

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON FEDERATION OF)	
STATE EMPLOYEES)	CASE 21839-C-08-1364
)	
For clarification of an existing)	DECISION 10236 - PSRA
bargaining unit of employees of:)	
)	
COMMUNITY COLLEGE DISTRICT 13)	ORDER CLARIFYING
(LOWER COLUMBIA COMMUNITY COLLEGE))	BARGAINING UNIT
_____)	

Washington Federation of State Employees, by *Gladys Burbank*, Director of PERC Activities, for the union.

Office of Financial Management, by *Tina Peterson*, Labor Negotiator, and *Rob McKenna*, Attorney General, by *Alicia O. Ozanich*, Assistant Attorney General, for the employer.

On July 3, 2008, the Washington Federation of State Employees (union) filed a unit clarification petition under Chapter 391-35 WAC, concerning certain employees of the Community College District 13 (employer). The union seeks to accrete certain regular part-time employees into an existing bargaining unit already represented by the union. Hearing Officer Christy Yoshitomi conducted a pre-hearing conference on September 11, 2008. During this pre-hearing conference, the parties agreed to submit written stipulations in lieu of a hearing. The parties submitted their stipulations on November 7, 2008.

ISSUE

Should the existing bargaining unit be clarified to include regular part-time employees?

The Executive Director accepts the parties' stipulations and modifies the bargaining unit represented by the union to include the petitioned-for employees.

APPLICABLE LEGAL PRINCIPLES

Unit placement of part-time state civil service employees is addressed in WAC 391-35-356. Under this rule, it is presumptively appropriate for employees covered by Chapter 41.06 RCW who work less than full-time to be included in the same bargaining unit as full-time employees who perform similar work.

The Personnel Resources Board (PRB) is the agency authorized to interpret RCW 41.06, the applicable statute. On July 1, 2005, a revised rule, WAC 357-04-045, was adopted by the PRB addressing part-time or temporary employees:

WHICH PART-TIME OR TEMPORARY EMPLOYEES OF HIGHER EDUCATION EMPLOYERS ARE EXEMPT FROM CIVIL SERVICE RULES?

Persons employed to work one thousand fifty hours or less (1050 hours or less) in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, are exempt from civil service rules.

Employees who are either exempt under this subsection or exceptions authorized under WAC 357-19-440, and who work more than three hundred fifty (350) hours in any twelve consecutive month period from the original date of hire or January 1, 2004, whichever is later, may be included in an appropriate bargaining unit for purposes of collective bargaining, as determined by the public employment relations commission. Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the three-hundred fifty (350) hours.

ANALYSIS

The union currently represents a unit of all nonsupervisory civil service employees excluding confidential employees, internal auditors, and supervisory employees. There are approximately 125 employees in the existing unit that does not include regular part-time employees working less than one thousand fifty hours. The parties have stipulated to a list of approximately 102 employees who have worked at least three hundred fifty hours during the previous twelve months, and although the employees may not perform all the duties of the equivalent full-time positions, they perform work similar to the full-time positions in the existing bargaining unit.

CONCLUSION

The Executive Director finds that the stipulations filed by these parties are sufficient to constitute a basis for a ruling, and nothing has come to the attention of the Commission staff or Executive Director that contradicts the propriety of the clarification requested by the union. The employer does not oppose clarifying the bargaining units to include the employees working between 350 and 1050 hours annually. The existing bargaining unit appears to be the only appropriate unit placement for the petitioned-for employees. The stipulations by the parties are therefore accepted and incorporated into the findings of facts below.

FINDINGS OF FACT

1. Community College District 13 d/b/a Lower Columbia College (employer) is a state institution of higher education within the meaning of RCW 41.80.005(10).

2. The Washington Federation of State Employees (union) is an employee organization within the meaning of RCW 41.80.005(7).
3. The union is the exclusive bargaining representative of a bargaining unit encompassing all nonsupervisory civil service employees excluding confidential employees, internal auditors and supervisory employees.
4. The parties stipulate that the petition was timely filed.
5. The parties stipulate that there are approximately 125 employees included in the bargaining unit described in Finding of Fact 3.
6. The parties stipulate that the list of approximately 102 petitioned-for employees includes those who perform work similar to that performed by the classified employees in the existing bargaining unit described in Finding of Fact 3 and who have worked at least 350 hours in the previous 12 months.
7. The parties stipulate that the individuals within the group described in Finding of Fact 5 do not include students.
8. The parties stipulate that no other employee organization is known to claim or be seeking to represent any of the part-time employees at issue in this proceeding, and that no other cases pending before the Public Employment Relations Commission could affect the composition of the bargaining unit.
9. The parties stipulate that the Commission has jurisdiction to determine whether the proposed individuals can be included in the bargaining unit.

10. The parties stipulate that the petitioned for employees in Finding of Fact 5 are appropriately included in the existing bargaining unit described in Finding of Fact 3.
11. The parties have waived their rights to a hearing and their rights to file an appeal.
12. No other facts have been discovered or brought to the attention of the parties that call into question the propriety of the proposed bargaining unit.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and Chapter 391-35 WAC.
2. Employees described in Finding of Fact 5 are regular part-time employees for the purpose of collective bargaining and are appropriately included in the existing bargaining unit as described in Finding of Fact 3.

ORDER

1. The description of the existing bargaining unit is modified to read as follows:

All full-time and regular part-time nonsupervisory civil service employees of Community College District 13 (Lower Columbia Community College) excluding confidential employees, internal auditors and supervisory employees.

2. Employees who work for the employer more than 350 hours during any consecutive 12-month period are included in the unit as regular part-time employees.

Issued at Olympia, Washington, on the 3rd day of December, 2008.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director