

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

SEIU HEALTHCARE 1199NW

For clarification of an existing bargaining unit
of employees of:

UNIVERSITY OF WASHINGTON

CASE 132293-C-19

DECISION 13212 - PSRA

ORDER CLARIFYING BARGAINING
UNIT

Laurel R. Webb, Deputy General Counsel, for SEIU Healthcare 1199NW.

Jennifer K Schubert, Assistant Attorney General, Attorney General Robert W. Ferguson, for the University of Washington.

The SEIU Healthcare 1199NW (union) is the exclusive bargaining representative of a bargaining unit of full-time and regular part-time Registered Nurses at the University of Washington Hall Health (employer). On November 19, 2019, the union filed a unit clarification petition seeking to add approximately 8 per diem Registered Nurses to its bargaining unit. The per diem Registered Nurses have historically been excluded from the bargaining unit. The union also asserts that it is presumptively appropriate to include the per diem Registered Nurses who work more than 350 hours in a year in its bargaining unit because those employees share a community of interest with the employees in the bargaining unit.

Representation Case Administrator Dario de la Rosa conducted an investigation to determine if the parties would stipulate to certain matters and resolve the case without the need for a hearing. The parties agreed that, consistent with WAC 391-35-356, the per diem Registered Nurses perform the same work as the full-time employees within the existing bargaining unit and should be included in that unit. The parties agreed that there were no other procedural impediments to union's petition.

The parties request to add the qualifying per diem Registered Nurses working at Hall Health to the union's Registered Nurses bargaining unit is granted. The parties jointly stipulated that the per diem Registered Nurses perform the same work as the full-time and regular part-time Nurses already included in the union's bargaining unit. It is presumptively appropriate to include the qualifying per diem Registered Nurses in the union's bargaining unit because work jurisdiction issues would be created if they were either allowed to remain unrepresented or be placed in another bargaining unit.

BACKGROUND

The union represents a bargaining unit of employees working at the Hall Health Center. When this agency originally certified the bargaining unit, it included all full-time and regular part-time employees in the Registered Nurses, Registered Nurse 1 – Research, and Registered Nurse 2 – Research job classes. *University of Washington*, Decision 11926 (PSRA, 2013). In 2016, employees in the Health Care Specialists, Advanced Registered Nurse Practitioners, and Advanced Registered Nurse Practitioners – Lead job classes were added to the bargaining unit. *University of Washington*, Decision 12646 (PSRA, 2016). In 2017, the parties jointly agreed that certain Physician Assistant Nurses needed to be added to the bargaining unit. *University of Washington*, Decision 12901 (PSRA, 2018). The status of the per diem employees in the job classes included in the bargaining unit were not discussed during these any of these proceedings.

The bargaining unit contains all full-time and most part-time nurses. According to the parties' 2019-2021 collective bargaining agreement, the full-time nurses are regularly scheduled to work 40 hours in a seven-day period or 80 hours in a fourteen-day period. The part-time nurses are regularly scheduled to work a minimum of 20 hours in a seven-day period or 40 hours in a fourteen-day period.

Per diem nurses, including those who work at least 350 hours in a calendar year, have been historically excluded from the bargaining unit. The parties' collective bargaining agreement provides that per diem or hourly employees may be used for the purpose of providing coverage

during periods when regular staff are on leave such as vacation, sick, education, parental, retention, union, and all other leave covered by the parties' collective bargaining agreement. Per diem or hourly employees may also be used to provide coverage for recruitment of vacancies, orientation periods, and fluctuation in census.

ANALYSIS

Applicable Legal Standards

The determination of appropriate bargaining units is a function delegated to this agency by the Legislature. RCW 41.80.070. The goal in making unit determinations 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. *Central Washington University*, Decision 9963-B (PSRA, 2010); *Quincy School District*, Decision 3962-A (PECB, 1993).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit, upon request, through a unit clarification proceeding. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). Unit clarification cases are governed by the provisions of chapter 391-35 WAC. The general purpose of the unit clarification process is to provide this agency as well as the parties to a collective bargaining relationship a mechanism to make changes to an existing bargaining unit based upon a change in circumstances to ensure its continued appropriateness. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units).

