STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE PATROL TROOPERS ASSOCIATION, Complainant, vs. STATE – WASHINGTON STATE PATROL, Respondent.	CASE 26675-U-14 DECISION 12539 - PECB FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

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Kari Hanson, Senior Counsel, Attorney General Robert W. Ferguson, for the Washington State Patrol.

On August 11, 2014, the Washington State Patrol Troopers Association (union) filed a complaint with the Public Employment Relations Commission alleging unfair labor practices against the Washington State Patrol (employer). The union filed an amended complaint on August 13, 2014, under the same case number.[1] On August 25, 2014, the Unfair Labor Practice Manager issued a preliminary ruling finding that causes of action could be found. The agency assigned the complaint to Examiner Page A. Garcia, who conducted a hearing on August 26, 2015. The parties filed timely post-hearing briefs to complete the record.

ISSUES

The issues presented in the preliminary ruling are as follows:

[1] The union filed a second complaint under Case 26683-U-14 on August 14, 2014. At the hearing the union withdrew that complaint on the record and submitted a written withdrawal to the agency on August 27, 2015. Based on the submission of the written withdrawal, the Executive Director issued an order closing the second case on August 28, 2015. *State – Patrol,* Decision 12404 (PECB, 2015).

Issues 1 and 2: Did the employer refuse to bargain in violation of RCW 41.56.140(4) [and derivative interference in violation of RCW 41.56.140(1)] by:

(a) its refusal to provide relevant information requested by the union during contract negotiations, regarding documents/communication between the employer and the Segal Waters Consulting Company (Segal), concerning a compensation survey and Final Report;[2] and

(b) breach of its good faith bargaining obligations in its refusal to make individuals from Segal, who were responsible for doing the compensation survey and/or preparing the Final Report, available to the union?

The Examiner finds that the employer failed to provide relevant information regarding documents and communication between the employer and Segal concerning a compensation survey, which was requested by the union during contract negotiations. Further, by its refusal to make individuals from Segal available to the union or, in the alternative, provide the union the information it was seeking from Segal, the employer breached its good faith bargaining obligations.

BACKGROUND

At the time of filing of the unfair labor practice complaint, the union and the employer were parties to a collective bargaining agreement (CBA) effective from July 1, 2013, through June 30, 2015. The bargaining unit consists of all commissioned employees of the Washington State Patrol, through the rank of sergeant. Under the 2013-2015 CBA, either party could request negotiation of the successor CBA by notifying the other party in writing no sooner than January 1, 2014, and no later than January 31, 2014. Jeffrey Julius acted as the union's chief spokesperson for the parties' successor CBA.

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[2] Exhibit 9B is the Final Report of the Compensation Survey. "Final Report," "Compensation Survey," and "Salary Survey" are used synonymously in the record and are one and the same, not three separate documents. Hereafter and consistent with RCW 41.06.167, this decision will use the term "compensation survey."

For the purposes of negotiating wages, wage-related matters, and nonwage matters, the state is represented by the governor or the governor's designee. RCW 41.56.473(2). For the negotiations under this proceeding, the governor designated the Office of Financial Management (OFM) Labor Relations Office as the bargaining representative. The OFM Labor Relations Office assigned Karl Nagel, Senior Negotiator, as the employer's chief negotiator for the parties' successor CBA.

Pursuant to the collective bargaining process identified in Chapter 41.56 RCW for Washington State Patrol uniformed personnel, the parties must meet particular deadlines in order for the state legislature to fund wages or wage-related matters in a negotiated CBA or an interest arbitration award. In the absence of a successfully negotiated comprehensive CBA, the first of those deadlines requires the parties to agree upon an interest arbitration panel within ten working days after the first Monday in September of every odd-numbered year. RCW 41.56.475(1). Next, the parties are required to execute a written agreement before November 1 of each odd-numbered year setting forth the names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. The third deadline is to cooperatively reserve dates with the arbitration panel between August 1 and September 15, as well as schedule at least five negotiation dates in the following even-numbered year. RCW 41.56.475(1)(b). The final deadline requires all funding requests to be submitted to the director of OFM by October 1 in even-numbered years in order for the governor to submit a funding request to the legislature to implement the wage and wage-related matters in the CBA. RCW 41.56.473(5).[3]

Separate from the parties' mutual deadlines under Chapter 41.56 RCW, the employer, through the director of OFM, is required to "undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol . . . ." The employer must prepare the legislatively mandated compensation survey in each even-numbered year before the start of a biennium. RCW 41.06.167.

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[3] Despite the very cyclical collective bargaining deadlines contemplated in RCW 41.56.475(1), the legislature pointedly indicated that "[t]his subsection imposes minimum obligations only" and added the perennial phrase "not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter." RCW 41.56.475(1)(b).

On September 5, 2013, the parties agreed that Timothy Williams would serve as the interest arbitrator. Working with Williams, the parties agreed on an August 18, 2014, interest arbitration hearing date. On October 25, 2013, the parties requested an agency mediator to "stand by" prior to the October 1, 2014 statutory deadline in case the parties could not reach an agreement on the successor CBA through negotiations. The parties held the first negotiation session for the successor CBA on March 21, 2014. On March 30, 2014, the union made an information request containing 58 items "[i]n order to prepare for the discussions of proposals and counter-proposals in the negotiations for a successor collective bargaining agreement . . . ." Two of the items from that information request are at issue in this case:

> 55. Any and/or all compensation and/or salary surveys for commissioned employees prepared by or for the State/WSP in 2009, 2010, 2011, 2012, 2013, and 2014;
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> 56. Any and/or all documents, including spreadsheets, charts, and graphs, addressing any compensation and/or salary surveys for commissioned employees prepared by or for the State/WSP in 2009, 2010, 2011, 2012, 2013, and 2014;

On April 4, 2014, the employer acknowledged receipt of the union's March 30 information request and stated it anticipated being able to supply responsive information no later than April 23, 2014. On April 14, 2014, the employer sought clarification on two of the items from the information request, and the union responded the same day. On May 16, 2014, Nagel sent the union the most recent compensation survey produced by Segal dated May 6, 2014, and identified as the "Final Report." The compensation survey is 222 pages in volume and identifies all data as "effective January 1, 2014."

