

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

PUBLIC SCHOOL EMPLOYEES OF  
WASHINGTON

For clarification of an existing bargaining  
unit of employees of:

CENTRAL WASHINGTON  
UNIVERSITY

CASE 21920-C-08-1382  
DECISION 10215-B - PSRA

CASE 22013-C-08-1385  
DECISION 10216-B - PSRA

CORRECTED  
ORDER CLARIFYING  
BARGAINING UNIT

*Eric Nordlof*, Attorney at Law, for the union.

Rob McKenna, Attorney General, by *Lawson Dumbeck*, Assistant Attorney General, for the employer.

On August 13, 2008, and October 2, 2008, respectively, Public School Employees of Washington (union) filed two unit clarification petitions concerning two Secretary Senior positions and an Office Assistant position which had been reallocated as Program Coordinators and removed from the union's bargaining unit by Central Washington University (employer). The union seeks to return the three reallocated positions to its bargaining unit. The two petitions filed by the union were consolidated on October 23, 2008, and a hearing on the consolidated cases was held on January 28, 2009. The parties filed briefs following the initial hearing which were considered. In its brief, the union proposed that the bargaining unit description be modified to include all Program Coordinator positions employed by the employer. On September 1, 2009, the hearing was remanded to the Hearing Officer for the purpose of further developing a record to elicit testimony from the employees whose positions are at issue in these petitions.

ISSUE

Should three positions be removed from the union's bargaining unit based upon a change of job title?

The certified bargaining unit in *Central Washington University*, Decision 9963-A (PSRA, 2008), represented by Public School Employees of Washington is an appropriate bargaining unit for the reallocated positions and the bargaining unit will retain the three reallocated Program Coordinator positions.

### APPLICABLE LAW

The employer has a bargaining relationship with the union under the Personnel System Reform Act, Chapter 41.80 RCW. The determination and modification of appropriate bargaining units is a function delegated to the Commission by the Legislature. RCW 41.80.070.

The above factors, taken as a whole, are used by the Commission to assess whether a similar group of employees will be able to bargain collectively with their employer. *King County*, Decision 5910-A (PECB, 1997). None of the statutory criteria predominates to the exclusion of others, but have varying weight, depending on the factual settings of each particular case. *City of Centralia*, Decision 2940 (PECB, 1988). The duties, skills, and working conditions of petitioned-for employees, however, will always be of some influence in unit determinations. *King County*, Decision 5018 (PECB, 1995).

*City of Winslow*, Decision 3520-A (PECB, 1990). The unit configuration proposed by a petitioning organization is always the starting point for any unit determination analysis. *King County*, Decision 5910-A.

### ANALYSIS

On October 4, 2007, the union filed a petition seeking to represent certain employees at Central Washington University. During the processing of the union's original petition for this unit, the union stipulated to a bargaining unit that excluded Program Coordinators, but clearly included by title the Program Assistants and the Secretary Seniors. The Executive Director issued an interim certification in the bargaining unit on January 25, 2008. *Central Washington University*, Decision 9963.

In its petitions, the union alleges that the employer changed the job titles of three positions included in the bargaining unit certified in *Central Washington University*, Decision 9963, to titles that were specifically excluded from its bargaining unit. The employer counters that it took such action, only after analyzing the positions and determining that the duties the jobs were performing were more suited to the Program Coordinator job series. Further, the employer admits that all three positions at issue “have been performing Program Coordinator work since before the unit was formed.”

Program Coordinator – Aerospace Studies – Kendra Sterkel, Incumbent

On May 13, 2008, Colonel John Bryant, the Chair of the Department of Aerospace Studies at that time, requested that the Human Resources Department review the Secretary Senior position occupied by his employee, Kendra Sterkel. As a result of that review, a Human Resource Consultant for the employer informed the union that it would reclassify Sterkel as a Program Coordinator effective July 2008, and thus remove her from the union’s bargaining unit. According to the Human Resources Department, the definition for Secretary Senior was no longer the best class specification for Sterkel. The definition for Secretary Senior that was used in this analysis is as follows:

Perform complex secretarial duties as such as independently planning, organizing and prioritizing work, monitoring and evaluating budget(s) status and initiating corrections, developing travel itineraries, compiling reports, studies, and/or applications, developing, modifying, and/or maintaining data base management, office record keeping, or filing system(s), establishing office procedures, standards, priorities, and deadlines, and coordinating office operations. Positions initiate action to ensure work unit and/or office goals are met and have frequent contacts with clients, the public, staff members from other departments, students, and faculty.

