University of Washington, Decision 11414 (PSRA, 2012)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON FEDERATION OF STATE EMPLOYEES, Complainant, vs. UNIVERSITY OF WASHINGTON, Respondent.	CASE 24189-U-11-6195 DECISION 11414 - PSRA FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Younglove & Coker, PLLC, by *Edward Earl Younglove III,* Attorney at Law, for the union.

Attorney General Robert M. McKenna, by *Mark K. Yamashita,* Assistant Attorney General, for the employer.

On August 16, 2011, the Washington Federation of State Employees (union) filed an unfair labor practice complaint against the University of Washington (employer). The union alleged the employer refused to bargain when it refused to meet and negotiate over issues involving bargaining unit employees working at the University of Washington Contact Center and refused to provide relevant collective bargaining information requested by the union. Additionally, the union alleged the employer interfered with employee rights when it refused to acknowledge the Contact Center employees' inclusion in the bargaining unit and refused to acknowledge the union's standing as the exclusive bargaining representative of the employees. A preliminary ruling was issued on August 23, 2011. Examiner Lisa A. Hartrich held a hearing on January 9, 2012. The parties submitted post-hearing briefs to complete the record.

ISSUES

1. Did the employer refuse to bargain by failing or refusing to meet and negotiate with the union?

2. Did the employer refuse to bargain by refusing to provide relevant collective bargaining information requested by the union?

3. Did the employer unlawfully interfere with employee rights when it refused to acknowledge the Contact Center employees' inclusion in the bargaining unit and refused to acknowledge the union's standing as their exclusive bargaining representative?

Based on the arguments, testimony, and evidence presented by the parties, the Examiner rules the employer committed a refusal to bargain unfair labor practice when it refused to meet with the union and refused to provide relevant collective bargaining information to the union. The employer unlawfully interfered with employee rights when it refused to acknowledge the Contact Center employees' inclusion in the bargaining unit and refused to acknowledge the union's standing as the exclusive bargaining representative.

BACKGROUND

History of Bargaining Unit

The bargaining unit at issue in this case was created by the Higher Education Personnel Board (HEPB) in 1972.[1] The union has been the exclusive bargaining representative for employees in the unit since 1973. The bargaining unit, known as the Harborview Medical Center Bargaining Unit, was modified numerous times over the years, but was consistently represented by the union throughout the entire period.

The Commission gained jurisdiction over the bargaining unit with the advent of the Personnel System Reform Action (PSRA) in 2002.[2] The Commission last modified the bargaining unit on

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1 Under the rules of procedure of the HEPB, a bargaining unit was first created, and then a labor organization petitioned to represent the employees in the newly-created unit. The HEPB was replaced by the Washington Personnel Resources Board (WPRB) in 1993.

2 "The exclusive bargaining representatives certified to represent the bargaining units existing on June 13, 2002, shall continue as the exclusive bargaining representative without the necessity of an election." RCW 41.80.070(2).

April 1, 2010, after the union filed a representation petition to add the truck driver lead classification to the unit, without objection from the employer. The existing bargaining unit as certified by the Commission is described as:

> All full-time and regular part-time nonsupervisory classified employees of the University of Washington working at Harborview Medical Center, excluding members of the governing board, employees excluded from the coverage of Chapter 41.06 RCW, students, employees covered by other collective bargaining agreements, confidential employees and supervisors.

University of Washington, Decision 10717 (PSRA, 2010).

Related Unfair Labor Practice Complaints

A proper assessment of the present unfair labor practice complaint requires a recitation of facts from a related case, *University of Washington*, Decision 11075 (PSRA, 2011) (hereinafter, Decision 11075).[3] The employer operated the Patient Access Center (PAC) at Harborview Medical Center where employees registered patients, scheduled patient appointments, coordinated referrals, assigned payer plans, and verified insurance coverage and eligibility. The PAC employees were part of the Harborview Medical Center bargaining unit represented by the union. The employer and union were parties to collective bargaining agreements effective July 1, 2009 through June 30, 2011, and July 1, 2011 through June 30, 2013.