On May 30, 2014, the union sent an e-mail titled, "REQUEST FOR BARGAINING INFORMATION–Opportunity to meet with Individual(s) from the Segal Waters Consulting." The union's e-mail began with a request to meet and speak with those people from Segal who were responsible for completing the compensation survey and/or preparing the compensation survey sent to the union on May 16, 2014. The union also requested eight additional items as follows:

1. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to preparing the Salary Survey and/or Final Report;

2. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to select the jurisdictions;

3. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to survey the jurisdictions;

4. The documents used to survey the jurisdictions;

5. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to review the information received from the jurisdictions;

6. Samples of the information received from the jurisdictions;

7. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to confirm that the information received from the jurisdictions was accurate; and

8. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to prepare the Final Report.

The union ended the May 30, 2014, e-mail requesting the information "as soon as possible." Julius testified that after the union received the Segal Compensation Survey, the union's bargaining team had additional questions they believed would be best answered by a Segal representative who prepared the document. Per Julius, some of those questions included how the jurisdictions used in the survey were chosen, how Segal surveyed those jurisdictions, how Segal got the numbers that were set out for those jurisdictions, and how Segal adjusted for workweek and the geographic cost of labor in its data. Julius testified that in his experience representing law enforcement labor organizations, it is important to be able to explain the union's own comparables as well as to understand the other side's comparables. Further, he explained, comparables always come up in interest arbitrations. Not only was the requested information important to the union for interest arbitration, it was also important to the CBA negotiations, testified Julius. The union believed the

troopers' and sergeants' salaries were not competitive and had received information that bargaining unit employees were going to other agencies.

The parties met with an agency mediator on June 30 and July 30, 2014, to attempt to reach a settlement on the successor CBA. An employer representative took notes at both meetings. The parties stipulated to the admission of the June 30 and July 30, 2014, notes at the hearing and they were offered as substantive evidence.

Both the notes and Julius' testimony indicate that the parties discussed the union's May 30, 2014 information request, including its request to meet with a Segal representative. The June 30 notes indicate that initially the employer would provide a partial response to the union's May 30 request by June 16. The June 30 notes also indicate that the employer followed up on June 17 indicating it was still gathering responsive information, which would be provided as quickly as possible. At the June 30 session the union inquired about the estimated delivery dates of the responsive information, repeated the reasons it sought that information, and restated its request to meet with a Segal representative. The employer shared its concern that it would be expensive to make a Segal representative available, as the Segal Company is located on the East Coast. The union's response was to offer for union representatives to fly to the East Coast to meet them, or, in the alternative, to hold a Skype[4] meeting with a Segal representative. Julius testified that the employer did not agree to make a Segal representative available and the union asked the employer's representatives to reconsider their decision on that matter. The June 30 notes do indicate that Julius advised the employer that if the union could agree with OFM's numbers, the need to meet with Segal might be eliminated.

On July 28, 2014, Nagel sent an e-mail to the union responding to the union's request regarding the compensation survey's geographic cost of labor, what factor was used, how it was applied within the state on cities and counties, and how it was applied to figure the average. The e-mail also answered the union's question about the formula for "grossing up." Nagel attached documents

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[4] Skype is an online service that allows subscribers to connect via voice, video, or instant messaging. Such services are either free of charge or require a nominal subscription fee. *See* Skype, http://www.skype.com (last visited Dec. 17, 2015).

to the July 28 response labeled "Cost of Living and Salary Levels" for five states. The data on the attachments was produced by the Economic Research Institute.

Julius testified that the employer's July 28 response did not address all of the union's items in its requests for information and the union followed up with the employer at the July 30, 2014, mediated bargaining session. At that time, the union had six unresolved CBA issues and the employer had eight. Both parties included Article 28 of the CBA, Compensation, as an unresolved item to be discussed in mediation. The July 30 notes indicate that Julius renewed the union's request to meet with a Segal representative and outstanding questions such as how the cities and counties were selected and how the titles were matched. While the notes indicate the employer responded to the first question stating, "They were the same cities and counties that were surveyed last time[,]" the union pointed to the compensation survey data that included two new counties since the last CBA negotiations: Whatcom County and Grant County. Further, the union indicated that while it received the Economic Research Institute data for the states, it did not receive the same data for the counties. Julius' testimony and the notes indicate that he showed the employer's bargaining team that the union couldn't make the employer's comparable jurisdiction numbers from the Segal Compensation Survey work. Julius testified that for those comparable jurisdictions that the employer and union agreed upon within the Segal Compensation Survey, the union's calculated numbers didn't match those of the employer. Julius testified:

> I specifically pointed out some problems we were having making Segal's numbers work. And so – part of it was the information that [Nagel] – and I started to show [Nagel] and their team that we couldn't make it work. And so I asked [Nagel], How do you make this work? And [Nagel]'s response is – was, beats me.

The July 30 notes indicate Nagel told the union after reviewing the documents Julius shared across the table, "further information will need to be obtained."

The interest arbitration hearing for the parties' open CBA items began in the morning on August 18, 2014. At 2:36 p.m. on August 18, 2014, the employer e-mailed the union further responses to its May 30, 2014 information request. Julius testified that the employer gave the union another draft of the compensation survey at the interest arbitration hearing. Also per Julius' testimony, a Segal representative testified at the interest arbitration hearing about the same information that the

union had asked for in its request for information. In the August 18 e-mail the employer answered Item 1 from the union's May 30, 2014 information request for documents pertaining to communications between the employer and Segal connected with preparing the compensation survey. The answer indicated, "This request is seeking internal bargaining-related strategy preparation and discussion and as such, should not be subject to disclosure." The employer's August 18 response indicated that the survey questionnaire was attached to the e-mail. However, Julius testified that there was no attachment to the employer's e-mail and that the union received a copy of the questionnaire at the interest arbitration hearing.

