

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

KENNEWICK SCHOOL DISTRICT

For clarification of an existing bargaining unit  
represented by:

PUBLIC SCHOOL EMPLOYEES OF  
WASHINGTON

CASE 134213-C-21

DECISION 13470 - PECB

ORDER CLARIFYING BARGAINING  
UNIT

*Elyse B. Maffeo*, General Counsel, for the Public School Employees of Washington.

*Toni Neidhold*, Director of Human Resources, for the Kennewick School District.

Public School Employees of Washington (union) represents bargaining units at the Kennewick School District (employer). The union represents a bargaining unit of Paraeducators, Cashiers, and Licensed Practical Nurses. *Kennewick School District, Decision 12787 (PECB, 2017)*; *Kennewick School District, Decision 13116 (PECB, 2019)* (reflecting the name change of the bargaining unit representative). The union also represents a bargaining unit of food services employees. *Kennewick School District, Decision 895 (PECB, 1980)*. After recent changes to the Cashiers' work, the employer seeks to move the Cashiers from the Paraeducator, Cashier, and Licensed Practical Nurse bargaining unit to the food services bargaining unit. The union agrees with the requested move.

The request to move the Cashier position from the Paraeducator, Cashiers, and Licensed Practical Nurses bargaining unit to the food services bargaining unit is granted. The employer's petition is timely filed. The parties stipulated that the Cashier's job title and duties have changed and merged with the Cooks, which are currently in the food services bargaining unit. Work jurisdiction issues may result if the position is not moved into the food services bargaining unit. The food services

bargaining unit is an appropriate unit because the Cashiers share a community of interest with the employees in the food services bargaining unit.

### BACKGROUND

The union has represented the Paraeducator, Cashiers, and Licensed Practical Nurses bargaining unit since 2017. The bargaining unit is currently described as: "All paraeducators, cashiers, and licensed practical nurses of the Kennewick School District, excluding certificated teachers, supervisors, confidential employees, employees in other bargaining units, and all other employees." *Kennewick School District, Decision 12787 (PECB, 2017); Kennewick School District, Decision 13116 (PECB, 2019)* (reflecting the name change of the bargaining unit representative). The union has represented the food services bargaining unit since 1980. The bargaining unit is currently described as "Included: all full-time and regular part-time classified employees in the general job classification of food service. Excluded: all other employees of the district." *Kennewick School District, Decision 895*.

Historically the Cashiers have been included in the Paraeducator, Cashier, and Licensed Practical Nurses bargaining unit. Prior to the recent changes, most of the Cashier's work required processing and managing the free and reduce meal program. The Cashiers' job also required securing funds for daily meal transactions; depositing funds, and balancing accounts while adhering to accounting practices for monies handled. Cashiers needed to know basic math calculations and needed to have knowledge of basic cash handling procedures. Cashiers were required to supervise student customers for the purpose of maintaining proper lunchroom behavior. The Cashiers also were expected to perform minor food handling duties such as stocking and filling salad bars.

The district recently centralized the free and reduced meal program, which changed the work of the Cashiers. Currently, very little cash is exchanged. The Cashiers now use a clicker to track meals instead of exchanging cash and are required to support the cooks more extensively. They have more opportunities to refill salad bars, stock supplies, and assist in preparing the meals. Because a main aspect of the Cashiers' work, the free and reduced meal program, went away and the Cashiers were supporting the Cooks more regularly, the employer reclassified the Cashiers by

merging the work of the Cashiers and Cooks. The reclassified position is called the Nutrition Services Cook.

The Nutrition Services Cook is responsible for cooking and preparing large quantities of food for all nutrition services programs including breakfast, lunch, snack, and suppers; verifying quantities and specifications of orders; maintaining facilities in a sanitary condition; ensuring availability of quantities of items; providing written support to convey information; complying with mandated health requirements; reviewing, verifying, and recording reimbursable meals; securing funds for daily meal transactions; and depositing funds and balancing accounts while adhering to accounting practices for monies handled. Nutrition Services Cooks must also maintain a food handler permit.