In 2010, the employer decided to open the new Contact Center. The Contact Center consolidated the PAC and the Virtual Front Desk operation of the University of Washington Physicians Network. The employer and union met over two or three sessions where the union tried to bargain with the employer over the transfer of the work to the Contact Center. The employer insisted the employees would no longer be bargaining unit employees when they moved from the PAC to the Contact Center. The employer and union did not finish bargaining prior to the move to the Contact Center.

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[3] Affirmed by the Commission in *University of Washington*, Decision 11075-A (PSRA, 2012) and Decision 11075-B (PSRA, 2012); currently on appeal to King County Superior Court.

The employer required PAC employees to apply for the Contact Center jobs. The union advised bargaining unit employees to apply for the positions at the Contact Center, even though the union protested that employees were required to apply for the work they were already doing.

In August 2010, the employer sent "appointment letters" to union-represented employees at the PAC, confirming their employment at the Contact Center. The letters stated that the Contact Center positions were "classified non-union" positions, and the anticipated start date was October 1, 2010.

On September 3, 2010, the union filed a unit clarification petition with the Commission, seeking a ruling that the PAC employees remained in the bargaining unit since they were still performing bargaining unit work.[4]

On September 21, 2010, the union filed an unfair labor practice complaint,[5] alleging the employer committed refusal to bargain and interference violations by consolidating its call center operations. The matter was expedited for hearing because of the pending unit clarification case.

On September 28, 2010, the unit clarification petition was held in abeyance under WAC 391-35-110(2), pending the outcome of the unfair labor practice complaint.

In October 2010, the employer began consolidating the employees from the PAC to the Contact Center. The employer consistently maintained that once the employees were assigned to the Contact Center, they were no longer represented by the union.

On October 4, 2010, the union filed a representation petition[6] for 25 previously unrepresented, newly-hired Contact Center employees the union claimed were performing the same work as the

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4 Case 23495-C-10-1439. Service Employees International Union Local 925 intervened on September 21, 2010.

5 Case 23515-U-10-5995.

6 Case 23546-E-10-3593.

former PAC employees at the Contact Center. This petition was also held in abeyance, pending the outcome of the unfair labor practice complaint.

Examiner Karyl Elinski heard the unfair labor practice complaint on November 3 and 4, and December 15, 2010.

The union filed an additional unfair labor practice complaint on February 23, 2011,[7] when the employer refused to process a grievance filed by the union on behalf of an employee who had previously worked at the PAC, and had been moved to the Contact Center. The employee was terminated on January 5, 2011. The employer asserted the employees at the Contact Center no longer had collective bargaining rights, and therefore the terminated employee was "not eligible to file a grievance through the union." The complaint was assigned to Examiner Stephen W. Irvin.

Facts in Present Case

On February 25, 2011, the union sent the employer a demand to bargain letter and information request regarding changes to hours of operation and employee schedules at the Contact Center (Demand to Bargain 1).

On May 5, 2011, after not receiving a reply from the employer, the union sent a follow-up e-mail reminding the employer of the demand to bargain and information request. The union asked for a response to its requests (Demand to Bargain 2). On May 5, 2011, the employer responded that in light of the existing litigation (*i.e.* Case 23515-U), it may not be appropriate to bargain.

On May 25, 2011, Examiner Elinski's decision, *University of Washington*, Decision 11075, was issued. The Examiner held that the employer did not have to bargain the decision to consolidate its call center operations into the Contact Center, but did have to bargain the effects of the consolidation. Decision 11075 ordered the employer to return the employees and the work to the union's bargaining unit and to bargain the effects of the consolidation of work to the Contact Center.

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[7] Case 23818-U-11-6079.