ANALYSIS

Applicable Legal Standards

The Duty to Bargain in Good Faith

The duty to bargain requires a public employer and the exclusive bargaining representative to bargain in good faith over grievance procedures, wages, hours, and working conditions. RCW 41.56.030(4). "[P]ersonnel matters, including wages, hours and working conditions" of bargaining unit employees are characterized as mandatory subjects of bargaining. *City of Seattle,* Decision 11588-A (PECB, 2013), *citing International Association of Fire Fighters, Local 1052 v. PERC*, 113 Wn.2d 197, 200 (1989); *Federal Way School District*, Decision 232-A (EDUC, 1977), *citing NLRB v. Borg-Warner Corp.*, 356 U.S. 342 (1958). The determination as to whether a duty to bargain exists is a mixed question of law and fact for the Commission to decide. WAC 391-45-550. An employer that fails or refuses to bargain in good faith on a mandatory subject of bargaining commits an unfair labor practice. RCW 41.56.140(4) and (1); *Vancouver School District,* Decision 11791-A (PECB, 2013).[5]

The duty to bargain in good faith extends to preparation for interest arbitration. *City of Bellevue*, Decision 3085-A (PECB, 1989), *aff'd, City of Bellevue v. International Association of Fire Fighters, Local 1604*, 119 Wn.2d 373 (1992). The interest arbitration process is concurrent with,

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[5] However, for Washington State Patrol officers appointed under RCW 43.43.020, the employer (the state) is prohibited from negotiating any matters relating to retirement benefits or health care benefits or other employee insurance benefits. RCW 41.56.473(1).

or even a continuation of, the collective bargaining process created within Chapter 41.56 RCW. The duty to bargain in good faith does not end at the point where contract issues are certified for interest arbitration, nor does it end while interest arbitration proceedings are taking place. Although interest arbitration is triggered by the executive director's certification under RCW 41.56.450 that an impasse exists, that impasse can be broken at any time. In fact, it is in the public interest that such an impasse be broken and that the parties proceed, if possible, to a negotiated resolution of their dispute. *City of Bellevue,* Decision 3085-A.

When analyzing conduct during negotiations, the Commission examines the totality of the circumstances to determine whether an unfair labor practice has occurred. *Kitsap County,* Decision 11675-A (PECB, 2013), *citing Shelton School District*, Decision 579-B (EDUC, 1984). A party may violate its duty to bargain in good faith either by one per se violation, such as a refusal to meet at reasonable times and places or refusing to make counterproposals, or through a series of questionable acts which, when examined as a whole, demonstrate a lack of good faith bargaining but by themselves would not be per se violations. *Snohomish County*, Decision 9834-B (PECB, 2008).

Refusal to Provide Relevant Information

The duty to bargain includes an obligation to provide relevant information needed by the opposite party for the proper performance of its duties in the collective bargaining process. *City of Bellevue v. International Association of Fire Fighters, Local 1604*, 119 Wn.2d 373. The obligation to provide information extends not only to information that is useful and relevant to contract negotiations but also encompasses information necessary to the administration of the parties' collective bargaining agreement. *King County*, Decision 6772-A (PECB, 1999). The flow of information between the parties must continue during their preparation for interest arbitration. *Island County,* Decision 11946-A (PECB, 2014), *citing City of Clarkston (International Association of Fire Fighters, Local 2299),* Decision 3246 (PECB, 1989).

In evaluating information requests, the Commission considers whether the requested information appears reasonably necessary for the performance of the union's function as bargaining representative. *City of Bellevue*, Decision 4324-A (PECB, 1994). Failure to provide relevant

information upon request constitutes a refusal to bargain unfair labor practice. *University of Washington*, Decision 11414-A (PSRA, 2013). The duty to provide information does not compel a party to create records that do not exist; however, a party does have an obligation to make a reasonable good faith effort to locate the information requested. *Seattle School District*, Decision 9628-A (PECB, 2008).

Communication is essential to fulfilling the obligation to provide information. Upon receiving a relevant information request, the receiving party must provide the requested information or engage in negotiations about the information request. *City of Yakima*, Decision 10270-B (PECB, 2011); *Seattle School District*, Decision 9628-A; *Port of Seattle*, Decision 7000-A (PECB, 2000). During those negotiations, the receiving party must timely explain if and why it does not think the information request is relevant or clear. *Pasco School District*, Decision 5384-A (PECB, 1996).

The requirement to communicate continues once the responding party provides information to the requesting party. After receiving a response, if the requesting party does not believe the information provided sufficiently responds to the original request, the requesting party has a duty to contact the responding party and engage in meaningful discussions about what type of information the requestor is seeking. *Kitsap County*, Decision 9326-B (PECB, 2010).

Information about comparable wages, hours, and working conditions is basic evidence in an interest arbitration case. *City of Bellevue,* Decision 3085-A, *aff'd*, *City of Bellevue v. International Association of Fire Fighters, Local 1604,* 119 Wn.2d 373. The duty to provide information:

> [I]ncludes an obligation to be forthcoming with explanation of the proposals made or the positions taken in collective bargaining, as well as a duty to provide the opposite party with requested information that is reasonably necessary to prepare for collective bargaining or contract administration. The duty to bargain in good faith is not terminated or suspended by certification of a dispute for interest arbitration . . . .

City of Seattle, Decision 4844 (PECB, 1994).

Application of Legal Standards

In determining a failure to provide information complaint, the complainant must establish that:

1. It requested existing information relevant to the performance of its functions in collective bargaining or contract administration, and

2. The respondent failed or refused to provide the requested information.

The union asserts in its post-hearing brief that the employer failed to provide documentation or answers responsive to its May 30, 2014 information request. Despite discussions regarding the information the union lacked at subsequent mediated bargaining sessions, the union argues that only partial information was received based on the May 30 request. Second, the union's brief suggests that as the employer was not able to answer the union's questions regarding the Segal Compensation Survey, the employer could have made a good faith effort to locate the information by either (a) making a Segal representative available for questions, or (b) making a "reasonable good faith effort" to provide the information the union was seeking in order to understand the compensation survey.

The employer's post-hearing brief concedes that it neglected to provide responses to "a few of Mr. Julius' questions." The employer insists it "did not intend to frustrate the bargaining process," and describes its failure to respond "completely and timely" to the union's May 30, 2014 information request as "inadvertent." As to the union's request to make a Segal representative available to answer questions about the compensation survey, the employer avers in its post-hearing brief that in making such a request, the union was not making an information request, but rather seeking to depose the Segal representative.