Assignments and projects are of a complex nature. Independent performance of complex secretarial assignments requires substantive knowledge of a variety of regulations, rules, policies, procedures, processes, materials, or equipment. Problems are resolved by choosing from established procedures and/or devising work methods. Guidance is available for new or unusual situations. Deviation from established parameters requires approval. Work is periodically reviewed to verify compliance with established policies and procedures.

According to the employer, Sterkel's duties now require an extensive knowledge of military ceremonies, regulations, and personnel processing. She exercises independent judgment in interpreting and applying regulations. These duties include: Air Force ROTC coordination, office management, budget management, database/website management, and technology support. Specific functions include coordinating with regional and national headquarters on distinguished visitors and suspenses, planning and coordinating ceremonies, creating and maintaining files on budget, payroll, and students, and assisting staff with computer hardware and software.

However, Sterkel testified that she had been doing the work of a Program Coordinator for at least 5 years, long before the date the bargaining unit was certified. Of her major duties, Sterkel testified that she had prepared scripts for Awards Day for years, assisted in the orientation of new officers since she was hired, and worked with cadets on their special programs long before her position was reallocated. In sum, it does not appear that Sterkel's work changed following the issuance of the certification.

Program Coordinator – Washington Sensory Disability Services – Christy Camarata, Incumbent

Galbreath, who is employed by the employer as a Human Resources Consultant 2, testified that Nancy Graham was hired by the employer as a temporary employee in 2005. After additional funding for the Washington Sensory Disability Services (WSDS) program was secured, Graham was hired as a Secretary Senior. Her major function, according to Galbreath, was to provide clerical support to that program. As time progressed, however, she began assuming other duties.

In June 2008, Carol Carrothers, State Coordinator for Deaf and Hard of Hearing Services who is Graham's supervisor, contacted Human Resources requesting that it review the Secretary Senior position occupied by Graham. At the end of its review, the employer determined that Graham, for the last two years, had assumed duties that it determined to be more closely related to those of a Program Coordinator. Thus, this position had been assigned that work prior to the certification of the union's bargaining unit.

The position's current primary goal, according to the employer, is to provide support to the supervisor, the State Coordinator for Deaf and Hard of Hearing Services. Specific duties associated with the position include coordinating the Summer Retreat Program and providing trainings. Graham resigned from the position and was replaced by Christy Camarata in the autumn of 2009, but there was no testimony or evidence that the actual job duties were changed at that time.

Program Coordinator – Career Services – Sandra L. Stewart, Incumbent

Sandra L. Stewart testified that she was hired as an Office Assistant 2 in January 2005. As an office assistant, she worked in the front desk area of her department. In 2006, Stewart became a Program Assistant working with the Employer Recruiter Coordinator. According to Stewart, she assisted the Employer Recruiter Coordinator with organizing the Education Career Fair, a conference consisting of educators, employers, and students.

Following certification of the bargaining unit at issue, Stewart's supervisor, Carol Carrothers, requested that her position be reviewed by Human Resources. On May 8, 2008, after reviewing her duties, the Human Resource Director communicated to the union that it was reclassifying Stewart as a Program Coordinator and removing her from the bargaining unit. The employer defined Program Coordinator as one who coordinates the operation of a specialized and technical program. It argues that this job title more accurately describes Stewart's position.

Stewart testified that she no longer merely assisted with the Education Career Fair. Rather, she was now responsible for every aspect of the conference. As Program Coordinator, Stewart now schedules the venue, recruits employers, contacts schools, and sends e-mails to students to attract their attendance. She coordinates the administrative panels and mock interviews. She works with the employer's Facilities Department to coordinate the layout of the conference, and she coordinates parking. In addition, Stewart manages and coordinates all of the teacher and placement files for educators, students, and alumni. She also coordinates, markets and monitors the Wildcat Career Database, a job search data bank. Lastly, she supervises two student employees who answer phone calls for the department. However, according to Stewart and as

argued in the employer's brief, Stewart had been performing this work since at least October 2007, months before the union's certification.