On June 7, 2011, the union, referencing Decision 11075, sent a letter to the employer demanding to bargain hours of operation and schedule changes with regard to the Contact Center. The union also requested that the parties hold a joint union-management committee meeting to discuss other changes in mandatory subjects of bargaining that the union had not been notified of (Demand to Bargain 3). On June 10, 2011, the employer sent a response stating the demand was premature because the employer intended to file an appeal, and the Decision 11075 order would be held in abeyance until the Commission decided the case. The employer appealed Decision 11075 to the Commission on June 13, 2011.

On June 14, 2011, Examiner Irvin held a hearing on the union's February 23 complaint concerning the employer's refusal to process a grievance filed by the union on behalf of an employee who had previously worked at the PAC, and had been moved to the Contact Center.

On July 13, 2011, the union sent a demand to bargain and request for information regarding second language translation special pay (Demand to Bargain 4). On July 13, 2011, the union sent an additional demand to bargain and request for information about the addition of new clinics and workload changes (Demand to Bargain 5).

On July 18, 2011, the employer denied the demand to bargain and request for information regarding second language translation special pay, stating that the employer was "still of the view that your union does NOT represent this potential bargaining unit or any of the individuals found therein." Similarly, on July 18, 2011, the employer declined the demand to bargain and request for information regarding the addition of new clinics and workload changes because the employer did not believe that the union represented the employees.

On August 2, 2011, the union sent a demand to bargain regarding a change in the attendance policy at the Contact Center (Demand to Bargain 6). In response, on August 4, 2011, the employer declined the demand to bargain, stating "Until such time as the matter currently before the PERC is definitively determined, the University of Washington is of the view that your union has NO standing with respect to the Contact Center." The union filed the instant complaint on August 16, 2011.

On September 28, 2011, Examiner Irvin issued *University of Washington*, Decision 11181 (PSRA, 2011) concerning the union's February 23 complaint. The Examiner held that the employer interfered with employee rights by refusing to process a grievance filed by the union. The Examiner ruled that the employee was a member of the bargaining unit at the time of her termination and thus subject to the terms and conditions of the parties' collective bargaining agreement. On October 20, 2011, the employer appealed Decision 11181 to the Commission.

The Commission affirmed Decision 11075 on March 14, 2012, in *University of Washington*, Decision 11075-A (PSRA, 2012). The Commission ordered restoration of the *status quo ante* for certain wages, hours, and working conditions, ordered the parties to bargain over certain effects of the consolidation, and ordered the employer to pay union dues from the date the employer removed the employees from the bargaining unit. However, the Commission struck the paragraph of Decision 11075's order returning the employees to the bargaining unit, stating that the pending unit clarification and representation cases were the appropriate avenue to determine the bargaining unit status of the employees.

On April 26, 2012, the Commission issued an Order of Clarification, *University of Washington*, Decision 11075-B (PSRA, 2012), underscoring that the employer must maintain the *status quo* during the pending unit clarification and representation cases. The Commission further clarified that the union remained the exclusive bargaining representative of the employees pending the outcome of those cases, consistent with normal Commission case processing procedures.

APPLICABLE LEGAL STANDARDS – ISSUES 1 AND 2

ISSUE 1 – Refusal to Bargain

A public employer covered by Chapter 41.80 RCW has a duty to bargain with the exclusive bargaining representative of its employees. RCW 41.80.005(2). Personnel matters, including wages, hours, and working conditions of bargaining unit employees are characterized as mandatory subjects of bargaining. *State – Social and Health Services*, Decision 9551-A (PSRA, 2008); *Federal Way School District*, Decision 232-A (EDUC, 1977), citing *NLRB v. Borg-Warner Corp.*, 356 U.S. 342 (1958). An employer that fails or refuses to bargain in good faith

over a mandatory subject of bargaining commits an unfair labor practice. RCW 41.80.110(1)(e) and (a).

