

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON STATE DEPARTMENT OF
CORRECTIONS

For clarification of an existing bargaining unit
represented by:

TEAMSTERS LOCAL 117

CASE 134224-C-21

DECISION 13388 - PSRA

ORDER CLARIFYING BARGAINING
UNIT

John Scearcy, Secretary-Treasurer, for Teamsters Local 117.

Amy King, Labor Relations Consultant, for Washington State Department of Corrections.

On May 26, 2021, the Washington State Department of Corrections (employer) filed a unit clarification petition concerning several positions currently represented by Teamsters Local 117 (union) in its nonsupervisory institutions bargaining unit. The union represents a bargaining unit that is currently described as:

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.

Washington State Department of Corrections, Decision 13375 (PSRA, 2021). The employer's petition indicates it has reallocated nine positions represented by the union in the Administrative Assistant 3, Office Assistant 3, and Library Archives Para Professional 1 and 2 job classes to the Library Archives Para Professional 4 (LAPP4) job class. None of the historical orders issued by this agency or its predecessors have included the LAPP4 job class to the union's bargaining unit

because the employer has not historically used this job title. However, all of the employees who were recently reclassified to the LAPP4 job class continue to perform the same functions they previously performed.

Because the employer has not previously utilized the LAPP4 job class in its workforce and that job class has not historically been included in the union's bargaining unit, the employer seeks to memorialize that these newly reallocated positions remain bargaining unit positions. The union supports the employer's petition as it has not historically represented employees in the LAPP4 job class but has represented other employees in the Library Archives Para Professional job series. The union's bargaining unit shall be clarified to include the position reallocated to the LAPP4 job class.

ANALYSIS

The creation and maintenance of appropriate bargaining units is a function of this agency. RCW 41.80.070. The purpose of this function is to ensure there is a community of interest among the employees sufficient to enable them to bargain effectively with their employer. *Central Washington University*, Decision 9963-B (PSRA, 2010); *Quincy School District*, Decision 3962-A (PECB, 1993).

This agency also has the authority to modify an existing bargaining unit, upon request, through a unit clarification proceeding. Chapter 391-35 WAC; *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). 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 appropriate bargaining unit based upon a change of circumstances. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units).

The union's nonsupervisory institutions bargaining unit is clarified to include employees in the LAPP4 job class working at the Washington State Penitentiary, Monroe Correctional Complex, Clallam Bay Corrections Center, Airway Heights Corrections Center, Washington Corrections Center, Washington Corrections Center for Women, and Coyote Ridge Corrections Center. These employees have been included in the union's bargaining unit albeit in different job classes and continue to perform the same duties they previously performed.

The decision to reallocate the positions to a new job title is not subject to bargaining. RCW 41.80.020(2)(c); *See also State – Corrections*, Decision 10842-A (PSRA, 2011) *aff'd* Decision 10842-B (PSRA, 2012); *University of Washington*, Decision 10490-C (PSRA, 2011). However, once an employee has been reallocated to a new job class, the employer cannot unilaterally remove that position from the bargaining unit even if the new job class is not a title that has previously been included in the bargaining unit. *Id.* Rather, if the employer believes the bargaining unit should be clarified then the employer may petition this agency to consider if there has been a recent change in circumstances that warrants review the positions community of interest. *See University of Washington*, Decision 10490-C.

Here, the employer is not seeking to remove the positions that were recently reallocated to the LAPP4 job class. Rather, the employer is simply seeking to clarify that these recently reallocated positions remain bargaining unit positions because the employer had not previously utilized the LAPP4 job title and no previous orders of this agency has included that job title in the union's bargaining unit. The employer request for clarification is granted.

FINDINGS OF FACT

1. The Washington State Department of Corrections is an employer within the meaning of RCW 41.80.005(8).
2. Teamsters Local 117 (union) is an employee organization within the meaning of RCW 41.80.005(7).

3. The union represents a bargaining unit that is currently described as:

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.

Washington State Department of Corrections, Decision 13375 (PSRA, 2021).

4. The employer recently reallocated nine positions represented by the union in the Administrative Assistant 3, Office Assistant 3, and Library Archives Para Professional 1 and 2 job classes to the Library Archives Para Professional 4 (LAPP4) job class.
5. None of the historical orders issued by this agency or its predecessors have included the LAPP4 job class to the union's bargaining unit because the employer has not historically used this job title.
6. All of the employees who were recently reclassified to the LAPP4 job class continue to perform the same functions they previously performed.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.80 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 5 and 6, the employees described in finding of fact 4 remain appropriately included in the bargaining unit described in finding of fact 3.

ORDER

The employees in the Library Archives Para Professional 4 job class working at the Washington State Penitentiary, Monroe Correctional Complex, Clallam Bay Corrections Center, Airway Heights Corrections Center, Washington Corrections Center, Washington Corrections Center for Women, and Coyote Ridge Corrections Center appropriately remain included in the bargaining unit described in finding of fact 3.

ISSUED at Olympia, Washington, this 5th day of August, 2021.

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 08/05/2021

DECISION 13388 - 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 134224-C-21

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