

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON FEDERATION OF
STATE EMPLOYEES

Involving certain employees of:

UNIVERSITY OF WASHINGTON

CASE 24156-E-11-3660

DECISION 11155 - PSRA

ORDER MERGING
BARGAINING UNITS

Herb Harris, PERC Specialist, for the union.

Peter Denis, Assistant Vice-President of Human Resources, for the employer.

On August 1, 2011, the Washington Federation of State Employees (union) filed a petition with the Public Employment Relations Commission, concerning employees of the University of Washington (employer). The union sought to merge its Bothell Campus bargaining unit into an existing Campus-wide bargaining unit of this employer. An investigation conference was conducted on August 31, 2011, by Representation Coordinator Sally Iverson.

ISSUE

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

The Executive Director accepts the information and stipulations presented by the parties, and in accordance with WAC 391-25-426, the Bothell Campus bargaining unit is merged into the existing Campus-wide bargaining 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.

ANALYSIS

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

- All full-time and regular part-time nonsupervisory classified employees of the University of Washington, excluding members of the governing board, employees excluded from coverage of Chapter 41.06 RCW, students, employees covered by other collective bargaining agreements, confidential employees and supervisors. *University of Washington*, Decision 10944 (PSRA, 2010).
- All full-time and regular part-time Facility Services employees in the University of Washington Bothell Campus, excluding supervisors, confidential employees, Office-Clerical employees, Skilled Trades employees, and all other employees. *University of Washington*, Decision 9583 (PSRA, 2007).

The “fragmentation” and “merger” components of RCW 41.80.070 can be presumed to reflect legislative concern about the proliferation of bargaining units. By the stipulations now before the Executive Director, the parties seek to have two bargaining units of nonsupervisory 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 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. 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. The Washington Federation of State Employees, an employee organization within the meaning of RCW 41.80.005(7), is the exclusive bargaining representative of two separate bargaining units of nonsupervisory employees of the University of Washington.

3. The parties have stipulated that the nonsupervisory employees in the historical campus-wide bargaining unit and the Bothell Campus bargaining unit 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 full-time and regular part-time nonsupervisory classified employees of the University of Washington, and Grounds and Nursery Specialist 1, Mail Carrier-Driver and Utility Worker 1 at the Tacoma Branch Campus, and Facility Services employees at the Bothell Campus, excluding members of the governing board, employees excluded from coverage of Chapter 41.06 RCW, students, employees covered by other collective bargaining agreements, confidential employees, supervisors, and all other employees.
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 7th day of September, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

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