrill, Physiology and Biophysics

Jay Mas Gilvydis, Global Health

Anya Kalata, Department of Lab Medicine and Pathology

Julia Kobelt, Aquatic and Fishery Sciences

Katherine Lasdin, Aquatic and Fishery Sciences

Ellen MacLachlan, Global Health

Katie Osterhag, Family Medicine

Deborah Nemens, Environmental & Forest Sciences (SEFS)

Van Redila, Biological Structure

Annelise Smith, Psychiatry and Behavioral Sciences

Galen Stewart, Department of Lab Medicine and Pathology

Jacob Tietz, Department of Comparative Medicine

Stacey Wedlake, Information School

Ryan Will, Department of Lab Medicine and Pathology

Tricia Wu, Biological Structure

Outstanding Issues: Research Scientists/Engineers A-4

This group organized and filed a representation petition with strong majority support in December of 2021. However, we were delayed by a protracted certification period, in which UW Admin challenged the bargaining unit eligibility of nearly 300 RSE employees. These challenges turned out to be baseless (only 3 of the nearly 300 challenged employees were excluded from the bargaining unit following the PERC process), but it caused the representation election not to be held until June, 2022. As such, negotiations were delayed. At the same time UW admin decided to withhold the 3.25% merit pay increases for RSEs that had been authorized for other employees by the UW Provost, pending the outcome of negotiations.

RSEs began bargaining with UW's Labor Relations team in August of 2022 but following two 6 week hiatuses in August, September and October (UW was unavailable for bargaining during this time) we resumed negotiations in late November. At this time we learned that the Administration had begun unilaterally converting RSEs to overtime non-exempt status for several months. We raised the issue and demanded to bargain it, but with only a few weeks of time before the January 1st deadline for determining overtime exempt status, UW declared impasse and then began to convert and require hours tracking. We filed an Unfair Labor Practice charge over this unilateral change on January 4, 2023.

Despite these initial challenges we have managed to reach agreement on most terms of a full CBA. There are however three unresolved issues:

- RSEs need living wages that are competitive with the market. RSEs are the most underpaid professional staff group at UW. According to UW's own salary study, Research Scientists are underpaid by about 30% relative to the market.
- UW will not agree to a version of the sexual harassment prevention training program EPIC for RSEs. This is a highly effective program that our Academic Student Employee (ASE) and Postdoc colleagues already have.

· A childcare support fund. This is a fund that AEs and Postdocs already have access to.

You can view a complete table of outstanding bargaining issues for REs here.

Outstanding Issues: Postdocs

In October 2022 the University administration initiated bargaining with Postdocs, citing the 9/30/22 announcement by L&I that the new living wage for overtime-exempt employees was \$65,478. UW invoked the Time Reporting Memorandum of Understanding from the 2021-2023 CBA and noted in their communication that “Currently, postdoctoral scholars who are full-time UW salaried employees are considered overtime exempt professionals subject to these new minimum thresholds.”

Negotiations initially were productive. We discussed with the University that hours tracking was not an appropriate option for Postdocs given the nature of their work, and Admin agreed (as they had for many years). In response to our proposal, they increased wages for Postdoc Scholars to \$65,508 (just over the WMWA threshold). They also agreed to other proposed improvements in areas such as Childcare, Reasonable Accommodations, and Non-Discrimination/Harassment.

However, in early 2023 UW abruptly changed their position. They began to state that they were no longer certain that the WMWA was applicable to Postdocs, and claimed that they had been seeking clarification from L&I about this point. We told them that this was a complete departure from the parties’ shared understanding and asked them to explain their new legal theory and show us these communications. UW would not provide a theory or the requested documentation, but insisted that they would not agree to salary increases above the WMWA minimum threshold in future years because they now didn’t think Postdocs were covered by the Act. We therefore filed an Unfair Labor Practice charge on February 14, 2023, alleging unlawful bad faith bargaining. Shortly after, UW called for mediation and very little has changed in the University’s position. The Postdoc CBA expired on January 31, 2023.

On March 31, 2023, UW President Ana Mari Cauce sent a letter to L&I Director Joel Sacks, stating that the University was now taking the position that Postdocs were excluded from WMWA. They reiterated many of the objections to the WMWA that they had raised in previous years, including their position that hours tracking was incompatible with Postdoc work. In the words of President Cauce: “The fluctuating demands of postdoc training experiences are inconsistent with the application and feasibility of predicting and paying overtime, since eligibility for overtime is assessed on a weekly basis and averaging hours over two or more weeks is not permitted.” They did not cite their previous comments to L&I from 2018 making clear that they had long understood that Postdocs were covered by the WMWA.

On April 25th our Postdoc leadership also sent a letter to Director Sacks, pointing out that we believed the law was clearly applicable and that the parties had shared this understanding for many years.

On May 16th Director Sacks sent a response letter to President Cauce and to us, confirming that the law does apply to Postdocs.

On June 1, 2023 90 UW Faculty who supervise Postdocs and serve as Principal Investigators on research grants sent a letter to President Cauce, Director Sacks and the Governor's office, urging UW to agree to keep Postdoc salaries above the state wage thresholds rather than initiate hours tracking. Over the next several days faculty continued signing on, with the current count at over 100.

At this time UW Admin is insisting that Postdocs should be required to track hours and seek additional compensation through overtime, rather than be paid according to the living wage standards defined by the Washington Minimum Wage Act in 2024 (the wage minimum increases more substantially in 2025 and so we are proposing that this contract expires before then so we can negotiate again before then).

AAUP-UW FACULTY ISSUES AND CONCERNS listserve aup@u.washington.edu Listserve guidelines and information about AAUP-UW:

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fdepts.washington.edu%2Fuwaup%2Fwordpress%2Flistserver%2F&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C1000%7C%7C%7C&sdata=5kigoJZVaWdSP3uUqB5dWlrSSpX6PWwOh4AY5MDB3pw%3D&reserved=0>

4. Where can we find, or can you provide, additional documentation to support your assertions?
Please mail hard copies of documents to PO Box 40149, Olympia, WA 98504

5. Are there other witnesses? If so, please provide their contact information.

6. How do you know about the information you are disclosing here?

[16b]

Declared By Name and Date:

Name: anonymous

Date: 6/6/2023

Submitted on: 6/6/2023 9:12:05 AM

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ethics.wa.gov%2F&data=05%7C01%7Cethics%40ATG.WA.GOV%7C35e562051faf4126e98b08db66a8c860%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C1%7C638216647335072399%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C1000%7C%7C%7C&sdata=%2Fv1ff8iifcTKU%2B2CbezZAennDG5IfIzn8PNIbegkFcU%3D&reserved=0>