It is well established that an employer who refuses to bargain over a mandatory subject of bargaining does so at its own peril. *Western Washington University,* Decision 9309-A (PSRA, 2008); *Spokane County*, Decision 8154 (PECB, 2003).

Chapter 41.80 RCW imposes a mutual obligation upon the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to mandatory subjects of bargaining. The obligation to bargain does not compel either party to agree to a proposal or to make a concession. RCW 41.80.005(2). In order to resolve contractual differences through negotiations, parties to a collective bargaining agreement must meet in a timely fashion. *Seattle School District*, Decision 10732-A (PECB, 2012).

ISSUE 2 – Failure to Provide Information

As part of the good faith bargaining requirement, upon request, parties must provide each other with relevant information needed to properly perform their duties in the collective bargaining process. This includes information relating to both negotiation and administration of the collective bargaining agreement. *King County*, Decision 6772-A (PECB, 1999). Failure to provide relevant information upon request constitutes a refusal to bargain unfair labor practice. This is especially true when the information is solely in the control of the party holding the information. *Seattle School District*, Decision 9628-A (PECB, 2008); *Community College District 14 - Clark*, Decision 10221 (CCOL, 2008).

When a party receives a relevant information request, that party must provide the requested information. If the receiving party does not believe the request is relevant to collective bargaining activities or perceives a particular request as unclear, it is obligated to timely communicate its concerns to the requesting party. *Seattle School District*, Decision 9628-A; *Pasco School District*, Decision 5384-A (PECB, 1996). The Commission emphasizes that parties must communicate with each other and bargain over concerns and objections to

information requests. *City of Seattle*, Decision 10249 (PECB, 2008), (citing *Port of Seattle*, Decision 7000-A (PECB, 2000)).

Parties must be prompt in providing relevant information. Unreasonable delay in providing necessary information can constitute an unfair labor practice. *Fort Vancouver Regional Library*, Decision 2350-C (PECB, 1988).

ANALYSIS – ISSUES 1 AND 2

The facts in this case are not in dispute. As recounted above, the union made six different demands to bargain between February 25, 2011, and August 2, 2011. Four of those demands included separate information requests. The information requests related to hours of operation and employee schedules (Demands to Bargain 1 & 2); second language translation special pay (Demand to Bargain 4); and the addition of new clinics and workload changes (Demand to Bargain 5). All of the requests related to negotiations and the administration of the collective bargaining agreement. All of the demands to bargain and requests for information were denied by the employer.

The employer admits that it refused to bargain with the union. Similarly, the employer admits that it refused to provide the requested information to the union. Instead, the employer asserts the following defense to explain its conduct.

The Employer's Defense

The employer has consistently maintained that the former PAC employees, once moved to the Contact Center, were no longer represented by the union. The employer asserts that it "should be permitted to adhere to its position that the work and the employees are not in the bargaining unit until that issue is resolved by the Commission." The employer perceived Decision 11075 as a mechanism for determining the bargaining unit status of the former PAC employees.

The employer contends that Decision 11075 was an "initial ruling" pending review by the Commission, and therefore the employer was not obligated to recognize the union as the

exclusive bargaining representative. The employer argues that it did not have to comply with the union's demands to bargain or requests to provide information until the Commission issued a "final order" in Decision 11075.

The employer further argues that a separate violation should not be found in a case with the "same course of conduct" as that in Decision 11075, and the conduct in the present case should "relate back" to the allegations in Decision 11075.

In order to address the employer's defense, it is necessary to review the underpinnings of the Commission's exclusive role in determining appropriate bargaining units.

Determining Appropriate Bargaining Units

In 2002, the Legislature enacted the Personnel System Reform Act (PSRA), Chapter 41.80 RCW. The PSRA gave the Commission jurisdiction over state employee collective bargaining rights. Prior to 2002, a more limited field of collective bargaining rights for some state employees – including the classified, non-faculty employees at issue in this case – were administered initially by the Higher Education Personnel Board (HEPB), and later by the Washington Personnel Resources Board (WPRB).

