

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON FEDERATION OF
STATE EMPLOYEES,

Complainant,

vs.

STATE - CORRECTIONS,

Respondent.

CASE 23411-U-10-5966

DECISION 10842-B - PSRA

DECISION OF COMMISSION

Younglove & Coker, by *Christopher J. Coker*, Attorney at Law, for the union.

Attorney General Robert M. McKenna, by *Kari Hanson*, Assistant Attorney General, for the employer.

On July 29, 2010, the Washington Federation of State Employees (union) filed an unfair labor practice complaint against the Washington State Department of Corrections (DOC/employer). The union alleged that the employer refused to bargain in good faith when it reallocated positions without offering an opportunity to bargain. Examiner Jamie L. Siegel found that the employer did not commit an unfair labor practice. The union now appeals that decision.

The union makes several arguments in support of this appeal, none of which we find persuasive. We incorporate the Examiner's applicable legal standards, analysis and conclusions here, as we see no reason to restate them. However, we believe it is appropriate to address certain arguments raised by the union.

First, we agree that the Examiner properly applied the holdings of *University of Washington*, Decision 10490-C (PSRA, 2011), in the instant case. By statute, the employer in this case was

precluded from directly bargaining its decision to reallocate employees to particular job classifications. RCW 41.80.020(2)(c); RCW 41.06.150(4).

Likewise, we also agree with the Examiner that after reallocation, the employer was precluded from bargaining with the union over a change in representation status. That is a function delegated by the Legislature solely to the Commission. *University of Washington*, Decision 10490-C. The employer wisely changed its initial course so as to be consistent with our past decision and did not unilaterally transfer the new positions out of the bargaining unit represented by the union.

Third, we also agree with the Examiner that the union did not establish that the employer's decision to reallocate the positions resulted in a material change requiring impact bargaining. The record demonstrates that the job duties of the employees whose positions were reallocated have remained substantially unchanged.

Next, we agree with the Examiner's interpretation of the parties' collective bargaining agreement. Even if the union established that the reallocation resulted in a material change requiring the employer to engage in impact bargaining, the union waived such a right.

Lastly, the Examiner properly did not consider the issue of whether the reallocation was really a disguised reorganization. The union pled that this case was a reallocation, as opposed to reorganization, and did not amend its complaint. It is clear from *University of Washington*, Decision 10490-C and relevant statutes that the word "reallocation" carries legal significance that helped frame the issues in the preliminary ruling. Furthermore, the union did not assign error to many of the findings of fact that are based on reallocation; thus, they stand as verities on appeal. *C-Tran*, Decision 7087-B and 7088-B (PECB, 2002).

We have reviewed the entire record and fully considered the arguments of the parties. The Examiner correctly stated the legal standards. We find that substantial evidence supports the Examiner's findings of fact and that the findings of fact support the conclusions of law. We affirm the Examiner's decision in its entirety. We find that the employer did not refuse to

bargain in good faith in violation of RCW 41.80.110(1)(e) when it reallocated positions without providing the union an opportunity to bargain.


NOW, THEREFORE, it is

ORDERED

The Findings of Fact, Conclusions of Law, and Order of Examiner Jamie L. Siegel are AFFIRMED and ADOPTED as the Findings of Fact, Conclusions of Law, and Order of the Commission. The complaint charging unfair labor practices filed in the above-captioned matter is dismissed.

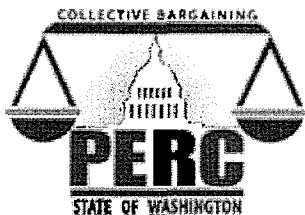
ISSUED at Olympia, Washington, this 14th day of December, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARIELYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


THOMAS W. McLANE, Commissioner



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PUBLIC EMPLOYMENT RELATIONS
COMMISSION


BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 23411-U-10-05966 FILED: 07/29/2010 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: ALL EMPLOYEES
DETAILS: see 23504-S-10-0181
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