Should the Bargaining Unit Retain the Three Reallocated Positions?

Once a bargaining unit becomes certified, the work associated with those positions within the bargaining unit becomes bargaining unit work. *See Kitsap County Fire District 7*, Decision 7064-A (PECB, 2001). Long-established Commission and judicial precedent limit the rights of labor and management in regard to unit modification once the bargaining unit is certified. Absent a change of circumstances warranting a change of the unit status of individuals or classifications, the unit status of those previously included in or excluded from an appropriate unit by agreement of the parties or by certification should not be disturbed. However, both accretions and exclusions can be accomplished through unit clarification in appropriate circumstances. If the agreed upon unit is found by intervening decisions of the Commission to be inappropriate, it may be clarified at any time. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981).

In the present case, I find that there has been no significant change of circumstance that would warrant excluding the positions occupied by Sterkel, Camarata, and Stewart or the work associated with their positions from the bargaining unit. Sterkel testified that she had been performing the same duties for her position long before the bargaining unit was certified. The record reflects that the position currently occupied by Camarata had acquired duties that the employer associates with that of a Program Coordinator, long before the bargaining unit was certified. And finally, Stewart had performed her current duties at least 3 months prior to the certification.

To allow the employer to exclude the positions from the bargaining unit based on mere title changes would permit the employer to unilaterally exclude work from the bargaining unit without involving the certified bargaining representative. In accordance with the original certification, the positions currently occupied by Sterkel, Camarata, and Stewart, regardless of their job titles, and the work associated with their positions must continue to be included in the bargaining unit.

The employer argues that, in reallocating the positions at issue, it was abiding by its collective bargaining agreement with the union and following Washington Administrative Code Title 357, which gives it the authority to reallocate. And in removing the positions from the bargaining unit, the employer argues that it was following the bargaining unit definition certified by the Commission, which specifically excluded Program Coordinators. According to the employer, it determined that the positions were performing duties more closely aligned with that of a Program Coordinator.

Although Washington Administrative Code Title 357 grants the employer, within specific guidelines, the authority to reallocate positions, it does not authorize the employer to usurp the jurisdiction of the Commission in determining the work composition of appropriate bargaining units. In addition, bargaining units, as determined and certified by the Commission, do not have to be the most appropriate bargaining units. In making unit determinations, the Commission seeks to group together employees who have sufficient similarities in what they do and how they do it, known as a community of interest, to indicate that they will be able to bargain collectively and effectively with their employer. *King County*, Decision 5910-A (PECB, 1997). Thus, it is only necessary that the petitioned-for unit be an appropriate unit. *City of Winslow*, Decision 3520-A (PECB, 1990). In certifying the bargaining unit, the Commission closely analyzed the positions at issue and found a community of interest in the work performed by the petitioned-for positions. Absent a significant change, the employer cannot unilaterally change the bargaining unit placement of the positions occupied by Sterkel, Camarata, and Stewart.

#### Remedy Sought by Union

To prevent what it terms “the employer manipulating the bargaining unit configuration,” the union, in its brief, argued that the Commission should modify the existing bargaining unit. The union asserted that all Program Coordinators employed by this employer should be incorporated into the bargaining unit. It alleges that such a reconfigured bargaining unit description would prevent the employer from promoting employees out of the bargaining unit.

However, this concern was discussed and rejected in the remand decisions in *Central Washington University*, Decisions 10215-A and 10216-A (PSRA, 2009), and needs no further discussion here.

### CONCLUSION

The Public School Employees of Washington is an appropriate bargaining unit for the reallocated positions. The bargaining unit will retain the three Program Coordinator positions at issue: Aerospace Studies, Washington Sensory Disability Services, and Career Services currently occupied by Sterkel, Camarata, and Stewart, respectively.