The food services bargaining unit includes the following additional classifications: Nutrition Services Lead Cook, Nutrition Services Kitchen Manager, and Nutrition Services Kitchen Supervisor. All three positions provide nutrition services to meet the mandated nutritional needs of students, cooking and preparing food items; verifying quantities and specifications of orders; maintaining facilities in a sanitary condition; ensuring availability of quantities of items; providing written support to convey information; complying with mandated health requirements; reviewing, verifying, and recording reimbursable meals; securing funds for daily meal transactions; and depositing funds and balancing accounts while adhering to accounting practices for monies handled.

## ANALYSIS

### Applicable Legal Standards

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). The goal in making bargaining 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. *Quincy School District*, Decision 3962-A (PECB, 1993). When making bargaining unit determinations, the Commission

seeks to avoid fragmentation and potential work jurisdiction disputes. *King County (Amalgamated Transit Union, Local 587)*, Decision 6696 (PECB, 1999). Bargaining unit determinations are made on a case-by-case basis. *King County*, Decision 5910-A (PECB, 1997).

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 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).

Because unit clarifications alter the composition of bargaining units and in order to maintain stability in the bargaining units, the Commission adopted WAC 391-35-020 to govern the time frames in which unit clarification petitions may be filed. The time frames vary depending on the nature of the positions at issue and whether the petitioning party is attempting to include or exclude those positions in or from an existing bargaining unit.

Generally, the petitioning party also must have filed its unit clarification petition prior to signing the current collective bargaining agreement. *Id.*; *State – Agriculture*, Decision 12564 (PSRA, 2016). However, a petition may also be timely during the term of a collective bargaining agreement if a substantial change in circumstances that warrants modification of the bargaining unit occurred during the term of the agreement. WAC 391-35-020(2)(b). The purpose of these requirements is to encourage free and open communication between the parties at the bargaining table, respect their contractual arrangements, and avoid the destabilizing effects of one party attempting to obtain a unit clarification ruling that upsets bargaining unit agreements. *Mason County*, Decision 9914 (PECB, 2007) (citing *Yakima School District*, Decision 9020-A (PECB, 2007)).

In making bargaining unit determinations, the Commission considers “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 41.56.060(1). The criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A. Not all factors will arise in every case and any one factor could be more important than another, depending on the facts. *Renton School District*, Decision 379-A (EDUC, 1978), *aff'd*, *Renton Education Association v. Public Employment Relations Commission*, 101 Wn.2d 435 (1984).

### Application of Standards

#### *Timeliness of Petition*

The employer’s petition is timely. In situations where employees are covered by an existing collective bargaining agreement, WAC 391-35-020(2)(b) permits the filing of a unit clarification petition during the term of the agreement upon a demonstration by “specific evidence” of “substantial changed circumstances during the term of the agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class.” The centralization of the free and reduces meals program, and loss of work to the Cashiers is a substantial change in circumstances that occurred during the term of the Paraeducator, Cashier and Licensed Practical Nurses agreement and the food services agreement. The employer has satisfied its obligation under WAC 391-35-020.

#### *Appropriate Bargaining Unit*

The Cashiers no longer have a community of interest with the Paraeducator/Licensed Practical Nurses bargaining unit. Much of the work that created the community of interest went away. While the job description continues to include securing funds for daily meal transactions, currently very little cash is exchanged. The remaining work and the employees performing that work have been reclassified and merged with the Cook positions in the food services bargaining unit. The only appropriate unit for the newly reclassified position of Nutrition Services Cook is the food services bargaining unit. The Nutrition Services Cook performs the previous duties of the Cook and of the Cashiers. The Nutrition Services Cook shares similar duties, skills, and working conditions with

the other classifications in the food services bargaining unit. They all provide nutrition services to meet the mandated nutritional needs of students, cooking and preparing food items; verifying quantities and specifications of orders; maintaining facilities in a sanitary condition; ensuring availability of quantities of items; providing written support to convey information; complying with mandated health requirements; reviewing, verifying, and recording reimbursable meals; securing funds for daily meal transactions; and depositing funds and balancing accounts while adhering to accounting practices for monies handled. Including the Nutrition Service Cooks in the Paraeducator/Licensed Practical Nurses bargaining unit would create work jurisdiction issues.

### Conclusion

The change in duties and subsequent reclassification of the cashiers to Nutrition Service Cook demonstrate a change in circumstances. The Nutrition Service Cook share a community of interest with the food services bargaining unit to justify a move to that unit.

