

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON FEDERATION OF
STATE EMPLOYEES

For clarification of an existing bargaining
unit of employees of:

WASHINGTON STATE UNIVERSITY

CASE 21832-C-08-1358

DECISION 10645 - PSRA

ORDER CLARIFYING
BARGAINING UNIT

Younglove & Coker, by *Edward E. Younglove*, Attorney at Law, for the union.

Office of the Attorney General, by *Donna Stambaugh*, Assistant Attorney General,
for the employer.

On July 2, 2008, the Washington Federation of State Employees (union) filed a unit clarification petition under Chapter 391-35 WAC, concerning certain employees of Washington State University (employer). The union seeks to include certain regular part-time employees in an existing bargaining unit already represented by the union. Hearing Officer Claire Nickleberry conducted a pre-hearing conference on September 4, 2008. During this pre-hearing conference, the parties agreed to submit written stipulations in lieu of a hearing. The parties submitted their stipulations on December 9, 2009.

ISSUE

Should the existing bargaining unit be clarified to include regular part-time employees?

The Executive Director accepts the parties' stipulations and modifies the bargaining unit represented by the union to include the petitioned-for employees.

APPLICABLE LEGAL PRINCIPLES

Unit placement of part-time state civil service employees is addressed in WAC 391-35-356. Under this rule, it is presumptively appropriate for employees covered by Chapter 41.06 RCW who work less than full-time to be included in the same bargaining unit as full-time employees who perform similar work.

The Personnel Resources Board (PRB) is the agency authorized to interpret Chapter 41.06 RCW, the applicable statute. On July 1, 2005, a revised rule, WAC 357-04-045, was adopted by the PRB addressing part-time or temporary employees:

WHICH PART-TIME OR TEMPORARY EMPLOYEES OF HIGHER EDUCATION EMPLOYERS ARE EXEMPT FROM CIVIL SERVICE RULES?

Persons employed to work one thousand fifty hours or less (1050 hours or less) in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, are exempt from civil service rules.

Employees who are either exempt under this subsection or exceptions authorized under WAC 357-19-440, and who work more than three hundred fifty (350) hours in any twelve consecutive month period from the original date of hire or January 1, 2004, whichever is later, may be included in an appropriate bargaining unit for purposes of collective bargaining, as determined by the public employment relations commission. Overtime and time worked as a student employee under the provision of WAC 357-04-040 are not counted in the three-hundred fifty (350) hours.

ANALYSIS

The union currently represents a unit of all supervisory civil service employees of Washington State University engaged in service work, excluding confidential employees, internal auditors, employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. There are approximately 8 employees in the unit. The current bargaining unit does not include regular part-time employees working more than 350 hours but less than 1050 hours. The employer and union stipulate that although there are currently no part-time employees employed by the employer, should employees

who do similar work be employed, they would be included in the existing supervisory bargaining unit once they reach 350 hours of employment.

CONCLUSION

The Executive Director finds that the stipulations filed by the parties are sufficient to constitute a basis for a ruling, and nothing has come to the attention of the Commission staff or Executive Director that contradicts the propriety of the clarification requested by the union. The employer does not oppose clarifying the bargaining units to include the employees working between 350 and 1050 hours annually. The existing bargaining unit appears to be the only appropriate unit placement for employees who would meet the criteria in WAC 357-04-045. The stipulations by the parties are therefore accepted and incorporated into the findings of facts below.

FINDINGS OF FACT

1. Washington State University is a state institution of higher education within the meaning of RCW 41.80.005(10).
2. The Washington Federation of State Employees is an employee organization within the meaning of RCW 41.80.005(7).
3. The union is the exclusive bargaining representative of a bargaining unit encompassing all supervisory civil service employees of Washington State University engaged in service work, excluding confidential employees, internal auditors, employees in other bargaining units, and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors.
4. The parties stipulate that the petition was timely filed.
5. The parties stipulate that there are currently 8 employees included in the bargaining unit described in Finding of Fact 3 above.

6. The parties stipulate that any regular part-time employee who performs work similar to that performed by the employees in the bargaining unit described in Finding of Fact 3 and who work at least 350 hours in a consecutive 12-month period will be included in the bargaining unit once they reach 350 hours of employment.
7. The parties stipulate that the individuals within the group described in Finding of Fact 6 do not include students.
8. The parties stipulate that no other employee organization is known to claim or be seeking to represent any of the part-time employees at issue in this proceeding, and that no other cases pending before the Public Employment Relations Commission could affect the composition of the bargaining unit.
9. The parties stipulate that the Commission has jurisdiction to determine whether the proposed individuals can be included in the bargaining unit.
10. The parties have waived their rights to a hearing and their rights to file an appeal.
11. No other facts have been discovered or brought to the attention of the parties that call into question the propriety of the proposed bargaining unit.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and Chapter 391-35 WAC.
2. Employees described in Finding of Fact 6 will be regular part-time employees for the purpose of collective bargaining and will be appropriately included in the existing bargaining unit described in Finding of Fact 3.

ORDER

1. The description of the existing bargaining unit is modified to read as follows:

All full-time and regular part-time supervisory civil service employees of Washington State University engaged in service work, excluding confidential employees, internal auditors, and all other employees.

2. Employees who work for the employer more than 350 hours during any consecutive 12-month period will be included in that unit as regular part-time employees.

ISSUED at Olympia, Washington, this 27th day of January, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director