

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:

CENTRAL WASHINGTON UNIVERSITY

CASE 25631-C-13-1544

DECISION 11793 - PSRA

ORDER OF DISMISSAL

On April 15, 2013, the Washington Federation of State Employees (WFSE) filed a unit clarification petition concerning a bargaining unit of employees that it represents at Central Washington University (employer). WFSE sought removal of the non-supervisory Campus Police from its non-supervisory bargaining unit and creation of a new bargaining unit containing those employees. WFSE's bargaining unit is currently defined as:

All full-time and regular part-time nonsupervisory custodial, trades, food services, grounds, plant maintenance and security employees, excluding supervisors and all other employees.

*Central Washington University*, Decision 10375 (PSRA, 2009).

The petition was reviewed under WAC 391-35-020, and on April 24, 2013, a deficiency notice was issued indicating that the petition did not describe a recent change in circumstances that warranted the employees' removal from the bargaining unit. Additionally, WFSE did not allege that any of the police officers had recently become interest arbitration eligible which would require their removal from a bargaining unit containing non-interest arbitration eligible employees. WFSE was given a period of 21 days in which to file and serve an amended petition or face dismissal of the case. WFSE did not file an amended petition that cured the defects in the original petition.

DISCUSSION

Applicable Legal Standard

Unit clarification proceedings are controlled by Chapter 391-35 WAC. WAC 391-35-020 describes the circumstances for which a unit clarification petition may be filed and states, in part:

Time for filing petition — Limitations on results of proceedings.

TIMELINESS OF PETITION

- (1) A unit clarification petition may be filed at any time, with regard to:
  - (a) Disputes concerning positions which have been newly created by an employer.
  - (b) Disputes concerning the allocation of employees or positions claimed by two or more bargaining units.
  - (c) Disputes under WAC 391-35-300 concerning a requirement for a professional education certificate.
  - (d) *Disputes under WAC 391-35-310 concerning eligibility for interest arbitration.*
  - (e) Disputes under WAC 391-35-320 concerning status as a confidential employee.
  - (f) Disputes under WAC 391-35-330 concerning one-person bargaining units.
- (2) A unit clarification petition concerning status as a supervisor under WAC 391-35-340, or status as a regular part-time or casual employee under WAC 391-35-350, is subject to the following conditions:

...

LIMITATIONS ON RESULTS OF PROCEEDINGS

- (3) *Employees or positions may be removed from an existing bargaining unit in a unit clarification proceeding filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions.*

(emphasis added).

Interest arbitration eligible employees may not be in the same bargaining unit with non-interest arbitration eligible employees. WAC 391-35-310. Unit clarification petitions seeking

separation of these two distinct groups of employees may be filed at any time. WAC 391-35-020(1)(d).

The change in circumstance that triggers a unit clarification petition under WAC 391-35-020(3) must be a meaningful change in an employee's duties and responsibilities. *University of Washington*, Decision 10496-A (PSRA, 2011), *citing City of Richland*, Decision 279-A (PECB, 1978). Types of changes to the workplace environment, such as a reorganization of an employer's workforce, are occurrences that could trigger a unit clarification petition. *See Lewis County*, Decision 6750 (PECB, 1999). Absent a recent change in circumstances, a unit clarification petition will be dismissed as untimely. *See Island County*, Decision 2572 (PECB, 1986). A unit clarification alleging a change in circumstances must be filed within a reasonable time period of the change that creates the need for review of the existing bargaining unit. *See University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013).

#### Application of Standards

This case concerns employees who have historically been included in an existing bargaining unit. The non-supervisory Campus Police have been included in WFSE's non-supervisory bargaining unit since at least 1971. *See HRU 20* (1971). Although the employees at issue are police officers, they are not uniformed officers eligible for interest arbitration as their impasse resolution mechanism. Rather, the non-supervisory Campus Police are civil service employees covered by Chapter 41.06 RCW who are not eligible for interest arbitration.

Accordingly, WFSE's petition is not timely under WAC 391-35-020(1)(d) because no recent change has occurred granting these employees interest arbitration rights.

Additionally, WFSE's petition does not allege a recent change in circumstances that warrants review of the existing bargaining unit. WFSE simply asks that the Campus Police position be removed from the non-supervisory bargaining unit. Without an allegation that some material change in circumstance has occurred, this agency has no reason to review the existing bargaining unit to ensure its continued appropriateness. Therefore, the petition is dismissed.

ORDERED

The petition filed by the Washington Federation of State Employees in the above-captioned case is DISMISSED.

ISSUED at Olympia, Washington, this 20<sup>th</sup> day of June, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "M. Sellars", is written over the printed name.

MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

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

MARILYN GLENN SAYAN, CHAIRPERSON  
PAMELA G. BRADBURN, COMMISSIONER  
THOMAS W. McLANE, COMMISSIONER  
MIKE SELLARS, EXECUTIVE DIRECTOR

### RECORD OF SERVICE - ISSUED 06/20/2013

The attached document identified as: **DECISION 11793 - 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/ DIANE THOVSEN

CASE NUMBER: 25631-C-13-01544 FILED: 04/15/2013 FILED BY: PARTY 2  
DISPUTE: COMMUNITY INT  
BAR UNIT: LAW ENFORCE  
DETAILS: -  
COMMENTS:

EMPLOYER: CENTRAL WASHINGTON UNIVERSITY  
ATTN: JAMES A BUSALACCHI  
400 E UNIVERSITY WAY MS 7425  
ELLENSBURG, WA 98926-7425  
Ph1: 509-963-1202 Ph2: 509-963-2290

PARTY 2: WA FED OF STATE EMPLOYEES  
ATTN: GLADYS BURBANK  
1212 JEFFERSON ST SE STE 300  
OLYMPIA, WA 98501-2332  
Ph1: 800-562-6002 Ph2: 360-352-7603