RCW 41.80.070 empowers the Commission to determine appropriate bargaining units of state civil service employees. The determination and modification of appropriate bargaining units is a function delegated to the Commission by the Legislature. *Central Washington University*, Decision 10215-A (PSRA, 2009).

RCW 41.80.070(1) states:

> 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 modifications 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.

RCW 41.80.070 is consistent with the Commission's other statutes which long-predate the PSRA, including RCW 41.56.060 (covering local government employees), enacted in 1967, and RCW 41.59.080 (covering certificated school district employees), enacted in 1975.

Once the Commission certifies a bargaining unit, bargaining unit work remains within the bargaining unit. A change in title, or reallocation, does not presumptively or automatically result in an employee's removal from a bargaining unit if the employee continues to perform the same work. *Central Washington University*, Decision 10215-A.

Unit clarification cases are governed by the provisions of Chapter 391-35 WAC. Unit clarification proceedings are the recognized mechanism for adjusting an existing bargaining relationship after a change in circumstances occurs in the bargaining unit. *Western Washington University*, Decision 8704-A (PSRA, 2005).

A unit clarification petition may be filed by an employer or union seeking a ruling on the proper unit placement of certain positions or classifications. Unit clarification issues are not determined in unfair labor practice proceedings. *See Snohomish County*, Decision 9540-A (PECB, 2007).

Parties may not bargain changes to certifications issued by the Commission. Rather, changes to the certification as written may only be accomplished through a unit clarification proceeding. To the extent the parties have bargained otherwise does not and cannot supersede the Commission's rules. *City of Federal Way*, Decision 11356 (PECB, 2012); *Mead School District*, Decision 7183-A (PECB, 2001); *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981).

When a unit clarification petition is filed, the incumbent union remains the representative of the employees at issue until the petition is resolved. The employer is obligated to maintain the union's status as exclusive bargaining representative until the resolution of the petition. *University of Washington*, Decision 11075-B. Similarly, the employer is prohibited from making any changes to wages, hours or other terms and conditions of employment during the pendency of a representation or decertification petition. WAC 391-25-140(2).

Discussion of Employer's Defense

In its post-hearing brief, the employer correctly asserts that the Commission's unit clarification or representation process will determine the bargaining unit status of the Contact Center employees. On the other hand, the employer erroneously argues that it was not obligated to recognize the union as exclusive bargaining representative until a "final order" by the Commission in Decision 11075-A returned the former PAC employees in the Contact Center to the bargaining unit.

An unfair labor practice proceeding is not the appropriate venue to address the employer's assertion that certain employees no longer belong in a given bargaining unit. As clarified by the Commission in Decision 11075-B, the outcome of Decision 11075-A did not determine whether the employees were in or out of the bargaining unit. Rather, the employees remained represented until deemed otherwise through the unit clarification and/or representation process. Decision 11075-A determined whether or not the employer committed an unfair labor practice, not the bargaining unit status of the employees.

Despite the employer's argument that this case involves the "same course of conduct" as that in Decision 11075, the present case involves new facts, additional demands to bargain and information requests. The facts of this case occurred on or after February 25, 2011. The hearing for Decision 11075 concluded on December 15, 2010. A complainant cannot amend its complaint after the start of a hearing, except to conform the pleadings to evidence that is received at the hearing without objection. WAC 391-45-070(2)(c). In this matter, the union's only option to address alleged unfair labor practices occurring after December 15, 2010, was to file a new complaint.

CONCLUSION

During the events covered by this complaint, the union was the exclusive bargaining representative of the employees subject to the complaint. The union remains the exclusive bargaining representative until the pending unit clarification and representation proceedings are concluded. The employer has a statutory duty to bargain with the exclusive bargaining representative of its employees.