Application of Standard

The union's request to include the per diem Registered Nurses who work at least 350 hours in a calendar year is granted. It is presumptively appropriate to include per diem state civil service employees at the state's higher education who work at least 350 hours a year in the same bargaining units as their full-time counterparts. WAC 391-35-350 and WAC 357-04-045; *see also University of Washington*, Decision 9398 (PSRA, 2006) and *University of Washington*, Decision 10337

(PSRA, 2009). The per diem Registered Nurses must be included in the union's Registered Nurses bargaining unit because work jurisdiction issues would be created if they were either allowed to remain unrepresented or placed in another bargaining unit. Including these positions in the bargaining unit will not raise questions concerning representation, as there are approximately 35 employees in the bargaining unit but only 8 historically excluded non-permanent positions.

FINDINGS OF FACT

1. The University of Washington (employer) is an employer within the meaning of RCW 41.80.005(10).
2. The SEIU Healthcare 1199NW (union) is an employee organization within the meaning of RCW 41.80.005(7).
3. The union represents a bargaining unit that consists of the approximately 38 full-time and regular part-time employees in the Registered Nurses, Registered Nurse 1 – Research, Registered Nurse 2 – Research, Health Care Specialists, Advanced Registered Nurse Practitioners, and Advanced Registered Nurse Practitioners – Lead job classes working at Hall Health Center. According to the parties' 2019-2021 collective bargaining agreement, those nurses are considered classified staff nurses. The full-time nurses are regularly scheduled to work 40 hours in a seven-day period or 80 hours in a fourteen-day period. The part-time nurses are regularly scheduled to work a minimum of 20 hours in a seven-day period or 40 hours in a fourteen-day period.
4. Per diem Registered Nurses are those nurses who are not scheduled on regular part-time basis. Per diem Registered Nurses perform the same duties as the full-time and regular part-time Registered Nurses. Approximately 8 per diem Registered Nurses work at least 350 hours in a calendar year. All per diem Registered Nurses have been historically excluded from the bargaining unit. The collective bargaining agreement specifically states that per diem nurses are not considered classified staff nurses but rather temporary employees who are not covered by the terms of the agreement. The employer provides the union with

quarterly reports on the use of per diem nurses as well as the number of hours worked by per diem nurses.

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. The per diem nurses described in finding of fact 4 only share a community of interest with bargaining unit described in finding of fact 3.

ORDER

The bargaining unit described in finding of fact 3 shall be clarified to include the per diem Registered Nurses at University of Washington Hall Health that work at least 350 hours per year.
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ISSUED at Olympia, Washington, this 30th day of June, 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 06/30/2020

DECISION 13212 - 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 132293-C-19

EMPLOYER: UNIVERSITY OF WASHINGTON

REP BY: BANKS EVANS III
UNIVERSITY OF WASHINGTON
BOX 354960
4300 ROOSEVELT WAY NE
SEATTLE, WA 98195-4960
bankse@uw.edu

JENNIFER K. SCHUBERT
OFFICE OF THE ATTORNEY GENERAL
UNIVERSITY OF WASHINGTON DIVISION
4333 BROOKLYN AVE NE 18TH FL
PO BOX 359475
SEATTLE, WA 98195
jennifer.schubert@atg.wa.gov

PARTY 2: SEIU HEALTHCARE 1199NW

REP BY: CARSON FLORA
SEIU HEALTHCARE 1199NW
15 S GRADY WAY STE 200
RENTON, WA 98057
carsonf@seiu1199nw.org

NESTOR GALINDO
SEIU HEALTHCARE 1199NW
15 S GRADY WAY STE 200
RENTON, WA 98057
janeh@seiu1199nw.org

LAUREL R. WEBB
SEIU HEALTHCARE 1199NW
15 S GRADY WAY STE 200
RENTON, WA 98057
laurelw@seiu1199nw.org