### FINDINGS OF FACT

1. The Kennewick School District (employer) is a public employer within the meaning of RCW 41.56.030(12).
2. Public School Employees of Washington (union) is an employee organization within the meaning of RCW 41.56.030.
3. The union has represented the Paraeducator, Cashiers, and Licensed Practical Nurses bargaining unit since 2017. The bargaining unit is currently described as: "All paraeducators, cashiers, and licensed practical nurses of the Kennewick School District, excluding certificated teachers, supervisors, confidential employees, employees in other bargaining units, and all other employees." *Kennewick School District*, Decision 12787 (PECB, 2017); *Kennewick School District*, Decision 13116 (PECB, 2019) (reflecting the name change of the bargaining unit representative).
4. The union has represented the food services bargaining unit since 1980. The bargaining unit is currently described as "Included: all full-time and regular part-time classified

employees in the general job classification of food service. Excluded: all other employees of the district.” *Kennewick School District*, Decision 895.

5. Historically, the Cashiers have been included in the Paraeducator, Cashier, and Licensed Practical Nurses bargaining unit. Prior to the recent changes, most of the Cashier’s work required processing and managing the free and reduce meal program. The Cashiers’ job also required securing funds for daily meal transactions; depositing funds, and balancing accounts while adhering to accounting practices for monies handled. Cashiers needed to know basic math calculations and needed to have knowledge of basic cash handling procedures. Cashiers were required to supervise student customers for the purpose of maintaining proper lunchroom behavior. The Cashiers also were expected to perform minor food handling duties such as stocking and filling salad bars.
6. The district recently centralized the free and reduced meal program, which changed the work of the Cashiers. Currently, very little cash is exchanged. The Cashiers now use a clicker to track meals instead of exchanging cash and are required to support the cooks more extensively. They have more opportunities to refill salad bars, stock supplies, and assist in preparing the meals. Because a main aspect of the Cashiers’ work, the free and reduced meal program, went away and the Cashiers were supporting the Cooks more regularly, the employer reclassified the Cashiers by merging the work of the Cashiers and Cooks. The reclassified position is called the Nutrition Services Cook.
7. The Nutrition Services Cook is responsible for cooking and preparing large quantities of food for all nutrition services programs including breakfast, lunch, snack, and suppers; verifying quantities and specifications of orders; maintaining facilities in a sanitary condition; ensuring availability of quantities of items; providing written support to convey information; complying with mandated health requirements; reviewing, verifying, and recording reimbursable meals; securing funds for daily meal transactions; and depositing funds and balancing accounts while adhering to accounting practices for monies handled. Nutrition Services Cooks must also maintain a food handler permit.

8. The food services bargaining unit includes the following additional classifications: Nutrition Services Lead Cook, Nutrition Services Kitchen Manager, and Nutrition Services Kitchen Supervisor. All three positions provide nutrition services to meet the mandated nutritional needs of students, cooking and preparing food items; verifying quantities and specifications of orders; maintaining facilities in a sanitary condition; ensuring availability of quantities of items; providing written support to convey information; complying with mandated health requirements; reviewing, verifying, and recording reimbursable meals; securing funds for daily meal transactions; and depositing funds and balancing accounts while adhering to accounting practices for monies handled.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 3 through 8, the change in duties and subsequent reclassification of the Cashiers to Nutrition Service Cook demonstrate a change in circumstances. Including the Nutrition Service Cook in the food services bargaining unit is appropriate under chapter 41.56 RCW.

#### ORDER

1. The unit clarification petition filed by Kennewick School District is granted. The PSE Paraprofessionals, Cashiers, and Licensed Practical Nurses will be modified to remove the Cashiers. The bargaining unit shall be described as follows:

All paraeducators and education support professionals of the Kennewick School District, excluding certificated teachers, supervisors, confidential employees, employees in other bargaining units, and all other employees.

2. The PSE food services bargaining unit of food services modified to include the Cashiers. The bargaining unit shall be described as follows:



All full-time and regular part-time classified employees in the general job classification of food service of the Kennewick School District, excluding certificated teachers, supervisors, confidential employees, employees in other bargaining units, and all other employees.

3. The Public School Employees of Washington shall continue to represent both bargaining units.

ISSUED at Olympia, Washington, this 27th day of January, 2022.

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

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ISSUED ON 01/27/2022

DECISION 13470 - 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 134213-C-21

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