

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
UNITED FACULTY OF CENTRAL / UNITED) CASE 17439-E-03-2833
FACULTY OF WASHINGTON STATE)
) DECISION 8127-B - FCBA
Involving certain employees of:)
)
CENTRAL WASHINGTON UNIVERSITY) DIRECTION OF ELECTION
)
)
_____)

Eric R. Hansen, Attorney at Law, for the union.

Christine O. Gregoire, Attorney General, by *Teresa C. Kulik*, Assistant Attorney General, for the employer.

On April 16, 2003, United Faculty of Central / United Faculty of Washington State (union) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of the faculty of Central Washington University (employer). Following an investigation conference conducted under WAC 391-25-220, an interlocutory order rejecting stipulations proposed by the parties,¹ a hearing in November 2003, and the filing of briefs, the Executive Director issued a conditional order of dismissal on May 7, 2005, ruling that the bargaining unit then being proposed by the union was inappropriate under the terms of the applicable statute.² Dismissal of

¹ *Central Washington University*, Decision 8127 (FCBA, 2003).

² *Central Washington University*, Decision 8127-A (FCBA, 2004).

the petition was withheld for 14 days, to allow the union time to file and serve an amended petition seeking the only bargaining unit that is appropriate based on this record. The union filed an amended petition on May 12, 2004.

Based on the full record in this proceeding and the amended petition, the Executive Director now directs an election.

FINDINGS OF FACT

1. Central Washington University is a state institution of higher education operated under Title 28C RCW, and is an employer within the meaning and coverage of Chapter 41.76 RCW.
2. United Faculty of Central / United Faculty of Washington State, an employee organization within the meaning of RCW 41.76.005(6), has filed a properly supported petition for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of the faculty of Central Washington University.
3. The employer has promulgated, and from time to time revised, a faculty code.
4. The faculty code defines "faculty" at Section 2.10, and thereby designates faculty status for some individuals who work full-time for the employer.
5. The faculty code defines and establishes the Faculty Senate as the faculty advisory body charged with responsibility for recommending policies, regulations, and rules for the university.

6. The Faculty Senate of Central Washington University adopted a resolution in which the terms "instructional load" and "both instructional assignments and non-teaching academic assignments [with] equivalent instructional load" are used to define faculty duties.
7. The record in this proceeding establishes the existence of a historical and ongoing practice of employing part-time and adjunct faculty members for a variety of reasons, including filling in for full-time faculty members absent on leave, teaching courses within the particular expertise of the individual, teaching sections needed to meet student demand, and teaching experimental courses.
8. The record in this proceeding does not establish any clear line of demarcation for "casual" status higher than the "one-sixth of full-time" presumption set forth in WAC 391-35-350.
9. Under the circumstances existing at this time, wherein the current academic term is nearing its end, the use of a measurement period consisting of the current academic year (Autumn Quarter of 2003 and Winter Quarter of 2004 and Spring Quarter of 2004) will provide the most accurate assessment of casual and temporary employment.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.76 RCW and Chapter 391-25 WAC.
2. A bargaining unit consisting of all full-time and regular part-time employees of Central Washington University who are

either designated with faculty status by the Faculty Code, or perform faculty duties as defined in the resolution adopted by the Faculty Senate (excluding casual or temporary employees as defined in WAC 391-35-350, administrators, confidential employees, graduate student employees, postdoctoral and clinical employees, and employees subject to Chapter 41.06 or 41.56 RCW) is the only appropriate bargaining unit under RCW 41.76.005(11) and 41.76.025, based on the record made in this case.

3. A question concerning representation currently exists in the bargaining unit described in paragraph 2 of these conclusions of law.

DIRECTION OF ELECTION

1. Within seven days following the date of this order, the employer shall file and serve an updated list containing the names and addresses of all of its employees who were either designated with faculty status or performed faculty duties (as defined in paragraph 6 of the foregoing findings of fact) within the measurement period described in paragraph 8 of the foregoing findings of fact, including the proportion of full-time worked by each employee (stated in terms of full-time-equivalency, academic credit hours taught and/or days worked, as is available from the employer's records).
2. A representation election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission, in the appropriate bargaining unit described in paragraph 2 of the foregoing conclusions of law, for the purpose of determining whether a majority of the employees in that unit desire to be represented for the purposes of

collective bargaining by United Faculty of Central / United Faculty of Washington State or by no representative.

Issued at Olympia, Washington, on the 13th day of May, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Marvin L. Schurke", written in a cursive style.

MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission under WAC 391-25-590.