

University of Washington, Decision 8463 (PSRA, 2004)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
SERVICE EMPLOYEES INTERNATIONAL	)	
UNION, LOCAL 925	)	CASE 18188-E-04-2922
	)	
For clarification of existing	)	DECISION 8463 - PSRA
bargaining units of employees of:	)	
	)	ORDER MERGING
UNIVERSITY OF WASHINGTON	)	BARGAINING UNITS
	)	
	)	

Theiler, Drachler, Douglas, McKee, by *Martha Barron*,
Attorney at Law, and *Michael Laslett*, Higher Education
Director, for the union.

Howard Pripas, Director of Labor Relations, for the
employer.

On January 29, 2004, Service Employees International Union, Local 925 (union), filed a petition with the Public Employment Relations Commission under WAC 391-25-420(2)(a), concerning certain employees of the University of Washington (employer). The union sought to merge three existing bargaining units of supervisory employees. An investigation conference was conducted on February 23, 2004, by Hearing Officer Starr H. Knutson.

The Executive Director accepts the information and stipulations presented by the parties during the investigation conference and, acting under WAC 391-25-426, merges the historical bargaining units into one unit.

BACKGROUND

The employer is an institution of higher education with the main campus in Seattle and branch campuses in Bothell and Tacoma, Washington. The union represents several bargaining units of employees of this employer.

This case involves three historically-separate bargaining units of supervisory employees that were organized under the State Civil Service Law, Chapter 41.06 RCW, at different times:

1. A "supervisory clerical campus-wide" unit (once identified as "Unit 15") that was last modified in 1994, and consists of employees who supervise office-clerical employees;¹ and
2. A "supervisory clerical and media" unit (once identified as "Unit 33") that was created in 1997, and consists of supervisors of employees working in the employer's administrative and media operations;² and
3. A "supervisory administrative professional" unit that was created by the merger of three supervisory units in 2000, and consists of employees at the employer's main campus and its branch campus in Tacoma;³

All of those bargaining units are affected by the Personnel System Reform Act of 2002 (PSRA), and will be covered by Chapter 41.80 RCW

¹ Department of Personnel case RU-337.

² Department of Personnel case RU-477.

³ Department of Personnel case RU-548.

when it is fully effective.⁴ This proceeding anticipates that coverage.

ANALYSIS

Applicable Legal Principles

One provision of the new collective bargaining system for state civil service employees that was created by the PSRA that took effect on June 13, 2002, is pertinent here:

RCW 41.80.070 BARGAINING UNITS - CERTIFICATION.
(1) A bargaining unit of employees covered by this chapter existing on June 13, 2002, shall be considered an appropriate unit, unless the unit does not meet all the requirements of (a) and (b) of this subsection. The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modification of existing units, the commission shall consider: the duties, skills and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and *the avoidance of excessive fragmentation*. . . .

⁴ These bargaining units are currently covered by the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. In 1993, the enactment of RCW 41.56.201 (HB 1509) gave state institutions of higher education and the unions representing their classified employees under the State Civil Service Law an option to have their relationship regulated by the collective bargaining law generally applicable to local government. Exercising that option, the parties to this case executed collective bargaining agreements under RCW 41.56.201. The PSRA first closed the window for exercise of the RCW 41.56.201 option, and will eventually repeal RCW 41.56.201, with the effect that these bargaining units will revert to coverage under the State Civil Service Law, Chapter 41.06 RCW, as of July 1, 2005.

(3) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate. If consolidation is appropriate, the commission shall certify the employee organization as the exclusive bargaining representative of the new unit.

(emphasis added). The determination and modification of appropriate bargaining units of state civil service employees is now a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.06.340; 41.80.070.

The "fragmentation" and "merger" components of RCW 41.80.070 can be presumed to reflect legislative concern about the existence of more than 170 separate bargaining units among state civil service employees when the PSRA was enacted. The Commission adopted a special rule to implement the "merger" authorization imbedded in RCW 41.80.070,⁵ as follows:

WAC 391-25-426 SPECIAL PROVISION--STATE CIVIL SERVICE EMPLOYEES. An employee organization that represents two or more bargaining units of state civil service employees may obtain a merger of those units by filing a petition under WAC 391-25-420(2)(a). If the merged unit is found to be appropriate under WAC 391-25-420(2)(c)(i) and (ii), the employee organization shall be

⁵ The Commission's general rule on the subject, WAC 391-25-420, allows mergers of bargaining units where the proposed merged unit is an appropriate unit under the applicable statute. The conclusion about the propriety of the merged unit can be based on evidence produced at a hearing under WAC 391-25-420(2)(c)(i), or can be based on the parties' stipulation to a unit that is appropriate on its face under WAC 391-25-420(2)(c)(ii). The general rule then requires ratification by employees in unit determination elections in WAC 391-25-420(2)(d), which are omitted from WAC 391-25-426.

certified as exclusive bargaining representative without need for unit determination elections.

In essence, the special rule eliminates the need for concurrent unit determination elections to validate the merger of separately-organized bargaining units.

Application of Standards

By the stipulations now before the Executive Director, the parties seek to have three bargaining units of supervisory employees merged under WAC 391-25-426. The parties have submitted information and stipulations which satisfy the requirements of WAC 391-25-420(2)(c)(ii). In particular, the descriptive terms historically used for "vertical" bargaining units created within some branches of the employer's table of organization are similar to the descriptive terms historically used for seemingly "horizontal" units, and connote the existence of fundamental similarities among the duties, skills and working conditions of employees in those units. Nothing has come to the attention of the Commission staff or Executive Director that contradicts the propriety of the merger requested by the parties. In this case, the merger of three bargaining units addresses the admonition against "fragmentation" in the statutory unit determination criteria.

FINDINGS OF FACT

1. The University of Washington is an institution of higher education of the state of Washington, and is an employer within the meaning of RCW 41.80.005(10).
2. Service Employees International Union, Local 925, an employee organization within the meaning of RCW 41.80.005(7), is the

exclusive bargaining representative of various separately-created bargaining units of non-supervisory and supervisory employees of the University of Washington who will be classified employees covered by the State Civil Service Law, Chapter 41.06 RCW, on and after July 1, 2005.

3. The parties have stipulated that the supervisory employees in three historical bargaining units in the employer's academic and medical areas have similar duties, skills and working conditions, and share a community of interest.
4. No facts have been discovered or brought to the attention of the Executive Director which call into question the propriety of the proposed merger described in these findings of fact.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and WAC 391-25-426.
2. The merger of the bargaining units described in paragraph 3 of the foregoing findings of fact will result in an appropriate unit for the purposes of collective bargaining under RCW 41.80.070, implementing the provisions of that section concerning fragmentation and merger of bargaining units.

ORDER

The historical bargaining units shall be merged into one bargaining unit described as follows:

All supervisory civil service employees of the University of Washington in the employer's academic and medical

areas of operation, excluding confidential employees, internal auditors, non-supervisors, and employees included in any other bargaining unit.

Service Employees International Union, Local 925, shall continue to be the exclusive bargaining representative of all employees in the merged unit.

ISSUED at Olympia, Washington, on this 19th day of March, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in dark ink, appearing to read "Marvin L. Schurke", is written over the printed name below.

MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency on the issue addressed unless a notice of appeal is filed with the Commission under WAC 391-25-660.