

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

UNITED AUTOWOKERS LOCAL 4121

Involving certain employees of:

WESTERN WASHINGTON UNIVERSITY

CASE 136078-E-22

DECISION 13678-A - PECB

**CORRECTED ORDER ON
ELIGIBILITY**

Amy Bowles, Attorney at Law, for United Autoworkers Local 4121

Evan Chinn, Attorney at Law, Summit Law Group PLLC, for Western Washington University.

On December 2, 2022, United Autoworkers Local 4121 filed a petition to represent certain student employees enrolled in academic programs at Western Washington University who were granted collective bargaining rights under RCW 41.56.0215. The employer objected to the inclusion of Computer Assistants employed in its Student Technology Center in the bargaining unit. The number of objections in this case did not impact the outcome of an election. So, an election was conducted, and an interim certification was issued pending the status of the objected-to employees. *Western Washington University*, Decision 13678 (PECB, 2023)¹. Hearing Officer Loyd Willaford conducted a hearing by video conference November 3 and 6-8, 2023. The parties filed post-hearing briefs on January 12, 2024, to complete the record.

¹ The bargaining unit is described as: "All employees enrolled in academic programs and employed by Western Washington University in the following classifications: (1) Graduate Teaching/Research Assistant; (2) Graduate Research Assistant; (3) Research Assistant; (4) Teaching Assistant; (5) Tutors, Reader and/or Grader in all academic units and tutoring centers; (6) Faculty Assistant; (7) Lab Assistant; and any other student employees whose duties and responsibilities are substantially equivalent to those employees in (1) – (7); excluding students who have no service expectancy imposed upon them by the employer, casual employees, confidential employees, supervisors, employees covered under chapter 41.76 RCW, employees included in any other bargaining unit, and all other employees."

The Computer Assistants employed in the Student Technology Center are substantially equivalent to either tutors or lab assistants within the meaning of RCW 41.56.0215(2)(a)(iv) or (v). The Computer Assistants are included in the bargaining unit under RCW 41.56.0215.

BACKGROUND

The employer is a regional university located in Bellingham, Washington. The Student Technology Center (STC) is a part of the employer's organization which "supports the advancement of student knowledge of technology from fundamental skills to advanced applications." The STC is a place where students "attend workshops, schedule peer tutoring, and make use of manuals, tutorials on advanced equipment and software to promote their learning."

The STC employs students classified by the employer as Computer Assistants. They provide a variety of technological and academic support to students, faculty, and staff. This support ranges from helping students, faculty, and staff learn how to use different computer programs and hardware to helping students use various technology in their academic classes. Some examples include assistance with Microsoft, Apple, Adobe, Amazon, WordPress, InDesign, data analysis, and presentation programs. This assistance may involve generically learning how to use or may relate to certain tasks for a specific assignment or to complete the course work. A common request for assistance involves helping students use Excel and WordPress in assignments and presentations.

The petitioned-for Computer Assistants work in one of two locations: The STC, located in Haggard Hall or in the Makespace, an engineering department facility where they assist students in the use of equipment.² Students can make appointments or drop-in to use the STC services.

²

The employer has other Computer Assistants performing information technology help desk work and managing the check-out of physical items such as cameras or other electronic equipment. The Computer Assistants outside of the STC are not in the petitioned-for unit.

The bargaining unit also includes student workers who are classified by the employer as Tutors and Faculty Assistants. The Tutors work in tutoring centers located on campus in a variety of academic subjects such as mathematics and science and in the Hacherl Research and Writing Studio, which is located in Haggard Hall. Tutors provide instruction on a one-to-one basis or in small group settings. Tutors help students who are struggling with the academic materials or coaching. Some of the areas in which Tutors provide assistance include: homework assignments, programming tasks, research, writing, speaking, listening, calculus, linear algebra, statistics, executive function skills, learning strategies, study skills, or academic life management.

Faculty Assistants perform a wide variety of duties across the university usually related to specific courses or directed by a specific faculty member. These duties can include classroom instruction, grading, holding office hours for student contact, student mentoring, or other tasks directed by faculty. The Makerspace facility has Faculty Assistants performing substantially the same work as the Computer Assistants who report to the STC: assisting students with the use of equipment in the Makerspace.

ANALYSIS

Applicable Legal Standard(s)

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), *rev. denied*, 96 Wn.2d 1004 (1981). The purpose of this function is to ensure that there is a community of interest among the employees sufficient to enable them to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993). When interpreting statutes administered by this agency, the meaning of the words used in a statute are given the full effect intended by the legislature. *State – Transportation*, Decision 8317-B (PSRA, 2005). The statute's subject matter and the context in which the word is used must also be considered. *Id.*; *Chamberlain v. Department of Transportation*, 79 Wn. App. 212, 217 (1995). Statutes must be interpreted and construed so that all the language used is given effect and no portion is rendered meaningless or superfluous. *Whatcom County v. City of Bellingham*, 128 Wn.2d 537 (1996).