### FINDINGS OF FACTS

1. Central Washington University is an employer within the meaning of Chapter 41.80 RCW and Chapter 391-35 WAC.
2. On January 25, 2008, Public School Employees of Washington was certified as the exclusive bargaining representative of:

ALL FULL-TIME AND REGULAR PART-TIME EMPLOYEES PERFORMING CLERICAL OR TECHNICAL WORK EMPLOYED BY CENTRAL WASHINGTON UNIVERSITY WITHIN THE DEPARTMENTS OF FACILITIES MANAGEMENT, LIBRARY, TESTING AND ASSESSMENT, INTERNATIONAL STUDIES, CAREER SERVICES, COLLEGE OF PROFESSIONAL STUDIES, COLLEGE OF SCIENCES, COLLEGE OF ARTS & HUMANITIES, COLLEGE OF BUSINESS, AND WILLIAM DOUGLAS HONORS COLLEGE IN THE FOLLOWING CLASSIFICATIONS:

CUSTOMER SERVICE (WORKING TITLE)  
ENGINEERING ASSISTANT 1  
ENGINEERING TECHNICIAN 1, 2, 3  
FISCAL SPECIALIST 1  
FISCAL TECHNICIAN 2, 3  
INSTRUCTION & CLASSROOM SUPPORT TECH 2, 3, 4  
LIBRARY & ARCHIVES PARAPROFESSIONAL 1, 2, 3, 4  
MEDIA ASSISTANT 3  
MEDIA TECHNICIAN  
OFFICE ASSISTANT 2, 3



PIANO TECHNICIAN  
PROGRAM ASSISTANT  
RESEARCH TECHNOLOGIST 1  
SCIENTIFIC TECHNICIAN  
SECRETARY  
SECRETARY LEAD  
SECRETARY SENIOR

EXCLUDING: EMPLOYEES ASSIGNED TO THE DEANS OFFICE,  
SUPERVISORS, CONFIDENTIAL EMPLOYEES, EXEMPT  
EMPLOYEES, INFORMATION TECHNOLOGY EMPLOYEES, AND  
EMPLOYEES IN THE FOLLOWING CLASSIFICATIONS:

CONSTRUCTION PROJECT COORDINATOR 2  
FIRE ALARM INSPECTOR (WORKING TITLE)  
FISCAL ANALYST 3  
FORMS & RECORDS ANALYST 2  
COMMUNITY OUTREACH & ENVIRONMENTAL EDUCATION SPECIALIST 2  
PROCURE & SUPPLY SPECIALIST 1  
PROGRAM COORDINATOR  
PROGRAM MANAGER A  
RECREATION & ATHLETIC SPECIALIST 4  
STAGE MANAGER  
TOUR & INFORMATION SERVICES COORDINATOR 3  
AND ALL OTHER EMPLOYEES OF THE EMPLOYER

3. After the bargaining unit was certified, the employer reallocated two Secretary Senior positions and a Program Assistant position as Program Coordinators and notified the union of their removal from the bargaining unit.
4. No significant change in circumstances, particularly in job duties, of the reallocated positions has occurred since the bargaining unit was certified.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.06 RCW and Chapter 41.80 RCW and Chapter 391-35 WAC.

2. The Public School Employees of Washington is an appropriate bargaining unit for the reallocated positions now classified as Program Coordinators in Aerospace Studies, Washington Sensory Disability Services, and Career Services.

ORDER

The certification of the bargaining unit in *Central Washington University*, Decision 9963, is hereby amended to include the Program Coordinators in Aerospace Studies, Washington Sensory Disability Services, and Career Services.

ISSUED at Olympia, Washington, this 20<sup>th</sup> day of May, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the agency under WAC 391-35-660.



**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

**RECORD OF SERVICE - ISSUED 05/20/2010**

The attached document identified as: DECISION 10215-B - 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: 21920-C-08-01382 FILED: 08/14/2008 FILED BY: PARTY 2  
DISPUTE: COMMUNITY INT  
BAR UNIT: CLERICAL  
DETAILS: -Program Coordinator  
COMMENTS:

EMPLOYER: CENTRAL WASHINGTON UNIVERSITY  
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**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

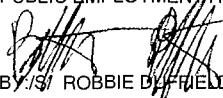
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
BY: /s/ ROBBIE DUFFIELD

CASE NUMBER: 22013-C-08-01385 FILED: 10/02/2008 FILED BY: PARTY 2  
DISPUTE: MISC CLARIF  
BAR UNIT: CLERICAL  
DETAILS: WA Sensory Disabilities Services  
COMMENTS:

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