

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

EASTERN WASHINGTON
UNIVERSITY

For clarification of an existing bargaining
unit represented by:

WASHINGTON FEDERATION OF
STATE EMPLOYEES

CASE 132121-C-19
DECISION 13102 - PSRA

CASE 132122-C-19
DECISION 13103 - PSRA

ORDER CLARIFYING
BARGAINING UNITS

Edward Earl Younglove III, Attorney at Law, Younglove & Coker, P.L.L.C., for
the Washington Federation of State Employees.

Cheryl L. Wolfe, Senior Counsel, Attorney General Robert W. Ferguson, for
Eastern Washington University.

The Washington Federation of State Employees (union) represents nonsupervisory and supervisory bargaining units of mixed class employees at Eastern Washington University (employer). *Eastern Washington University, Decision 9047 (PSRA, 2005)* (nonsupervisory bargaining unit) and *Eastern Washington University, Decision 8636 (PSRA, 2004)* (supervisory bargaining unit). Each bargaining unit contains campus police officers.

In 2019, the legislature the granted interest arbitration rights to police officers working at the four-year institutions of higher education. Laws of 2019, ch. 234 (hereafter, SB 5022). SB 5022 requires this Commission to review the continued appropriateness of any bargaining unit that includes campus police officers and modify that bargaining unit to ensure its continued appropriateness.

On September 20, 2019, the employer filed unit clarification petitions asking this agency to remove campus police officers from the union's existing nonsupervisory and supervisory bargaining units and to place those positions in their own separate bargaining units due to the different impasse

resolution procedures. WAC 391-35-310; *see also Chelan Public Hospital District 2*, Decision 11395 (PECB, 2012). The union did not state any objections to the employer's petition.

The employer's request to remove the campus police from the union's nonsupervisory and supervisory bargaining units is granted. This Commission follows the long-standing principle that employees with interest arbitration impasse procedures should not be commingled in bargaining units with employees who do not share the right to interest arbitration impasse procedures. *Thurston County Fire Protection District No. 9*, Decision 461 (PECB, 1978); *King County*, Decision 6668 (PECB, 1999).

ANALYSIS

The authority to determine an appropriate bargaining unit has been delegated to this Commission by the legislature. RCW 41.80.070. In doing so, the legislature outlined a number of factors to consider in making unit determinations for employees covered by chapter 41.80 RCW. Those factors include the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. RCW 41.80.070. *See also Community Transit*, Decision 8734-A (PECB, 2005). No one factor predominates and not all statutory factors must be considered in every case. Rather, the factors are collectively applied to discern sufficient similarities or a "community of interest" among the employees so that they will be able to bargain effectively with their employer. *Id.*

This Commission follows the long-standing principle that employees with interest arbitration impasse procedures should not be commingled in bargaining units with employees who do not share the right to interest arbitration impasse procedures. *Thurston County Fire District 9*, Decision 461; *King County*, Decision 6668.

Whether employees occupy positions eligible for interest arbitration is determined by statute. When the legislature enacted SB 5022, it provided final and binding interest arbitration as a means of settling labor disputes for uniformed personnel (campus police officers) at the four-year

universities. Because the campus police officers were already included in bargaining units with noninterest arbitration-eligible employees, the legislature recognized that existing bargaining units would be rendered inappropriate unless a mechanism was in place to allow this agency the opportunity to review the bargaining units for continued appropriateness. The employer triggered that review process through its petition, and the campus police officers must be placed in their own separate bargaining units based upon long-standing rule and precedent. The union shall continue to represent the campus police officers for purposes of collective bargaining.

ORDER

1. Case 132121-C-19: The bargaining unit described in *Eastern Washington University*, Decision 9047 (PSRA, 2005) shall be modified to remove the nonsupervisory uniformed personnel (campus police officers) as defined by RCW 41.80.005(15). The nonsupervisory uniformed personnel shall be placed in a separate bargaining described as follows:

All nonsupervisory uniformed personnel employed by Eastern Washington University, excluding confidential employees, internal auditors, supervisors, and employees included in any other bargaining unit.

The Washington Federation of State Employees shall continue to represent the bargaining unit of nonsupervisory uniformed personnel (campus police officers) described in this paragraph.

2. Case 132122-C-19: The bargaining unit described in *Eastern Washington University*, Decision 8636 (PSRA, 2004) shall be modified to remove the supervisory uniformed personnel (campus police officers) as defined by RCW 41.80.005(15). The supervisory uniformed personnel shall be placed in a separate bargaining described as follows:

All supervisory uniformed personnel employed by Eastern Washington University, excluding confidential employees, internal auditors, nonsupervisory employees, and employees included in any other bargaining unit.

The Washington Federation of State Employees shall continue to represent the bargaining unit of supervisory uniformed personnel (campus police officers) described in this paragraph.

ISSUED at Olympia, Washington, this 20th day of November, 2019.

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

ISSUED ON 11/20/2019

DECISION 13102 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 132121-C-19

EMPLOYER: EASTERN WASHINGTON UNIVERSITY

REP BY: MARY CULLINAN
EASTERN WASHINGTON UNIVERSITY
214 SHOWALTER HALL
CHENEY, WA 99004
mcullinan@ewu.edu

JOSEPH FUXA
EASTERN WASHINGTON UNIVERSITY
314 SHOWALTER HALL
CHENEY, WA 99004
jfuxa@ewu.edu

CHERYL L. WOLFE
OFFICE OF THE ATTORNEY GENERAL
1116 W RIVERSIDE AVE STE 100
SPOKANE, WA 99201-1106
cherylw@atg.wa.gov

PARTY 2: WASHINGTON FEDERATION OF STATE EMPLOYEES

REP BY: HERB HARRIS
WASHINGTON FEDERATION OF STATE EMPLOYEES
1212 JEFFERSON ST SE STE 300
OLYMPIA, WA 98501-2332
herbh@wfse.org

EDWARD EARL YOUNGLOVE III
YOUNGLOVE & COKER, P.L.L.C.
PO BOX 7846
1800 COOPER PT RD SW, BLDG 16
OLYMPIA, WA 98507-7846
edy@ylclaw.com



RECORD OF SERVICE

ISSUED ON 11/20/2019

DECISION 13103 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 132122-C-19

EMPLOYER: EASTERN WASHINGTON UNIVERSITY

REP BY: MARY CULLINAN
EASTERN WASHINGTON UNIVERSITY
214 SHOWALTER HALL
CHENEY, WA 99004
mcullinan@ewu.edu

JOSEPH FUXA
EASTERN WASHINGTON UNIVERSITY
314 SHOWALTER HALL
CHENEY, WA 99004
jfuxa@ewu.edu

CHERYL L. WOLFE
OFFICE OF THE ATTORNEY GENERAL
1116 W RIVERSIDE AVE STE 100
SPOKANE, WA 99201-1106
cherylw@atg.wa.gov

PARTY 2: WASHINGTON FEDERATION OF STATE EMPLOYEES

REP BY: HERB HARRIS
WASHINGTON FEDERATION OF STATE EMPLOYEES
1212 JEFFERSON ST SE STE 300
OLYMPIA, WA 98501-2332
herbh@wfse.org

EDWARD EARL YOUNGLOVE III
YOUNGLOVE & COKER, P.L.L.C.
16 PO BOX 7846
1800 COOPER PT RD SW, BLDG
OLYMPIA, WA 98507-7846
edy@ylclaw.com