Therefore, the employer committed a refusal to bargain unfair labor practice violation when it admittedly refused to meet and bargain with the union over changes to hours of operation and employee schedules (Demands to Bargain 1, 2, and 3), second language translation special pay (Demand to Bargain 4), addition of new clinics and workload (Demand to Bargain 5), and the attendance policy (Demand to Bargain 6). It follows that employer also committed a refusal to bargain unfair labor practice violation when it refused to provide information requested by the union in Demands to Bargain 1, 2, 4, and 5.

APPLICABLE LEGAL STANDARDS – ISSUE 3

Independent Interference

RCW 41.80.110(1)(a) establishes that an employer commits an unfair labor practice when it interferes with, restrains, or coerces employees in the exercise of the rights guaranteed by Chapter 41.80 RCW.

An interference violation exists when an employee could reasonably perceive the employer's actions as a threat of reprisal or force, or a promise of benefit, associated with the union activity of that employee or of other employees. *Kennewick School District,* Decision 5632-A (PECB, 1996). The union is not required to demonstrate the employer intended or was motivated to interfere with employees' protected collective bargaining rights. Nor is it necessary to show that the employee involved was actually coerced by the employer or that the employer had union animus for an interference charge to prevail. *City of Tacoma,* Decision 6793-A (PECB, 2000).

ANALYSIS – ISSUE 3

The union argues that the employer's continual rejection of the union's demands to bargain and requests for information could not be perceived by Contact Center employees as anything other than a repudiation of the employees' representation rights.

The employer admittedly refused to bargain with the union over the effects of the consolidation of the Contact Center employees. The employer also declared to the union and employees that

the positions at the Contact Center would be non-represented positions. After the work was consolidated to the Contact Center, the union was unable to access the employees and the employees' worksite because the two floors the employees worked on at the Contact Center required a key or code to access the floors.

As highlighted by the examiners in both Decision 11075 and Decision 11181, the employer gave the former PAC employees no option but to go along with the consolidation plans, accept unilaterally imposed conditions of employment, forfeit their collective bargaining rights, or leave their jobs. The employees of the Contact Center could reasonably perceive the employer's continuous assertion that they were non-represented, along with the employer's refusal to bargain and provide information requests to the union, as discouraging union activity.

CONCLUSION

The employer committed an independent interference unfair labor practice violation when it refused to acknowledge the Contact Center employees' inclusion in the bargaining unit and refused to acknowledge the union's standing as the exclusive bargaining representative.

REMEDY

The union argues that this case warrants extraordinary remedies because the employer has committed multiple unfair labor practices by refusing to bargain the removal of bargaining unit work and the effects of such removal on its employees.

The employer requests that if a violation is found in the present case, any remedies ordered be "deemed cumulative" and "merged" with the remedies ordered in Decision 11075-A.

Extraordinary remedies, such as attorney fees, are appropriate when there is a continuing course of conduct that shows an intentional disregard of collective bargaining rights. *Seattle School District*, Decision 10664-A (PECB, 2010); *Seattle School District,* Decision 5733-B (PECB,

1998); *Lewis County*, Decision 644-A (PECB, 1979), *aff'd*, 31 Wn. App. 853 (1982), *review denied*, 97 Wn.2d 1034 (1982).

As noted in Decision 11075, the employer engaged in similar conduct – removing bargaining unit work without fulfilling its duty to bargain – in at least three prior cases:

In *University of Washington*, Decision 8818-A (PSRA, 2006), the employer failed to bargain over the decision and effects of the decision to reorganize the employer's custodial facilities by "reclassifying" employees out of the bargaining unit. In *University of Washington*, Decision 8878-A (PSRA, 2006), the employer failed to bargain over the decision and effects of the decision to reorganize stockroom attendants and central processing technicians by "reclassifying" employees out of the bargaining unit. In *University of Washington*, Decision 10490-C (PSRA, 2011), the employer insisted that reallocated specimen processing technicians be transferred to a different bargaining unit represented by a different union.

