

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:

INCHELIUM SCHOOL DISTRICT

CASE 131508-C-19

DECISION 13104 - PECB

ORDER CLARIFYING
BARGAINING UNIT

Kami Hoekema, Field Representative, for the Public School Employees of Washington.

Kim Spacek, Superintendent, for the Inchelium School District.

Public School Employees of Washington (PSE) represents two bargaining units of employees at the Inchelium School District (employer). The first bargaining unit is comprised of eight classified employees in a variety of job classes, including custodial, maintenance, grounds, transportation, mechanic, and food services. *Inchelium School District, Decision 11178 (PECB, 2011)*. The second bargaining unit is comprised of eight classified employees in the paraeducator job class. The paraeducator bargaining unit was not certified by this agency.

On May 17, 2019, PSE filed a unit clarification petition seeking to merge its two existing bargaining units. PSE provided a signed and notarized affidavit indicating that the members of both bargaining units had voted in favor of merging the two bargaining units. Additionally, the employer has indicated that it is not opposed to the merger of the bargaining units.

The issues in this case are: 1) whether parties have agreed that the two bargaining units can be merged, and 2) whether the proposed merger of the two bargaining units results in an appropriate bargaining unit. Because the parties have agreed to merge the bargaining units and the resulting bargaining unit is an appropriate bargaining unit under RCW 41.56.060, the proposed merger is granted.

ANALYSIS

Applicable Legal Standards

The authority to determine and certify appropriate bargaining units is a function the Legislature delegated to this Commission. RCW 41.80.070; *Central Washington University*, Decision 10215-B (PSRA, 2010). Included with this authority is the power to, upon request, modify that unit through a unit clarification proceeding. See *Pierce County*, Decision 7018-A (PECB, 2001).

Although this agency has the authority to determine and modify bargaining units, an employer may extend voluntary recognition under chapter 41.56 RCW to representatives of groups of employees for the purposes of collective bargaining. *Toppenish School District*, Decision 10394-B (PECB, 2011). An employer and union are required to submit representation matters to this agency only if there is a dispute regarding representation. RCW 41.56.050; *Toppenish School District*, Decision 10394-B. If such recognition is extended, the employer is then obligated to bargain with the union. *City of Kennewick*, Decision 482-B (PECB, 1980).

Merger of Bargaining Units

Prior to 2011, a bargaining representative who wanted to merge two or more bargaining units of employees that it represented in an employer's workforce was required to file a unit merger petition under WAC 391-25-420. This agency would first determine if the resulting bargaining unit would be an appropriate bargaining unit under RCW 41.56.060. If the resulting bargaining unit was an appropriate bargaining unit, then a representation election would be conducted to determine if the employees in both bargaining units desired the merger. WAC 391-25-420(2)(d)(ii). If either bargaining unit rejected the merger, then the petition would be dismissed. WAC 391-25-420(2)(d)(i).

In 2011, the Legislature amended RCW 41.56.050 to allow an employer and union to agree to merge two or more bargaining units without the need of a representation election. RCW 41.56.050(2). Thus, if the parties are in agreement about the merger, they are not required to submit the matter to this agency. In the event that there is a disagreement between the parties

about the proposed merger, the parties could then submit the matter to this agency, the WAC 391-25-420 merger rule would apply, and this agency would conduct an election.

Although RCW 41.56.050(2) only requires parties to submit merger disputes to this agency if there is disagreement, parties may nevertheless seek a determination from this agency as to whether the merger of two existing bargaining units would result in an appropriate bargaining unit under RCW 41.56.060. If the resulting bargaining unit is appropriate on its face, then a certification may be issued for the newly merged bargaining unit.¹ This will provide the parties with an assurance that the bargaining unit conforms to the RCW 41.56.060 statutory requirements.

This process is consistent with a similar process that exists for state civil employees who collectively bargain under chapter 41.80 RCW. RCW 41.80.070(3) states that a union representing two or more bargaining units of state civil service employees may petition this agency to merge those bargaining units. The only question that this agency asks is whether the resulting bargaining unit is appropriate under the unit determination standards and, if so, then a certification will be issued.

Application of Standards

In this case, the parties agreed that the two existing PSE bargaining units can be merged to form a single bargaining unit of employees. PSE has also submitted an affidavit demonstrating that the employees in both bargaining units are in favor of the merger. Thus, the parties are not in dispute about the merger.

The only question is whether the resulting bargaining unit is appropriate. Each of PSE's bargaining units include the general job classes that are listed in the recognition agreements of their respective collective bargaining agreement. Any employee that fits within the general job class description is considered in each bargaining unit and newly hired employees that fit within the job classes would be included in the bargaining unit. This type of bargaining unit is

¹ Because the merger has been achieved without a representation election, a certification bar is not created through this type of merger.

considered a horizontal bargaining unit and is a typical bargaining unit configuration. *See Spokane County, Decision 7866 (PECB, 2002).*

A merged bargaining unit consisting of the employees in the custodial, maintenance, grounds, transportation, mechanic, food services, and paraeducator job classes is an appropriate bargaining unit under the statute. All of the employees in these general job classes would be included in the bargaining unit and nothing suggests that work jurisdiction issues would be created.

FINDINGS OF FACT

1. The Inchelium School District (employer) is an employer within the meaning of RCW 41.56.030(12).
2. Public School Employees of Washington (PSE) is an exclusive bargaining representative within the meaning of RCW 41.56.030(2).
3. PSE represents a bargaining unit of employees of the following general job classes in the employer's workforce: custodial, maintenance, grounds, transportation, mechanic, and food services.
4. PSE represents a bargaining unit of employees in the paraeducator job class in the employer's workforce.
5. PSE and the employer agree that the bargaining units described in findings of fact 3 and 4 can be merged to form a single bargaining unit.
6. The employees in the bargaining units described in findings of fact 3 and 4 share a community of interest.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction over this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 5 and 6, a bargaining unit consisting of the employees described in findings of fact 3 and 4 is an appropriate bargaining unit under RCW 41.56.060.

ORDER

The bargaining units described in findings of fact 3 and 4 that are represented by the Public School Employees of Washington are merged to form a single bargaining unit described as follows:

All full-time and regular part-time employees of the Inchelium School District in the following general job classes: custodial, maintenance, grounds, transportation, mechanic, food services, and paraeducator job classes, excluding supervisors, confidential employees, and all other employees.

ISSUED at Olympia, Washington, this 3rd day of December, 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 12/03/2019

DECISION 13104 - PECB 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 131508-C-19

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