

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

TACOMA ASSOCIATION OF
PROFESSIONAL-TECHNICAL
EMPLOYEES

For clarification of an existing bargaining
unit of employees of:

BATES TECHNICAL COLLEGE
(COMMUNITY COLLEGE DISTRICT 28)

CASE 23101-C-10-1430

DECISION 10991-A - PECB

DECISION OF COMMISSION

Eric R. Hansen, Attorney at Law, for the union.

Vickie Lackman, Vice President of Human Resources, for the employer.

On March 10, 2010, the Tacoma Association of Professional-Technical Employees (union) filed a unit clarification petition seeking to include the financial officer position in the existing bargaining unit of technical and professional, non-academic employees at Bates Technical College (employer). The Executive Director issued a decision¹ finding that the financial officer did not share a community of interest with other employees in the bargaining unit. On February 15, 2011, the union filed a timely appeal. The union filed an appeal brief. The employer did not file an appeal brief.

ISSUE

Does the financial officer share a community of interest with other bargaining unit positions?

¹ *Bates Technical College, Decision 10991 (PECB, 2011).*

The Commission affirms the Executive Director's decision that the financial officer does not share a community of interest with the bargaining unit. The financial officer is excluded from the bargaining unit.

APPLICABLE LEGAL PRINCIPLES

Determining appropriate bargaining units is a function delegated by the Legislature to this agency. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *IAFF Local 1052 v. Public Employment Relations Commission*, 29 Wn.App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). When making unit determinations under Chapter 41.56 RCW, this agency's goal is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993). In making such determinations, this agency must consider: the duties, skills and working conditions of the public employees; the history of collective bargaining by the public employees with their bargaining representative and the public employer; the extent of organization among the public employees; the desire of the public employees; and the avoidance of excessive fragmentation. RCW 41.80.070. This agency has never applied the criteria on a strictly mathematical basis. *King County*, Decision 5910-A (PECB, 1997). Not all of the factors will arise in every case, and where they do exist, any one factor could be more important than the other, depending on the factual situation. *Kitsap Transit*, Decision 10234-A (PECB, 2009).

ANALYSIS

The employer operates a television station, KBTC/PBS. The union represents professional and technical, non-academic employees at the employer, including employees working at KBTC/PBS. The union represents the accounting and finance specialist position at KBTC. After the employer hired David Hinman to be the general manager, Hinman restructured the organization. The previous general manager performed financial duties that Hinman does not perform. After he became general manager, Hinman assigned new duties to Vicki Valdez, who was then the accounting and finance specialist. The employer reclassified Valdez's position

from accounting and finance specialist to financial officer effective December 2009. When reclassified, Valdez received a \$17,000 pay increase.

As the accounting and finance specialist, Valdez was supervised by the general manager. The general manager reviewed, monitored, and directed Valdez's work. Valdez described the accounting and finance duties as "more clerical and supportive in nature." The accounting and finance specialist supported the general manager in the operation of the finance department.

The finance officer has more independent authority and responsibilities than the accounting and finance specialist. The finance officer reports directly to the general manager, but acts independently. The finance officer is a member of the KBTC executive team. Valdez has signature authority on KBTC financial accounts. She can approve payments, transfer funds, and sign on behalf of the general manager. Valdez writes financial policies and procedures. The finance officer researches and hires the firm that audits KBTC.

One significant change to Valdez's job is the finance officer's control over the budget. When Valdez was the accounting and finance specialist, the general manager managed the operations of the finance department. The accounting and finance specialist provided budget information to the general manager and helped draft the budget. The former general manager, not the accounting and finance specialist, had authority to determine the budget. The finance officer is responsible for and has control over drafting the budget and independently drafts budget proposals. Once the board of trustees approves the budget, the finance officer manages and monitors the budget.

As the finance officer, Valdez has the authority to collect information and submit reports that she did not have authority to submit when she was the finance and accounting specialist. As accounting and finance specialist, Valdez gathered information as directed and provided that information to a higher authority to determine how to use the information. Valdez now has the authority to determine how to use the information. Previously, the finance and accounting specialist provided information to the general manager, who provided reports to the college. Reports are now prepared by Valdez who sends them directly to the college. The management

of KBTC creates the management section of the management discussion and analysis (MDNA) document. A portion of the MDNA is completed by the auditing team. As the finance and accounting specialist, Valdez worked with the auditing team to complete that portion of the MDNA. As the finance officer, Valdez completes the financial portion of the MDNA. The general manager completes the station goals and future direction portion.

The finance officer position does not share a community of interest with the bargaining unit. The role of the finance officer is not supportive in nature; rather, it has responsibility for creation of the budget and other documents. The financial officer exercises independent authority.

The union objects to the Executive Director's finding that the finance officer does not share a community of interest with the bargaining unit based on the evidence in the record. Evidence about the duties, skills, and working conditions of the bargaining unit came from Valdez's testimony about her former duties in a position represented by the union and the documents admitted into evidence without the union's objection. Although the union had the opportunity, it did not present evidence of the duties, skills, and working conditions of other bargaining unit members.

When a party seeks to include or exclude a position from the bargaining unit, it must be mindful of the criteria for inclusion or exclusion. Without sufficient evidence focusing on the critical issue of whether the position shares or does not share the required community of interest with the bargaining unit, the moving party cannot prevail.

CONCLUSION

The finance officer position does not share a community of interest with the professional and technical, non-academic bargaining unit.

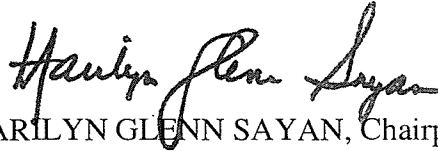
NOW, THEREFORE, it is

ORDERED

The Findings of Fact, Conclusions of Law, and Order of Executive Director Cathleen Callahan are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Order of the Commission.

ISSUED at Olympia, Washington, this 12th day of January, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



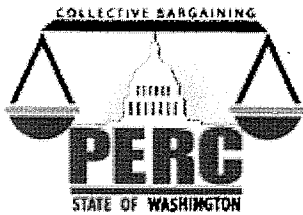
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

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