

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

BATES PROFESSIONAL TECHNICAL
EMPLOYEES ASSOCIATION

CASES 135031-C-22
135126-C-22

DECISION 13637 - PECB

For clarification of an existing bargaining unit
of employees of:

ORDER CLARIFYING BARGAINING
UNIT

BATES TECHNICAL COLLEGE

Ariella Wagonfeld, Attorney at Law, Washington Education Association, for the
Bates Professional Technical Employees Association.

Oliver T. Beatty, Assistant Attorney General, Attorney General Robert W.
Ferguson, for Bates Technical College.

The Bates Professional Technical Employees Association (union) represents a professional and technical employees bargaining unit working at Bates Technical College (employer) that includes most of the classified staff in the employer's workforce. The employer recently created the Student Retention Specialist and Database Analyst positions. On April 14, 2022, the union filed a unit clarification petition asking this agency to add the Student Retention Specialist position to the union's bargaining unit. Case 135031-C-22. On May 27, 2022, the union filed a second petition asking this agency to place the Database Analyst position in the union's bargaining unit. Case 135126-C-22. In both cases the union asserts that the at-issue positions only share a community of interest with the employees in the union's bargaining unit. The employer does not oppose the union's petitions and agrees that the Student Retention Specialists and Database Analysts should be included in the union's bargaining unit.

The duties, skills, and working conditions as well as the extent of organization demonstrate that the Student Retention Specialist and Database Analyst positions only share a community of interest with the union's nonsupervisory bargaining unit. The positions shall be included in that bargaining unit without the need of an election.

BACKGROUND

Bates Technical College serves approximately 3,500 students and 10,000 more community members on three campuses in programs such as Continuing Education, Child Studies, High School, General Education, and Basic Studies. The college's workforce is organized into several divisions including but not limited to Administrative Services, College Administration, Human Resources, Information Technology, Instruction, Library Services, and Student Services. The represented employees are included in four separate bargaining units. A facilities and operations bargaining unit and a campus public safety officers bargaining unit are represented by the International Union of Operating Engineers Local 302. A faculty bargaining unit is represented by the American Federation of Teachers. The employees in the union's bargaining unit work in most divisions in the employer's work force. Finally, the employer's childcare employees are currently the only unrepresented group of employees in the workforce.

The employer recently created two new positions, the Student Retention Specialist and the Database Analyst. The Student Retention Specialists work with career training students to provide support as they move through program requirements to completions. The primary duties of the Student Retention Specialist include meeting with students at least once a quarter to determine needs and help them stay on their educational path and providing students additional information on a regular basis through email, canvas, workshops, or other appropriate means. The Student Retention Specialist delivers the new student orientation both in-person and online to entering students on a quarterly basis. The position connects students with on and off campus resources, such as counseling, financial aid, and tutoring to increase engagement and retention. They also host workshops and provide one on one assistance with test taking strategies, time management, and financial literacy.

The Student Retention Specialist is included in the employer's Student Services division and reports to the Director of Student Engagement and Retention. All the employees in the Student Services division are included in either the union's professional and technical bargaining unit or are faculty who are included in the faculty bargaining unit. Additionally, the Student Retention Specialist performs duties similar to bargaining unit positions that are included in the Student Services division. For example, the Basic Food, Employment, and Training (BFET) Compliance Specialist develops, implements, and monitors system procedures to serve students in a manner that supports state and federal policies and guidelines. The position identifies, screens, and determines prospective students' eligibility for state and federal funding and assists students with funding process. The BFET Compliance Specialist facilitates new students' orientation by providing an overview of programs, and the requirements for eligibility. They also organize individual student meetings to identify and assist in resolving a student barrier to success. The position also tracks program and students' budgets to ensure that funding is leveraged, and awards are processed and expended.

The Database Analyst oversees the data collection, data analysis, data entry, and preparation of college data reports for assessment, planning, and other research functions. The position provides data management for the college's regional and other accrediting agencies, manages federal and state data reporting, and participates collaboratively and professionally with other faculty and staff to accomplish the data and reporting needs for the college. The Database Analyst collects, analyzes, and reports data and information for Title III grant and other mandatory reporting and data informed decision making. The position also facilitates the development and use of interactive data dashboards and customizable reports that enable faculty, staff, and administrators to analyze and improve student support, learning and success, and that foster a culture of inquiry, improvement, and data informed decision making.

The Database Analyst is included in the employer's Instruction division and reports to the Director of Institution Research. The union represents employees in the Instruction division that perform similar work as the Database Analyst. For example, the Education Systems Specialist coordinates all course scheduling for faculty, room, and course assignments. The position also coordinates and

directs course and instruction program coding and course information with internal and State Board of Community and Technical College entities and responds to inquiries that require detailed knowledge of employer's policies, procedures, systems, and regulations. The Education Systems Specialist develops and edits comprehensive reports and completes documents including instructional information for college catalogs, webpage publication, and other marketing publications.