The employer points to a previous examiner decision with the same parties and the same issue regarding the union's request to produce the Segal representative to answer questions regarding the compensation survey. *State – Washington State Patrol,* Decision 11283 (PECB, 2012). The examiner in that case found that the employer committed an unfair labor practice by refusing to provide information regarding the Segal Compensation Survey, comparable data of jurisdictions

for interest arbitration, and other information requested by the union for use in the bargaining process. *Id.* The employer claims that the examiner incorrectly treated the union's request to speak to a Segal representative as an information request rather than as an attempt to conduct discovery. The employer did not appeal those decisions to the Commission. Nor does the employer's post-hearing brief in this instance provide legal precedent to show that the union's request to speak with a Segal representative was in fact an impermissible request to conduct discovery. Rather, the employer argues, the union could ask the employer questions about the compensation survey, which the employer could answer with or without consulting Segal. Yet, the employer's brief conceded in a footnote that it did not fully respond to the questions that were asked regarding the Segal Compensation Survey.

Did the union establish that it requested existing information relevant to the performance of its functions in collective bargaining or contract administration?

The information the union requested leading up to the interest arbitration hearing on August 18 related to the Segal Compensation Survey. Julius testified, and the union's information request e-mails dated March 30 and May 30, 2014, indicated, they were requests for "bargaining information." As explained by Julius, "In all interest arbitrations, comparables come up and it's important to understand that information. We're hoping we didn't go to an interest arbitration. But if we had to, we wanted to understand the comparables." When asked on direct examination whether the information requests were relevant to the negotiations, Julius responded that the union hoped the employer would offer the bargaining unit more money to make them competitive as the union had data showing that these bargaining unit employees were going to other agencies.

The Examiner finds that the outstanding items in the union's March 30, 2014 information request were relevant to its functions in collective bargaining.[6] The outstanding information from Items 1 through 8 of the union's May 30, 2014 information request were also relevant to its functions in collective bargaining. In addition, the request to meet with a Segal representative or for the

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[6] In fulfillment of Items 55 and 56 of the union's March 30, 2014, information request, the record is clear that the union received the employer's 2014 compensation survey (albeit the employer provided an updated draft at the August 18, 2014 interest arbitration hearing). The record is not clear whether the union received the 2009-2013 compensation surveys or all the spreadsheets, charts, and graphs requested for the 2009-2014 compensation surveys.

employer to supply the clarifying information sought by the union regarding the Segal Compensation Survey was also relevant to its functions in collective bargaining.

Did the employer fail or refuse to provide the requested information?

Communication is essential to fulfilling the obligation to provide information. Upon receiving a relevant information request, the receiving party must provide the requested information or engage in negotiations about the information request. *City of Yakima*, Decision 10270-B; *Seattle School District*, Decision 9628-A; *Port of Seattle*, Decision 7000-A. During those negotiations, the receiving party must timely explain why it does not think the information request is relevant or clear. *Pasco School District*, Decision 5384-A.

The March 30, 2014, and May 30, 2014 Information Request E-mails

The employer failed to provide all the requested information in the union's March 30, 2014 information request and failed to timely explain why it did not believe the requested information was relevant or clear.[7] The employer failed to provide all the requested information in Items 1 through 8 of the union's May 30, 2014 information request and in many instances, failed to timely explain why it did not believe the requested information was relevant or clear. As stated, the employer's post-hearing brief concedes that it neglected to provide responses to "a few of Mr. Julius' questions" and failed to respond "completely and timely" to the union's May 30, 2014 information request.

The May 30, 2014 Request to Meet with a Segal Representative

Commission precedent firmly establishes that a party must turn over important and relevant collective bargaining information that is within the control of that entity. *City of Wenatchee,* Decision 8898-A (PECB, 2006), *citing City of Bellevue,* Decision 3085-A; *King County,* Decision 6772-A. Any important and relevant information that is solely in the possession of a party must be turned over, upon request, and failure to do so is an unfair labor practice. *City of Wenatchee,* Decision 8898-A.

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[7] *See* FN 6.

A party who receives such a request for information that is not solely within its control, and is otherwise reasonably available to the requesting party, may direct the requesting party to the party holding that information. If the requesting party does not have the legal ability to get the information from the third party, or is being rebuffed by the third party in its efforts to procure the information, the party upon which the request is made may have a duty to assist the requesting party in the procurement of the information. *Id.*

The legislature directs the Washington State Patrol through the director of OFM to undertake a comprehensive compensation survey for officers and entry-level officer candidates of the Washington State Patrol every even-numbered year before the start of a biennium. RCW 41.06.167. The legislature contemplated a limited public disclosure exemption under the Public Records Act, Chapter 42.56 RCW, for salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates that employer pays its employees. The legislature remained silent on any such disclosure exemption under Chapter 41.56 RCW. As the disputed information requests in this case are governed by the state's public employees' collective bargaining statute, Chapter 41.56 RCW, the disclosure of those records, absent a showing of any other privilege, is required.[8]

Per Commission precedent, the employer had two options in this case to respond to the union's request to meet with the Segal representative: (1) direct the union to the Segal representative holding the information or (2) assist the union in the procurement of the information from Segal. *City of Wenatchee,* Decision 8898-A. Here, the employer had a variety of options, including: allow the union representatives to speak to the Segal representative; allow the union to Skype (or some other modern method of visual or audio access) with the Segal representative; or, provide the Segal information the union sought regarding the compensation survey. The employer's post-hearing brief even argued this third option as a possible solution, and yet the employer conceded that it did not fully respond to the questions asked by the union.

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[8] The record lacks evidence that the employer raised the issue of attorney work product privilege during the 2014 CBA negotiations;, nor did the employer raise the issue in presenting its case or post-hearing brief. Further, the Commission in *City of Wenatchee* clarified that the duty to provide information under state collective bargaining laws differs from the obligation to provide information under Chapter 42.56 RCW, and a party's collective bargaining obligations *may* require disclosure of some information that would otherwise be protected under Chapter 42.56 RCW. *City of Wenatchee,* Decision 8898-A at 5 n.2 (emphasis added).

Nagel testified that his role in information requests submitted by the union is to receive them, answer them, or forward them to the employer for the purpose of utilizing its resources to answer the questions that are asked. When asked who would have primary access to the union's two outstanding items in the March 30 information request, Nagel responded, "My office or state [Human Resources]." At no time did the employer refute that the responsive documentation or information existed.

