

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the joint petition of:

STATE – CORRECTIONS

and

TEAMSTERS LOCAL 117

For clarification of an existing  
bargaining unit.

CASE 130955-C-18

DECISION 12950 - PSRA

ORDER CLARIFYING  
BARGAINING UNIT

*Sarena Davis*, DOC Coordinator, for Teamsters Local 117.

*Tanya Aho*, Labor Negotiator, for the State – Corrections.

On September 18, 2018, the Washington State Department of Corrections (employer) and the Teamsters Local 117 (union) jointly filed a unit clarification petition to add unrepresented employees in the registered nurse 1 job classification to its nonsupervisory bargaining unit. The union represents a mixed class institutions' bargaining unit at the Department of Corrections that includes the registered nurse series. *State – Corrections, Decision 12574 (PSRA, 2016)*; *State – Corrections, Decision 9269 (PSRA, 2006)*. Adding the registered nurse 1 job classification to the mixed class institutions' bargaining unit is appropriate because it is the only appropriate placement for the positions. The registered nurse 1, registered nurse 2, and registered nurse 3 classifications are in the same class series. The registered nurse 1 classification is used as an "in-training" position to fill the registered nurse 2 classification. The registered nurse 2 classification is represented in the mixed class institutions' bargaining unit. Excluding these positions from the bargaining unit would create work jurisdiction issues and render the bargaining unit inappropriate.

ANALYSIS*Applicable Legal Standard*

The Public Employment Relations Commission has the authority to define new bargaining units and to modify existing bargaining units in order to ensure their continued appropriateness. RCW 41.80.070. When a bargaining unit is certified, the work performed by employees in that bargaining unit becomes the historic work jurisdiction of that unit. *See, e.g., Kitsap County Fire District 7, Decision 7064-A (PECB, 2001)* (“Bargaining unit work is defined as the work historically performed by bargaining unit employees.”).

Ordinarily, employees are permitted a voice in the selection of an exclusive bargaining representative. RCW 41.80.080. Accretion, or the addition of a group of employees to an existing bargaining unit without an election, is the exception to the statutory rule of employee free choice because it deprives the employees of a vote in the determination of whether they are represented for purposes of collective bargaining. *State – Enterprise Services (Contracts & Legal Services), Decision 11652-A (PSRA, 2013)*.

An accretion may be ordered when changed circumstances lead to the existence of positions that logically belong only in one existing bargaining unit. *Id.; City of Auburn, Decision 4880-A (PECB, 1995)*. In order for an accretion to be directed, the resulting unit must be appropriate. *Pierce County, Decision 6051-A (PECB, 1998)*. An accretion will be denied if the positions could stand on their own as a separate bargaining unit or could appropriately be placed in any other bargaining unit. *City of Auburn, Decision 4880-A*. An accretion cannot be ordered where the number of employees to be added to the bargaining unit is so large as to call into question the union’s majority status in the enlarged unit. *Port of Seattle, Decision 11131 (PORT, 2011)*. The party proposing accretion bears the burden of demonstrating that conditions for accretion are present. *State – Enterprise Services (Contracts & Legal Services), Decision 11652-A; City of Auburn, Decision 4880-A*.

*Application of Standards*

The union represents a mixed class institutions' bargaining unit at the Department of Corrections that includes the registered nurse series. There are no permanent registered nurse 1 positions. Rather, the registered nurse 1 is used as an in-training class for the registered nurse 2. Accordingly, the registered nurse 1 classification was not originally included in the bargaining unit description. *See State – Corrections, Decision 12574; State – Corrections, Decision 9269.*

All employees in the registered nurse series support the employer's mission to improve public safety by delivering and leading others in the delivery of nursing services that promote health, foster healing, and support coping and adjusting to various health conditions.

The registered nurse 1 and 2 classifications both require graduation from an accredited school of professional nursing and the ability to obtain a valid Washington State license to practice as a registered nurse prior to employment. The employer requires that a registered nurse have one year of experience so they can qualify for registered nurse 2 classification. The employer uses the registered nurse 1 classification to train nurses directly out of nursing school for one year to develop the competencies to work as a registered nurse 2, which is represented by the union. The registered nurse 1 and registered nurse 2 classifications are in the same class series and the positions perform similar work.

Under the direction of the registered nurse 2 or 3, the registered nurse 1 classification assesses, monitors, and interprets objective and subjective data in the correctional setting. The classification develops nursing diagnoses and outcomes to be achieved as a result of nursing intervention and plans the delivery of health care to be provided. Additionally, the classification implements and revises care plans by providing direct patient care.