In addition to the cases noted above, examiners found violations in Decision 11075 and Decision 11181 for similar conduct involving the Contact Center employees.

In *University of Washington*, Decision 11075-A, the Commission stopped short of awarding attorney fees, but cautioned the employer that attorney fees would be reconsidered in future cases if the employer should continue to disregard its collective bargaining obligations.

As a remedy in Decision 11075-A, the Commission recognized that the employer would not practically be able to return all of the effects of the consolidation to the *status quo ante*. Instead, the Commission ordered the employer to return these specific effects: restore the seven minute grace period, restore the sick leave call in rules, restore the pay scale and any step increases that would have been granted, and restore the bilingual pay premium (referred to in this decision as "second language translation special pay"). The order returning the status quo on these items remains in effect until the parties successfully negotiate an agreement on the effects listed above.

Consistent with the Commission's Decision 11075-A, the Examiner declines to order attorney fees. The Examiner orders that upon the union's request, the employer shall meet and negotiate with the union. The employer is further ordered to provide the relevant information requested by the union.

FINDINGS OF FACT

1. The University of Washington (employer) is an employer within the meaning of RCW 41.80.005(8).

2. The Washington Federation of State Employees (union) is an exclusive bargaining representative within the meaning of RCW 41.80.005(9). The union has been the exclusive bargaining representative of the Harborview Medical Center bargaining unit since 1973.

3. The employer and union were parties to a collective bargaining agreement effective July 1, 2009 through June 30, 2011. Additionally, they are parties to a collective bargaining agreement effective July 1, 2011 through June 30, 2013.

4. Prior to October 2010, the employer had operated the Patient Access Center (PAC) at Harborview Medical Center. The PAC employees were part of the Harborview Medical Center bargaining unit represented by the union.

5. In 2010, the employer decided to open the new Contact Center, which consolidated the PAC and the Virtual Front Desk operation of the University of Washington Physicians Network.

6. The employer and union met over two or three sessions where the union tried to bargain with the employer over the movement of the work to the Contact Center. The employer insisted the employees would no longer be bargaining unit employees when they moved

from the PAC to the Contact Center. The employer and union did not finish bargaining prior to the move to the Contact Center.

7. In October 2010, the employer began consolidating the employees from the PAC to the Contact Center.

8. After the work was consolidated to the Contact Center, the union was unable to access the employees and the employees' worksite because the two floors the employees worked on at the Contact Center required a key or code to access the floors.

9. On February 25, 2011, the union sent the employer a demand to bargain letter and information request regarding changes to hours of operation and employee schedules at the Contact Center.

10. On May 5, 2011, after not receiving a reply from the employer, the union sent a follow-up e-mail reminding the employer of the demand to bargain and information request. On May 5, the employer responded that in light of the existing litigation, it may not be appropriate to bargain.

11. On May 25, 2011, *University of Washington*, Decision 11075 was issued ordering the employer to return the employees and the work to the union's bargaining unit, and requiring the employer to bargain with the union the effects of the consolidation of the work to the Contact Center.

12. On June 7, 2011, the union, referencing Decision 11075, sent a letter to the employer demanding to bargain hours of operation and schedule changes with regard to the Contact Center. On June 10, 2011, the employer sent a response stating the demand was premature because the employer intended to appeal Decision 11075.

13. On July 13, 2011, the union sent a demand to bargain and request for information regarding second language translation special pay. The same day, the union sent a

second demand to bargain and request for information regarding the addition of new clinics and workload changes.

14. On July 18, 2011, the employer denied the demand to bargain and request for information regarding second language translation special pay. The same day, the employer also denied the second demand to bargain and request for information regarding the addition of new clinics and workload changes.

15. On August 2, 2011, the union sent a demand to bargain regarding a change in the attendance policy for the employees. On August 4, 2011, the employer declined the demand to bargain.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.80 RCW and Chapter 391-45 WAC.