Between the last mediated bargaining session on July 30 and the interest arbitration hearing on August 18, the employer did not supply any further information to the union. The record contains contradictory testimony as to whether the employer raised the concern prior to the August 18 interest arbitration hearing that making a Segal representative available was an attempt at discovery or to depose an employer's witness. When asked to affirm on cross-examination that no one from the employer advised the union prior to the interest arbitration hearing that the employer saw the request to meet with a Segal representative as an attempt at discovery, Nagel replied, "I'm not sure I can agree with that." When asked why he couldn't agree, Nagel responded, "I believe that part of our – the discussions with [Julius] indicated that we didn't believe that interviewing Segal ahead of – you know, in that fashion, we felt was appropriate under those circumstances." When further pressed during cross-examination if that particular discourse was in the June 30 or July 30 notes, Nagel agreed it was not. Conversely, Julius testified on redirect examination that there were no discussions with the employer about its concerns that a meeting with Segal was an attempt at discovery for the interest arbitration. Based on the totality of the evidence, the Examiner finds Julius' testimony credible that the union did not have knowledge of the employer's concern about access to a Segal representative as an attempt at discovery until the August 18, 2014 interest arbitration hearing. Nagel's equivocal testimony on this matter, combined with the absence of reference to a discovery attempt in the June 30 and July 30 notes, is insufficient evidence to support the assertion that the union was aware of the employer's "discovery" or "internal bargaining-related strategy" concerns prior to the hearing or the employer's August 18 e-mail response.

By the totality of the evidence presented at the hearing, as well as the legislatively driven mandate to undertake a comprehensive compensation survey for the bargaining unit herein, the information

the union requested regarding the Segal Compensation Survey was, at least in part, within the control of the employer. *City of Wenatchee,* Decision 8898-A. Failure of the employer to turn over the documentation within its control alone is an unfair labor practice. *Id.*

Alternatively, as directed by the Commission in *City of Wenatchee,* if other portions of the union's information request regarding the Segal Compensation Survey were not within the employer's control, the employer should have directed the union to the Segal representative holding that information. In the alternative, if the union were to not have the legal ability to get the information from Segal, or were to be rebuffed by Segal in its efforts to procure the information, the employer would have had a duty to assist the union in the procurement of the information. *See City of Wenatchee,* Decision 8898-A.

At no time did the employer communicate that the union's May 30 request to meet with a Segal representative regarding the compensation survey was irrelevant to the collective bargaining process. Nor did the employer offer to negotiate solutions that would allow the employer to provide the requested information. The only objection the employer provided was the cost of flying a Segal representative to Washington State from the East Coast. When the union offered alternatives such as flying union representatives to meet with Segal on the East Coast or conducting a meeting via Skype, the employer did not explain its objections to those alternatives. The options available to the employer were not abstract, foreign ideas – the examiner in *Washington State Patrol* chastised:

> [The employer] did not offer to have a telephone conference with a representative of the Segal Company to provide the information the union was requesting. The employer did not make a good faith effort to provide the information requested by the union, which was vital to understanding the information provided by the Segal survey.

State – Washington State Patrol, Decision 11283.

The employer failed to provide requested, relevant information by not making a Segal representative available to answer the union's questions regarding the compensation survey, or in the alternative, assisting the union in procuring the requested information from Segal.

Did the employer breach its good faith bargaining obligations in its refusal to make individuals from Segal who were responsible for preparing the compensation survey available to the union? To show a breach of good faith bargaining obligations, the complainant union must first demonstrate that it is the exclusive bargaining representative of the employees involved and that it requested negotiations on a collective bargaining agreement or some issue that was a mandatory subject of bargaining. *Vancouver School District,* Decision 11791-A, *citing State – Washington State Patrol*, Decision 10314-A (PECB, 2010). If the complainant establishes these two facts, it must then demonstrate that the employer either failed or refused to meet with the complainant, or imposed unreasonable conditions or limitations which frustrated the collective bargaining process. *State – Washington State Patrol*, Decision 10314-A, *citing City of Clarkston (International Association of Fire Fighters, Local 2299)*, Decision 3246. What may be reasonable conduct in one case may not be reasonable in another. *Id.*

The union's post-hearing brief asserts that the requirement to negotiate in good faith under Chapter 41.56 RCW is a broad concept that creates various obligations on a public employer and the exclusive bargaining representative of its employees. As a corollary to the obligation to bargain in good faith, asserts the union, employers and unions must "provide relevant information needed by" the opposing party in order to properly perform its duties in the collective bargaining process, including preparing for negotiations, mediation, and interest arbitration. By not being "forthcoming" with answers to the union's requests to resolve follow-up questions regarding the Segal Compensation Survey and not engaging in negotiations over difficulties the employer had with complying with the union's requests for information, the union argues the employer breached its good faith bargaining obligations in violation of RCW 41.56.140(4).

The employer's post-hearing brief argues the union was not making an information request by asking to meet with a Segal representative, but rather attempting to depose the Segal representative prior to the interest arbitration. Such a discovery request, avers the employer, is impermissible. As to the union's May 30, 2014 request for more information about the methodology used for the Segal Compensation Survey, the employer's post-hearing brief argues it was an "inadvertent failure" to not fully respond to the request, and not intended as "an effort to frustrate the bargaining process."

Inherent to the good faith obligation is the obligation of employers and unions to provide each other, upon request, with information needed by the requesting party for collective bargaining negotiations or contract administration. *State – Washington State Patrol,* Decision 11283, *citing City of Redmond,* Decision 8863-A (PECB, 2006).

The union established that it is the exclusive bargaining representative of all commissioned employees of the Washington State Patrol through the rank of sergeant. The parties began to bargain for a successor CBA in March, 2014, and one of the open CBA provisions up to and through the interest arbitration was compensation, a mandatory subject of bargaining. The employer only raised one objection to the union's request to meet with a Segal representative: cost of travel. When offered alternatives by the union, the employer failed to negotiate or discuss alternative options. The employer's post-hearing brief concedes that either with or without consulting Segal it could have answered the union's follow-up questions concerning the compensation survey. It also concedes to not fully answering the questions that were asked. There is no evidence that the employer made such an offer to the union prior to this post-hearing brief. By the employer's failure to provide the union access to speak with Segal, or in the alternative, obtain the information sought by the union from Segal and provide it to the union, the employer frustrated the collective bargaining process. Therefore, the employer breached its good faith bargaining obligations.

