

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the joint petition of:

KENNEWICK SCHOOL DISTRICT

and

PUBLIC SCHOOL EMPLOYEES OF
WASHINGTON

For clarification of existing
bargaining units.

CASE 128015-C-16

DECISION 12589 - PECB

ORDER CLARIFYING
BARGAINING UNITS

Laurye Schmidt, Field Representative, for the Public School Employees of Washington.

Betsy Dickinson, Classified Human Resource Manager, for the Kennewick School District.

On March 11, 2016, the Kennewick School District (employer) and the Public School Employees of Washington (union) jointly filed a unit clarification petition concerning the bargaining unit placement of eleven paraeducators in the employer's workforce. The union represents a bargaining unit of employees in the paraeducator and cashier general job classifications. The paraeducators who are the subject of this petition are currently included in that bargaining unit.

The union also represents a separate bargaining unit of employees in the secretarial-clerical general job classification. The parties assert that the job duties of the 11 paraeducators have changed and now align with the secretaries bargaining unit. Additionally, those employees have been reclassified to the secretarial-clerical general job classification. The parties ask that the units be clarified to transfer the 11 paraeducators from the paraeducators/cashiers bargaining unit to the secretaries bargaining unit.

The issue to be decided is whether the parties' stipulations should be accepted to move the 11 paraeducators from the paraeducators/cashiers bargaining unit to the secretaries bargaining unit.

The parties' stipulations are accepted. The paraeducators/cashiers bargaining unit is clarified to remove the 11 paraeducators whose job duties now align with the secretaries bargaining unit and who are now in the secretarial-clerical general job classification. Those employees are included in the secretaries bargaining unit.

DISCUSSION

Applicable Legal Standards

The determination of appropriate bargaining units is a function delegated to this agency by the Legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *rev. denied*, 96 Wn.2d 1004 (1981). Bargaining unit determinations are made on a case-by-case basis. *King County*, Decision 5910-A (PECB, 1997). The goal in making bargaining unit determinations is to group together employees who have sufficient similarities (community of interest) that indicate they will be able to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993).

In making bargaining unit determinations this agency considers "the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees." RCW 41.56.060(1). These criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A. Not all of the factors will arise in every case, and where they do exist, any one factor could be more important than another, depending on the facts. *Renton School District*, Decision 379-A (EDUC, 1978), *aff'd*, *Renton Education Association v. Public Employment Relations Commission*, 101 Wn.2d 435 (1984).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit through a unit clarification proceeding, upon request. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). Unit clarification cases are governed by the provisions of

Chapter 391-35 WAC. The general purpose of the unit clarification process is to provide a mechanism to make changes to an appropriate bargaining unit based upon a change of circumstances. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units).

Application of Standards

In this case the employer and union stipulate that the employer assigned the 11 paraeducators new duties that no longer align with the duties performed by the paraeducators/cashiers bargaining unit. The parties also agree that the 11 employees no longer share a community of interest with that unit because they are no longer performing paraeducator work. Rather, they are now performing clerical and secretarial work, including answering phones, filing, data processing, maintaining schedules and event calendars, and greeting and interacting with the public. The parties agree the employees' new duties align with the duties performed by the employees in the secretaries bargaining unit.

Based upon the parties' stipulations and the change in circumstances, the new duties of the 11 paraeducators warrant their exclusion from the paraeducators/cashiers bargaining unit and bring the employees into alignment with the secretaries bargaining unit so as to warrant their inclusion in that unit. The parties' stipulations are accepted. The 11 positions are removed from the paraeducators/cashiers bargaining unit and are placed in the secretaries bargaining unit to reflect the change in circumstances.

FINDINGS OF FACT

1. The Kennewick School District is a public employer within the meaning of RCW 41.56.030(12).
2. The Public School Employees of Washington (union) is a bargaining representative within the meaning of RCW 41.56.030(2).

3. The union represents a bargaining unit of paraeducators and cashiers in the employer's workforce.
4. The positions held by the following employees have historically been included in the paraeducators/cashiers bargaining unit: Pat Brown, Patti Lee, Sylvia Vasquez, Bev Taranto, Becky Garcia, Dana Shook, Michelle Beden, Chris McKinnis, Kelly Rettig, Connie Dearing, and Sharon White.
5. The union also represents a bargaining unit of employees in the secretarial-clerical general job classification. The employees in that bargaining unit perform clerical and secretarial work, including answering phones, filing, data processing, maintaining schedules and event calendars, and greeting and interacting with the public.
6. The employer reclassified the employees described in Finding of Fact 4 to the secretarial-clerical general job classification and those employees are now performing the same duties as the bargaining unit of employees described in Finding of Fact 5.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-35 WAC.
2. Based upon Finding of Fact 6, the employees described in Finding of Fact 4 share a community of interest with the bargaining unit described in Finding of Fact 5.

ORDER

The positions held by Pat Brown, Patti Lee, Sylvia Vasquez, Bev Taranto, Becky Garcia, Dana Shook, Michelle Beden, Chris McKinnis, Kelly Rettig, Connie Dearing, and Sharon White are

removed from the paraeducators/cashiers bargaining unit and are placed in the secretaries bargaining unit described in Finding of Fact 5.

ISSUED at Olympia, Washington, this 15th day of June, 2016.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 06/15/2016

DECISION 12589 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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