2. By failing or refusing to meet and negotiate with the exclusive bargaining representative of its employees, as described in Findings of Fact 9, 10, 12, 13, 14, and 15, the employer refused to bargain and violated RCW 41.80.110(1)(e) and (a).

3. By failing or refusing to provide information requested by the union, as described in Findings of Fact 9, 10, 13, and 14, the employer refused to bargain and violated RCW 41.80.110(1)(e) and (a).

4. By refusing to acknowledge the Contact Center employees' inclusion in the bargaining unit and refusing to acknowledge the union's standing as the exclusive bargaining representative, as described in Findings of Fact 6, 8, 9, 10, 12, 13, 14, and 15, the employer interfered with employee rights in violation of RCW 41.80.110(1)(a).

ORDER

The University of Washington, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:

   a. Failing or refusing to meet and negotiate with the exclusive bargaining representative of its employees.

   b. Failing or refusing to provide information requested by the union.

   c. Unlawfully interfering with employee rights.

   d. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights under the laws of the state of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.80 RCW:

   a. Upon request, meet and negotiate with the exclusive bargaining representative of its employees.

   b. Provide the relevant collective bargaining information requested by the union in Demands to Bargain 1, 2, 4, and 5.

   c. Post copies of the notice provided by the Compliance Officer of the Public Employment Relations Commission in conspicuous places on the employer's premises where notices to all bargaining unit employees are usually posted. These notices shall be duly signed by an authorized representative of the

respondent, and shall remain posted for 60 consecutive days from the date of initial posting. The respondent shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.

d. Read the notice provided by the Compliance Officer into the record at a regular public meeting of the Board of Regents of the University of Washington, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.

e. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice provided by the Compliance Officer.

f. Notify the Compliance Officer, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide him with a signed copy of the notice he provides.

ISSUED at Olympia, Washington, this 11th day of July, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

LISA A. HARTRICH, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.

CASE 24189-U-11-6195
DECISION 11414 - PSRA

COLLECTIVE BARGAINING

PERC

STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

STATE LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist an employee organization (union)**
- **Bargain collectively with your employer through a union chosen by a majority of employees**
- **Refrain from any or all of these activities except you may be required to make payments to a union or charity under a lawful union security provision**

THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING AND RULED THAT THE *UNIVERSITY OF WASHINGTON* COMMITTED AN UNFAIR LABOR PRACTICE AND ORDERED US TO POST THIS NOTICE TO EMPLOYEES:

WE UNLAWFULLY refused to meet and negotiate with the Washington Federation of State Employees (WFSE) over issues involving Contact Center employees.

WE UNLAWFULLY refused to provide relevant collective bargaining information requested by WFSE.

WE UNLAWFULLY interfered with employee rights by refusing to acknowledge the Contact Center employees' inclusion in the WFSE bargaining unit and refusing to acknowledge WFSE's standing as the exclusive bargaining representative.

TO REMEDY OUR UNFAIR LABOR PRACTICES:

WE WILL, upon request, meet and negotiate with the WFSE.

WE WILL provide relevant collective bargaining information requested by WFSE.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

DO NOT POST OR PUBLICLY READ THIS NOTICE.

AN OFFICIAL NOTICE FOR POSTING AND READING WILL BE PROVIDED BY THE COMPLIANCE OFFICER.

The full decision is published on PERC's website, www.perc.wa.gov.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

RECORD OF SERVICE - ISSUED 07/11/2012

The attached document identified as: DECISION 11414 - PSRA has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY: /S/ ROBBIE DUFFIELD

CASE NUMBER:	24189-U-11-06195	FILED:	08/16/2011	FILED BY:	PARTY 2
DISPUTE:	ER MULTIPLE ULP				
BAR UNIT:	ALL EMPLOYEES				
DETAILS:	Harborview				
COMMENTS:					

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