CONCLUSION

At the time of the information requests at issue in this case, the parties were still working toward a mutual resolution of their dispute. The parties worked with an agency mediator and narrowed their open issues down considerably. Even after the parties sought certification that an impasse existed by the Executive Director, they still had the opportunity to break the impasse at any time. In fact, it is in the public interest that such an impasse be broken and that the parties proceed, if possible, to a negotiated resolution of their dispute. *City of Bellevue*, Decision 3085-A. At the time of the interest arbitration hearing, there were only three unresolved issues – one of them being compensation. The information the union sought in this case all related to the *compensation survey* the employer is legislatively mandated to produce each biennium. It is in the public's best interest

that such a collective bargaining impasse be broken and that the parties successfully reach a negotiated resolution. In cases with interest arbitration eligibility, the sharing of such comparable compensation data and information with sufficient time to allow the parties to engage in good faith bargaining is imperative *long before* the parties proceed to interest arbitration.

The Examiner finds that the employer refused to provide relevant information regarding documents and communication between the employer and Segal concerning a compensation survey, which was requested by the union during contract negotiations. Further, by its refusal to make individuals from Segal available to the union, or in the alternative, provide the union the information it was seeking from Segal, the employer breached its good faith bargaining obligations.

Remedies

If the employer refused to bargain in good faith by failing to provide relevant, requested information and breaching its good faith bargaining obligations, is the extraordinary remedy of attorneys' fees warranted?

The union asserts that the employer has engaged in a pattern of conduct showing patent disregard of its good faith bargaining obligations and points to several agency decisions: *State – Washington State Patrol,* Decision 10314 (PECB, 2009); *State – Office of the Governor,* Decision 10313 (PECB, 2009); and *State – Washington State Patrol,* Decision 11283. The union believes that absent an award of attorneys' fees in this case, the employer will continue to frustrate the collective bargaining process.

The employer argues it did not assert meritless or frivolous defenses, that its failure to answer all of the union's compensation survey questions was inadvertent, that it had no legal obligation to make a Segal representative available to the union, and that the employer's conduct was "far from egregious." Finally, the employer avers that it has not engaged in a repetitive pattern of conduct with respect to its bargaining obligations with the union.

The refusal to bargain violations, coupled with the history of three unfair labor practice violations in six years, does not warrant the extraordinary remedy of attorneys' fees. However, the Examiner

finds that the near mirror fact pattern with the most recent unfair labor practice violation in 2012, *State – Washington State Patrol,* Decision 11283, is sufficient to warrant the extraordinary remedy of mandatory agency training.

Fashioning remedies is a discretionary act of the Commission. *University of Washington,* Decision 11499-A (PSRA, 2013), *citing Public Utility District 1 of Clark County*, Decision 2045-B (PECB, 1989); *State – Department of Corrections*, Decision 11060-A (PSRA, 2012). The statutes the Commission administers are remedial in nature, and those "provisions should be liberally construed to effect its purpose." *Local Union No. 469, International Association of Fire Fighters v. City of Yakima,* 91 Wn.2d 101, 109 (1978).

"Appropriate remedial orders" are those necessary to effectuate the purposes of the statute and to make the Commission's lawful orders effective. *University of Washington,* Decision 11499-A, *citing Municipality of Metropolitan Seattle v. PERC,* 118 Wn.2d 621, 633 (1992). The standard remedy for an unfair labor practice violation includes ordering the offending party to cease and desist and, if necessary, to restore the status quo, make employees whole, post notice of the violation, publicly read the notice, and order the parties to bargain from the status quo. *State – Department of Corrections*, Decision 11060-A, *citing City of Anacortes*, Decision 6863-B (PECB, 2001). Requiring an employer to read a copy of the notice at a meeting of its governing body has become part of the standard remedy in an unfair labor practice proceeding. *Seattle School District*, Decision 5542-C (PECB, 1997); *University of Washington*, Decision 11414 (PSRA, 2012), *aff'd*, Decision 11414-A; *City of Yakima*, Decision 10270-B (PECB, 2011); *Port of Seattle*, Decision 7000-A (PECB, 2000). Deviation from the standard remedy, including not ordering a portion of the standard remedy, is an extraordinary remedy.

The Commission has the authority to require payment of attorneys' fees or to impose other extraordinary remedies under RCW 41.56.160 when violations are found under RCW 41.56.140. *Municipality of Metropolitan Seattle v. PERC*, 118 Wn.2d 621. However, the Commission has used "extraordinary" remedies sparingly. *Island County*, Decision 11946-A; *Public Utility District 1 of Clark County*, Decision 2045-B. The Commission has awarded attorneys' fees (1) when such an award is necessary to make the order effective and (2)

when the defense to the unfair labor practice was meritless or frivolous, or the respondent had engaged in a pattern of repetitive conduct showing a patent disregard of its statutory obligations. *Pasco Housing Authority*, Decision 5927-A (PECB, 1997), *aff'd, Pasco Housing Authority v. PERC*, 98 Wn. App. 809 (2000); *City of Seattle*, Decision 3593-A (PECB, 1991).

In a similar case, the employer failed to provide information requested by the union that was relevant to collective bargaining. The employer provided a defense that the delayed response to the union was inadvertent and due to a responding employee's vacation. The examiner in that case found that although the legally erroneous defenses lacked merit, the award of attorneys' fees was not warranted to make the order effective. *Seattle School District,* Decision 12173 (PECB, 2014). The examiner cited to a Commission decision with the same parties where an unfair labor practice violation was found for the employer's failure to provide relevant information, but the decision was issued three years earlier. *Id., citing Seattle School District,* Decision 11045-A (PECB, 2011).