The registered nurse 2 classification serves as lead workers and supports the employer's mission by screening, assessing, and evaluating offenders. The classification responds to requests for health care attention in a complete, timely, clinically appropriate, and therapeutic manner. The

classification assists patients in improving their skills and ability to provide care for themselves and their families. Additionally, the classification plans transition to return to the community. The classifications of nurses working at the Department of Corrections possess a community of interest. They share similar duties, skills, and working conditions. The mixed class institutions' bargaining unit is the only appropriate placement for the registered nurse 1 classification. The registered nurse 1 classification performs similar work to the registered nurse 2 classification. Excluding the registered nurse 1 classification would create work jurisdiction issues and render the current bargaining unit inappropriate. Accordingly, the mixed class institutions' bargaining unit will be clarified to include the registered nurse 1 classification working at the Department of Corrections.

#### FINDINGS OF FACT

1. The Washington State Department of Corrections is a public employer within the meaning of RCW 41.80.005(8).
2. The Teamsters Local 117 (union) is a bargaining representative within the meaning of RCW 41.80.005(7).
3. The union represents a bargaining unit of employees in the employer's workforce that is currently described as follows:

All nonsupervisory classified employees of the State of Washington working for the Department of Corrections in correctional institutions, the correctional industries program, the sex offender treatment program, and regional business service center, excluding persons exempt from the coverage of Chapter 41.06 RCW, employees in the Washington Management Service, confidential employees, supervisors, institutions employees in historically excluded groups that have not been modified by subsequent orders, and all other employees of the employer.

4. All employees in the registered nurse series support the employer's mission to improve public safety by delivering and leading others in the delivery of nursing services that

promote health, foster healing, and support coping and adjusting to various health conditions.

5. The registered nurse 1 and 2 classifications both require graduation from an accredited school of professional nursing and the ability to obtain a valid Washington State license to practice as a registered nurse prior to employment. The employer requires that a registered nurse have one year of experience so they can qualify for registered nurse 2 classification. The employer uses the registered nurse 1 classification to train nurses directly out of nursing school for one year to develop the competencies to work as a registered nurse 2, which is represented by the union. The registered nurse 1 and registered nurse 2 classifications are in the same class series and the positions perform similar work.
6. Under the direction of the registered nurse 2 or 3, the registered nurse 1 classification assesses, monitors, and interprets objective and subjective data in the correctional setting. The classification develops nursing diagnoses and outcomes to be achieved as a result of nursing intervention and plans the delivery of health care to be provided. Additionally, the classification implements and revises care plans by providing direct patient care.
7. The registered nurse 2 classification serves as lead workers and supports the employer's mission by screening, assessing, and evaluating offenders. The classification responds to requests for health care attention in a complete, timely, clinically appropriate, and therapeutic manner. The classification assists patients in improving their skills and ability to provide care for themselves and their families. Additionally, the classification plans transition to return to the community.
8. The classifications of nurses working at the Department of Corrections possess a community of interest. They share similar duties, skills, and working conditions. The mixed class institutions' bargaining unit is the only appropriate placement for the registered nurse 1 classification. The registered nurse 1 classification performs similar work to the

registered nurse 2 classification. Excluding the registered nurse 1 classification would create work jurisdiction issues and render the current bargaining unit inappropriate. Accordingly, the mixed class institutions' bargaining unit will be clarified to include the registered nurse 1 classification working at the Department of Corrections.

#### 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. Based upon findings of fact 3 through 8, the registered nurse 1 classifications only share a community of interest with the employees in the bargaining unit described in finding of fact 3.
3. Based upon findings of fact 3 through 8, the bargaining unit described in finding of fact 3 would be rendered inappropriate under RCW 41.80.070 if it did not including the registered nurse 1 classification.

ORDER

The bargaining unit described in finding of fact 3 shall be modified to include the registered nurse 1 job class. The existing unit definition shall remain the same:

All nonsupervisory classified employees of the State of Washington working for the Department of Corrections in correctional institutions, the correctional industries program, the sex offender treatment program, and regional business service center, excluding persons exempt from the coverage of Chapter 41.06 RCW, employees in the Washington Management Service, confidential employees, supervisors, institutions employees in historically excluded groups that have not been modified by subsequent orders, and all other employees of the employer.

ISSUED at Olympia, Washington, this 13th day of December, 2018.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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.



# RECORD OF SERVICE

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ISSUED ON 12/13/2018

DECISION 12950 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 130955-C-18

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