

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

TOPPENISH CORRECTIONAL
OFFICERS ASSOCIATION

Involving certain employees of:

CITY OF TOPPENISH

CASE 128078-E-16

DECISION 12591 - PECB

ORDER OF DISMISSAL

Brian J. Dean, Correction Officer, and *Michael Morehouse*, President, for the
Toppenish Correctional Officers Association.

Clara Jiménez, Mayor, for the City of Toppenish.

No appearance was made on behalf of Teamsters Local 760.

On March 31, 2016, the Toppenish Correctional Officers Association (Association) filed a representation petition with the Public Employment Relations Commission seeking to change the bargaining representative for the correctional employees of the City of Toppenish (employer). The employees are currently represented by Teamsters Local 760 (Teamsters).

On April 1, 2016, a routine letter was sent to the employer requesting a list of the petitioned-for employees. The employer responded to that request and provided a copy of the current collective bargaining agreement between the employer and Teamsters. The agreement is valid until December 31, 2016.

Because the Association's petition appeared to be untimely, a deficiency notice was issued on May 2, 2016, asking the Association to show good cause as to why its petition should not be dismissed as untimely. The Association responded to the show cause letter on May 4, 2016, conceding that Teamsters had a history of representing the petitioned-for employees. However, the Association also asserted that the correctional employees were never placed on notice that Teamsters was bargaining on their behalf along with the public works, city hall clerical, and police dispatch employees that Teamsters also represents. The Association asked that processing of the

petition continue despite the existing contract because the petitioned-for employees were never placed on notice of their inclusion in that group.

The Association's petition must be dismissed because the petitioned-for employees are covered by a valid collective bargaining agreement that does not expire until December 31, 2016, and a "contract bar" exists while a valid collective bargaining agreement is in effect. A petition involving any or all of the employees covered by the agreement will be timely only if it is filed during the 60- to 90-day window period prior to the stated expiration date of the collective bargaining agreement. WAC 391-25-030(1). In this instance, the window period for filing a petition will not open until October 3, 2016, and will close on November 2, 2016.

The Association's request to waive the timeliness rules because the petitioned-for employees were not placed on notice that Teamsters was bargaining on their behalf along with other employees in the employer's workforce is also rejected. The fact that the employer and Teamsters negotiated a single collective bargaining agreement for all of the Teamsters-represented employees in the employer's workforce is not indicative that all of those employees are in a single bargaining unit. Rather, it simply means that the correctional employees are currently enjoying the benefits of the negotiated agreement between Teamsters and the employer. Should the Association file a timely petition, the issue of the bargaining unit status of the correctional employees could properly come before this agency.

ORDER

The petition filed by the Toppenish Correctional Officers Association is DISMISSED as untimely under WAC 391-25-030(1).

ISSUED at Olympia, Washington, this 16th 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 391-25-660.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 06/16/2016

DECISION 12591 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: VANESSA SMITH

CASE NUMBER: 128078-E-16

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