

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
WASHINGTON FEDERATION OF STATE) CASE 19598-E-05-3087
EMPLOYEES)
) DECISION 9047 - PSRA
Involving certain employees of:)
)
EASTERN WASHINGTON UNIVERSITY) ORDER MERGING
) BARGAINING UNITS
)
_____)

Gladys Burbank, Director of Activities, for the Washington Federation of State Employees.

Joylnn Rogers, Human Resources, for the employer.

On June 17, 2005, the Washington Federation of State Employees (union), filed a petition with the Public Employment Relations Commission under WAC 391-25-426, concerning certain employees of Eastern Washington University (employer). The union sought to merge two existing bargaining units (historically known as "Bargaining unit 1" and "Bargaining unit 2") of non-supervisory employees of this employer. Along with the petition was a memorandum of understanding signed by the employer and union, documenting their agreement to the merger.

ISSUE

Would merged unit encompassing the two existing non-supervisory units at Eastern Washington University constitute an appropriate bargaining unit?

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

APPLICABLE LEGAL PRINCIPLES

The Personnel System Reform Act of 2002 (PSRA) has various effective dates. A new collective bargaining system for state civil service employees is codified in Chapter 41.80 RCW, of which one section 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*. . . .

. . . .
(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 Commission adopted a special rule to implement that statutory provision 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 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.¹

ANALYSIS

The union represents several bargaining units of classified employees of this employer. This case involves two separate bargaining units that were organized at different times:

- "Bargaining Unit 1" encompasses all classified employees with the exclusion of certain supervisors. It was created in 1967, and was modified by the Higher Education Personnel Board in 1973 under HEPB-RM #13.
- "Bargaining Unit 2" encompasses all civil service employees who oversee student workers and hourly workers exempt from civil service. It was created as a unit of supervisors in 1974, and was divided into separate bargaining units of non-

¹ 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).

supervisory and supervisory employees in *Eastern Washington University*, Decision 8636 (PSRA, 2004).

Those were among more than 180 separate bargaining units that existed among state civil service employees when the PSRA was enacted.

The "fragmentation" and "merger" components of RCW 41.80.070 can be presumed to reflect legislative concern about the existence of bargaining units that are similar to one another. By the stipulations now before the Executive Director, the parties seek to have two bargaining units of non-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), and nothing has come to the attention of the Commission staff or Executive Director that contradicts the propriety of the action requested by the parties. In this case, the merger of two bargaining units addresses the "fragmentation" component of the statutory unit determination criteria and implements the statutory endorsement of merging historical bargaining units.

FINDINGS OF FACT

1. Eastern Washington University is a state institution of higher education within the meaning of RCW 41.80.005(1).
2. The Washington Federation of State Employees, an employee organization within the meaning of RCW 41.80.005(7), has been the exclusive bargaining representative of two separate bargaining units of non-supervisory employees of the Eastern Washington University.

3. The parties have stipulated that the non-supervisory employees in "Bargaining unit 1" and "Bargaining unit 2" 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 fragmentation and merger components of that section.

ORDER

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

All non-supervisory civil service employees of Eastern Washington University, excluding confidential employees, internal auditors, supervisors, and employees included in any other bargaining unit.

2. The Washington Federation of State Employees shall continue to be the exclusive bargaining representative of all employees in the merged unit.

ISSUED at Olympia, Washington, on this 2nd day of August, 2005.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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.