The union's post-hearing brief points to three unfair labor practice cases where violations have been found against the employer: (1) *State – Washington State Patrol*, Decision 10314 (violation of the employer's duty to bargain in good faith by refusing to meet with the union at reasonable times for the 2009-2011 successor CBA); (2) *State – Office of the Governor,* Decision 10313 (governor's refusal to submit the 2009-2011 successor CBA to the legislature for funding was a refusal to engage in collective bargaining); and (3) *State – Washington State Patrol,* Decision 11283 (refusal to bargain by not providing relevant information requested by the union concerning negotiations).

Like *Seattle School District,* Decision 12173, the most recent refusal to bargain by failure to provide relevant information was a violation found three years ago. *State – Washington State Patrol,* Decision 11283. Three unfair labor practice violations in six years do not necessarily demonstrate a clear pattern of refusing to bargain or a patent disregard for the employer's duty to bargain. *See Seattle School District,* Decision 10664-A (PECB, 2010) (training and attorneys' fees ordered where there had been four information request violations in five years). In this case, only one of the three prior unfair labor practice violations was a refusal to provide relevant information violation.

However, given the near mirror image of facts presented in this case with those presented in *State – Washington State Patrol,* Decision 11283, the proximity of the 2013-2015 and 2015-2017 contract cycles, as well as the upcoming 2017-2019 contract cycle,[9] the Examiner believes that in order to effectuate the purposes of the statute, the employer's representatives who are responsible for responding to the union's information requests shall be ordered to participate in an agency information request training. This extraordinary remedy is in addition to the standard remedies for unfair labor practice violations.

This case is similar to *Western Washington University,* Decision 9309-A (PSRA, 2008), where the Commission reviewed the historical collective bargaining relationship, found three prior unfair labor practice violations over the course of three years indicating "the employer's historical pattern of rejecting the basic principles of collective bargaining," and found the extraordinary remedy of agency training was warranted. The Commission explained:

> [A]n award for attorneys' fees does not assist these parties in developing a good collective bargaining relationship. In crafting extraordinary remedies for cases such as this, our responsibility should focus not only on ensuring that the employees' free exercise of collective bargaining rights is protected, but also to educate the offending party on how to comply with its statutory responsibility.

Id.

The employer's elicited testimony and post-hearing brief indicate that its failure to provide the requested relevant information to the union was "inadvertent" and not intended to "frustrate the bargaining process." Neither inadvertence on behalf of the producing party nor lack of prejudice to a requesting party is a defense to a failure to provide relevant requested information. *University of Washington*, Decision 11499 (PSRA, 2012), *aff'd,* Decision 11499-A. As noted, the employer conceded that it neglected to provide responses to "a few of Mr. Julius' questions." The employer further conceded that it did not fully respond to the questions that were asked regarding the Segal Compensation Survey.

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[9] As indicated, given this decision is issued just after an odd-numbered year (2015), the parties are assumedly well into the next cycle of contract negotiations for the successor 2017-2019 CBA, as provided under RCW 41.56.475. A proactive approach of information request training may best effectuate the purpose of the act by the hopeful avoidance of labor strife.

The employer conceded to failing to provide answers to "a few" of the requests for information made by the union. This agency found an unfair labor practice violation three years ago based on near mirror-image facts as this case for the employer's failure to provide information. The employer's defenses of inadvertence and lack of intent to frustrate the bargaining process lack merit. In order to effectuate the purposes of the statute, assist the parties in developing a good collective bargaining relationship, and educate the employer how to comply with its statutory obligations, the Examiner finds that in addition to the standard remedies, the extraordinary remedy of agency information request training is warranted. The Examiner orders that those responsible for responding to the union's information requests, including, but not limited to representatives of the Office of Financial Management, Labor Relations Office, Department of Enterprise Services, and Washington State Patrol Human Resources, shall attend the agency information request training as directed herein.

FINDINGS OF FACT

1. The Washington State Patrol is a public employer within the meaning of RCW 41.56.030(12) and RCW 41.56.473.

2. The Washington State Patrol Troopers Association (union) is a bargaining representative within the meaning of RCW 41.56.030(2) for a bargaining unit of troopers and sergeants who are officers of the Washington State Patrol. Jeffrey Julius represented the union.

3. The Labor Relations Office (LRO) of the Office of Financial Management (OFM) represents the governor in collective bargaining pursuant to RCW 41.56.473(2). Karl Nagel represented the employer.

4. The employer and union were parties to a collective bargaining agreement (CBA) effective from July 1, 2013, through June 30, 2015.

5. The state, through the director of OFM, is required to "undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington

state patrol . . . ." The state must prepare the legislatively mandated compensation survey in each even-numbered year before the start of a biennium. RCW 41.06.167.

6. On September 5, 2013, the parties agreed that Timothy Williams would serve as the interest arbitrator. Working with Williams, the parties agreed on an August 18, 2014, interest arbitration hearing date.

7. On March 30, 2014, the union made an information request containing 58 items "[i]n order to prepare for the discussions of proposals and counter-proposals in the negotiations for a successor collective bargaining agreement . . . ." Two of the items from that information request are at issue in this case:

> 55. Any and/or all compensation and/or salary surveys for commissioned employees prepared by or for the State/WSP in 2009, 2010, 2011, 2012, 2013, and 2014;
>
> 56. Any and/or all documents, including spreadsheets, charts, and graphs, addressing any compensation and/or salary surveys for commissioned employees prepared by or for the State/WSP in 2009, 2010, 2011, 2012, 2013, and 2014.

8. On April 4, 2014, the employer acknowledged receipt of the union's March 30 information request and stated it anticipated being able to supply responsive information no later than April 23, 2014.

9. On May 16, 2014, Nagel sent the union the most recent compensation survey produced by Segal dated May 6, 2014, and identified as the "Final Report." The compensation survey is 222 pages in volume and identifies all data as "effective January 1, 2014."

10. On May 30, 2014, the union sent an e-mail titled, "REQUEST FOR BARGAINING INFORMATION–Opportunity to meet with Individual(s) from the Segal Waters Consulting."

11. The union's May 30, 2014 e-mail requested to meet and speak with those people from Segal who were responsible for completing the compensation survey and/or preparing the Final Report sent to the union on May 16, 2014.

