

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WESTERN WASHINGTON UNIVERSITY

For clarification of an existing bargaining unit
represented by:

WASHINGTON FEDERATION OF STATE
EMPLOYEES

CASE 132434-C-19
DECISION 13188 - PSRA

CASE 132435-C-19
DECISION 13189 - 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.

Thomas R .Knoll, Jr, Assistant Attorney General, Attorney General Robert W.
Ferguson, for the Western Washington University.

The Washington Federation of State Employees (union) represents nonsupervisory and supervisory bargaining units of mixed class employees at Western Washington University (employer). *Western Washington University*, Decision 10438 (PSRA, 2009) (nonsupervisory unit) and *Western Washington University*, Decision 10439 (PSRA, 2009) (supervisory unit). Each bargaining unit contains campus police officers.

In 2019, the legislature granted interest arbitration rights to police officers working at the four-year institutions of higher education. Laws of 2019, ch. 234 (SB 5022). SB 5022 requires this agency 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 December 31, 2019, the employer filed unit clarification petitions asking this agency to remove campus police officers from the existing nonsupervisory and supervisory bargaining units and to place those positions in their own separate bargaining unit 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 petitions.

The employer's request to remove the campus police officers from the nonsupervisory and supervisory bargaining units is granted. Employees eligible for interest arbitration impasse procedures will not be commingled in bargaining units with employees who are not eligible for interest arbitration impasse procedures. *Thurston County Fire Protection District 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(1). 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(1). *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.*

Employees eligible for interest arbitration impasse procedures will not be commingled in bargaining units with employees who are not eligible for interest arbitration impasse procedures. *Thurston County Fire Protection 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 a bargaining unit with noninterest arbitration-eligible employees, the legislature recognized that existing bargaining unit

would be rendered inappropriate unless a mechanism was in place to allow this agency the opportunity to review bargaining units for continued appropriateness. The employer triggered that review process through its petitions 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 132434-C-19: The bargaining unit described in *Western Washington University*, Decision 10438 (PSRA, 2009) shall be modified to remove the nonsupervisory uniformed personnel (campus police officers) as defined by RCW 41.80.005(15). The remaining nonsupervisory classified employee bargaining unit will be updated and described as follows:

All full-time and regular part-time nonsupervisory classified employees in custodial, maintenance, operations, grounds, parking, steam plant, mail services, and warehouse, excluding supervisory employees and all other employees.

The Washington Federation of State Employees shall continue to represent the bargaining unit of nonsupervisory classified employees described in this paragraph.

2. Case 132434-C-19: The nonsupervisory uniformed personnel shall be placed in a separate bargaining described as follows:

All nonsupervisory uniformed personnel employed by Western Washington University, excluding confidential employees, supervisory employees, and all other employees.

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

3. Case 132435-C-19: The bargaining unit described in *Western Washington University*, Decision 10439 (PSRA, 2009) shall be modified to remove the nonsupervisory uniformed personnel (campus police officers) as defined by RCW 41.80.005(15). The remaining classified employee bargaining unit will be updated and described as follows:

All full-time and regular part-time supervisory classified employees in custodial, maintenance, operations, grounds, steam plant, mail services, and warehouse, excluding nonsupervisory employees and all other employees.

The Washington Federation of State Employees shall continue to represent the bargaining unit of supervisory classified employees described in this paragraph.

4. Case 132435-C-19: The supervisory uniformed personnel shall be placed in a separate bargaining described as follows:

All supervisory uniformed personnel employed by Western Washington University, excluding confidential employees, nonsupervisory employees, and all other employees.

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 16th day of April, 2020.

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 04/16/2020

DECISIONS 13188 – PSRA and 13189 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

A handwritten signature in black ink, appearing to read "Debbie Bates", is written over a horizontal line.

BY: DEBBIE BATES

CASES 132434-C-19 and 132435-C-19

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