Applicable Legal Standard

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).

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). Unit clarification proceedings can be used to determine the bargaining unit placement of newly created positions. WAC 391-35-020(1)(a).

An accretion may be ordered when changed circumstances lead to the existence of positions that logically belong only in one existing bargaining unit. *City of Auburn*, Decision 4880-A (PECB, 1995). In order for an accretion to be directed, the resulting unit must be appropriate. *Pierce County*, Decision 6051-A (PECB, 1998). An accretion will be denied if the positions could stand on their own as a separate bargaining unit or could appropriately be placed in any other bargaining

unit. *City of Auburn*, Decision 4880-A. An accretion cannot be ordered where the number of employees to be added to the bargaining unit is so large as to call into question the union's majority status in the enlarged unit. *Port of Seattle*, Decision 11131 (PORT, 2011). The party proposing accretion bears the burden of demonstrating that conditions for accretion are present. *State – Enterprise Services (Contracts & Legal Services)*, Decision 11652-A (PSRA, 2013); *City of Auburn*, Decision 4880-A.

Application of Standards

The Student Retention Specialist and Database Analyst positions logically belong in the union's bargaining unit because the at-issue positions share the same duties, skills, and working conditions. Furthermore, the extent of organization dictates that the Student Retention Specialist and Database Analyst positions be included in the bargaining to avoid work jurisdiction issues.

The Student Retention Specialist, Database Analyst, and bargaining unit positions share many common duties and working conditions. The Student Retention Specialists and other employees in the Student Services division are all responsible for helping students orient themselves to being a student at the college as well as advise and assist students with financial aid, educational resources, and tutoring. The positions in Student Services also share similar working conditions, such as common lines of supervision. The Database Analyst and other employees in the Instruction division oversee data collection, analysis, management, and reporting and also share similar working conditions such as common lines of supervision.

Finally, the extent of organization supports a conclusion that the Student Retention Specialist and Database Analyst only belongs in the union's bargaining unit. The union's bargaining unit includes the employer's nonsupervisory employees in the Student Services and Instruction divisions except for the faculty and exempt positions. If the Student Retention Specialist and Database Analyst positions were excluded from the bargaining unit, the employer's workforce would be unnecessarily fragmented and work jurisdiction issues would be created.

FINDINGS OF FACT

1. Bates Technical College is a public employer within the meaning of RCW 41.56.030(12).
2. The Bates Technical and Professional Association is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a mixed class bargaining unit that includes employees in most divisions of the employer's workforce.
4. The employer recently created two new positions, the Student Retention Specialist and the Database Analyst.
5. The Student Retention Specialists work with career training students to provide support as they move through program requirements to completions. The primary duties of the Student Retention Specialist include meeting with students at least once a quarter to determine needs and help them stay on their educational path and providing students additional information on a regular basis through email, canvas, workshops, or other appropriate means.
6. The Student Retention Specialist is included in the employer's Student Services division and reports to the Director of Student Engagement and Retention. All the employees in the Student Services division are included in either the union's professional and technical bargaining unit or are faculty who are included in the faculty bargaining unit.
7. The Student Retention Specialist performs duties similar to bargaining unit positions that are included in the Student Services division. For example, the Basic Food, Employment, and Training (BFET) Compliance Specialist develops, implements, and monitors system procedures to serve students in a manner that supports state and federal policies and guidelines.

8. The Database Analyst oversees the data collection, data analysis, data entry, and preparation of college data reports for assessment, planning, and other research functions. The position provides data management for the college's regional and other accrediting agencies, manages federal and state data reporting, and participates collaboratively and professionally with other faculty and staff to accomplish the data and reporting needs for the college.

9. The Database Analyst is included in the employer's Instruction division and reports to the Director of Institution Research. The union represents employees in the Instruction division that perform similar work as the Database Analyst. the Education Systems Specialist coordinates all course scheduling for faculty, room, and course assignments. The position also coordinates and directs course and instruction program coding and course information with internal and State Board of Community and Technical College entities and responds to inquiries that require detailed knowledge of employer's policies, procedures, systems, and regulations.

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 4 through 9, the Student Retention Specialist and the Database Analyst share a community of interest with the bargaining unit described in finding of fact 3.

ORDER

The Student Retention Specialist and the Database Analyst positions shall be added to the bargaining unit represented by the Bates Technical and Professional Association without the need of an election.

ISSUED at Olympia, Washington, this 2nd day of March, 2023.

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 03/02/2023

DECISION 13637 - 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

CASES 135031-C-22 AND 135126-C-22

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