12. The union's May 30, 2014 e-mail also requested the following eight items:

    1. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to preparing the Salary Survey and/or Final Report;

    2. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to select the jurisdictions;

    3. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to survey the jurisdictions;

    4. The documents used to survey the jurisdictions;

    5. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to review the information received from the jurisdictions;

    6. Samples of the information received from the jurisdictions;

    7. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to confirm that the information received from the jurisdictions was accurate; and

    8. Any and all documents connected with and/or pertaining to communications between the State and Segal connected with and/or pertaining to the methodology used to prepare the Final Report.

13. The union ended the May 30, 2014, e-mail requesting the information "as soon as possible."

14. The parties met with an agency mediator on June 30 and July 30, 2014, to attempt to reach a settlement on the successor CBA. An employer representative took notes at both meetings.

15. The June 30 notes indicate that initially the employer would provide a partial response to the union's May 30 request by June 16. The June 30 notes also indicate that the employer followed up on June 17 indicating it was still gathering responsive information, which would be provided as quickly as possible.

16. The employer's concern shared at the June 30 session as reflected in the notes was that it would be expensive to make a Segal representative available, as the Segal Company is located on the East Coast. The union's response was to offer for union representatives to fly to the East Coast to meet them, or in the alternative, to hold a Skype meeting with a Segal representative.

17. The employer did not agree to make a Segal representative available and the union asked the employer's representatives to reconsider their decision on that matter.

18. On July 28, 2014, Nagel sent an e-mail to the union responding to the union's request regarding the compensation survey's geographic cost of labor, what factor was used, how it was applied within the state on cities and counties, and how it was applied to figure the average. The e-mail also answered the union's question about the formula for "grossing up." Nagel attached documents to the July 28 response labeled "Cost of Living and Salary Levels" for five states. The data on the attachments was produced by the Economic Research Institute.

19. The employer's July 28 response did not address all of the union's items in its requests for information and the union followed up with the employer at the July 30, 2014, mediated bargaining session.

20. Both parties included Article 28 of the CBA, Compensation, as an unresolved item to be discussed in mediation.

21. The July 30 notes indicate that Julius renewed the union's request to meet with a Segal representative and outstanding questions such as how the cities and counties were selected, and how the titles were matched.

22. For those comparable jurisdictions that the employer and union agreed upon within the Segal Compensation Survey, the union's calculated numbers didn't match those of the employer.

23. The July 30 notes indicate Nagel told the union after reviewing the documents Julius shared across the table, "further information will need to be obtained."

24. The interest arbitration hearing for the parties' open CBA items began in the morning on August 18, 2014. At 2:36 p.m. on August 18, 2014, the employer e-mailed the union further responses to its May 30, 2014 information request.

25. A Segal representative testified at the interest arbitration hearing about the same information that the union had asked for in its request for information.

26. In the August 18 e-mail the employer answered Item 1 from the union's May 30, 2014 request for documents pertaining to communications between the employer and Segal connected with preparing the compensation survey. The answer indicated, "This request is seeking internal bargaining-related strategy preparation and discussion and as such, should not be subject to disclosure."

27. The employer's August 18 response indicated that the survey questionnaire was attached to the e-mail. The employer's e-mail did not contain an attachment and the union received a copy of the questionnaire at the interest arbitration hearing.

28. Between the last mediated bargaining session on July 30 and the interest arbitration hearing on August 18, the employer did not supply any further information to the union.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-45 WAC.

2. As described in Findings of Fact 5 through 28, the employer refused to bargain in violation of RCW 41.56.140(4) and (1) when it failed or refused to provide relevant, requested collective bargaining information responsive to the union's March 30, 2014, and May 30, 2014 e-mail information requests pursuant to the collective bargaining process.

3. As described in Findings of Fact 5 through 28, the employer refused to bargain in violation of RCW 41.56.140(4) and (1) when it breached its good faith bargaining obligations and frustrated the bargaining process by not providing the union access to speak with a Segal representative, or in the alternative, obtaining information concerning the Segal Compensation Survey responsive to the union's information requests.

ORDER

The State – Washington State Patrol, 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 bargain in good faith during the collective bargaining process.

   b. Failing to timely provide the union with relevant information it requests when that information is necessary to properly perform the union's duties in the collective bargaining process.

c. 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 41.56 RCW:

a. Give notice to and, upon request, negotiate in good faith with the Washington State Patrol Troopers Association during the collective bargaining process.

b. Provide the Washington State Patrol Troopers Association with complete information as described herein concerning its requests for compensation survey information.

c. Contact the Compliance Officer at the Public Employment Relations Commission to receive official copies of the required notice posting. Post copies of the notice provided by the Compliance Officer in conspicuous places on the employer's premises where notices to all bargaining unit members 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. Notify the complainant, in writing, within 20 days following the date this order becomes final 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.

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

f. No later than 30 days following the date this order becomes final, the employer shall contact the Compliance Officer of the Public Employment Relations Commission to arrange a convenient date and time for the employer's representatives to attend agency information request training consistent with this decision. The employer's representatives are those responsible for responding to the union's information requests, including, but not limited to, representatives of the Office of Financial Management Labor Relations Office, Department of Enterprise Services, and Washington State Patrol Human Resources.

ISSUED at Olympia, Washington, this 19th day of January, 2016.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

PAGE A. GARCIA, 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.

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

WE UNLAWFULLY failed or refused to bargain in good faith during the collective bargaining process by failing to provide the Washington State Patrol Troopers Association (union) with information it requested related to the compensation survey we are legislatively mandated to produce each biennium.

TO REMEDY OUR UNFAIR LABOR PRACTICES:

WE WILL give notice to and, upon request, negotiate in good faith with the union during the collective bargaining process.

WE WILL provide the union with complete information it requests concerning wages, hours, and working conditions.

WE WILL send our representatives who are those responsible for responding to the union's information requests, including, but not limited to, representatives of the Office of Financial Management Labor Relations Office, Department of Enterprise Services, and Washington State Patrol Human Resources, to information request training conducted by the Public Employment Relations Commission.

WE WILL NOT fail or refuse to provide the union with compensation survey information maintained by an independent contractor of the employer, when the requested information is relevant to collective bargaining.

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.

COLLECTIVE BARGAINING
PERC
STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 01/19/2016

DECISION 12539 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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CASE NUMBER: 26675-U-14

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