All student employees were ineligible for collective bargaining until 2002. In that year, the legislature passed RCW 41.56.203, which granted collective bargaining rights to certain student employees at the University of Washington.³ In 2008, the legislature granted collective bargaining rights to certain student employees at Washington State University.⁴ RCW 41.56.205. The legislature specified that while the titles of the student employees at the two institutions differed, the student employees at Washington State University should enjoy the same collective bargaining rights as the student employees at the University of Washington. Laws of 2008, ch. 203, § 1.

The student employees at the four regional universities remained without collective bargaining rights until 2023. In that year, the legislature passed RCW 41.56.0215 which grants collective bargaining rights to certain student employees enrolled in degree programs at the regional universities – Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College. The statute grants collective bargaining rights to the following:

³ RCW 41.56.203 granted collective bargaining rights to the following student employees:

- (a) Predoctoral instructor;
- (b) Predoctoral lecturer;
- (c) Predoctoral teaching assistant;
- (d) Predoctoral teaching associates I and II;
- (e) Tutors, readers, and graders in all academic units and tutoring centers;
- (f) Predoctoral staff assistant;
- (g) Predoctoral staff associates I and II;
- (h) Predoctoral researcher, predoctoral research assistant, and predoctoral research associates I and II.

⁴ RCW 41.56.205 granted collective bargaining rights to the following student employees:

- (a) Graduate teaching assistant;
- (b) Graduate staff assistant;
- (c) Graduate project assistant;
- (d) Graduate veterinary assistant;
- (e) Tutor, reader, and graders in all academic units and tutoring centers;
- (f) Graduate research assistant; and
- (g) All employees enrolled in an academic program whose duties and responsibilities are substantially equivalent to those employees in (a) through (f).

[A]ll employees enrolled in an academic program whose duties and responsibilities are substantially equivalent to those employees in the following classifications:

- (i) Graduate teaching assistant;
- (ii) Teaching assistant;
- (iii) Graduate staff assistant;
- (iv) Tutor, reader, and grader in all academic units and tutoring centers;
- (v) Lab assistant;
- (vi) Faculty assistant;
- (vii) Research assistant; and
- (viii) Graduate research assistant, except for those [...] [performing research primarily related to their dissertation and who have incidental or no service expectations placed upon them by the university.]

The legislature specifically noted that while the job titles of student employees at the six institutions of higher education may differ, it intended to grant student employees at the regional universities the same collective bargaining rights as the student employees at the University of Washington and Washington State University. Laws of 2023, ch. 115, § 1.

Application of Standard(s)

The Computer Assistants in the STC perform work that is substantially equivalent to a tutor in the tutoring center or a lab assistant. These Computer Assistants should be included in the bargaining unit.

The employer argues that the Computer Assistants in the STC perform a “support function” distinguished from the “core function” of its other tutoring centers, which are housed within academic departments. But RCW 41.56.0215 provides no such distinction.

RCW 41.56.0215 grants collective bargaining rights to student employees providing instructional, research, and related academic services at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College. Passed in 2023, the purpose was RCW 41.56.0215 was to grant these student employees the same collective bargaining rights granted to student employees at the University of Washington and Washington State University. Laws of 2023 ch. 115. In doing so, the legislature specifically recognized that the titles of the student employees may differ among the six institutions of higher education. But

that its intent was to provide the same bargaining right to all the student employees performing instructional, research, and academic related work. *Id.* That is why RCW 41.56.0215 provides that the term “employee” includes employees enrolled in academic programs whose duties are “substantially equivalent” to the classifications listed in RCW 41.56.0215.

Taken together, the intent of the language of the statute mandates a more expansive reading of the type of work to be included than what the employer advocates. The parties spent considerable space in their briefs arguing whether the petitioned-for Computer Assistants’ duties were substantially equivalent to Tutors or Faculty Assistants. However, the relevant inquiry is whether they are substantially equivalent to the general categories in RCW 41.56.0215.

The Computer Assistants’ primary duties are not to assist faculty, so they are not Faculty Assistants. This leaves “tutor” and “lab assistant” as the relevant categories. Because the legislature did not define these terms, the agency will apply the plain and ordinary meaning of the terms and will look to any other available evidence regarding legislative intent as it interprets the statute. *See King Fire District 36*, Decision 11120-A (PECB, 2013).

A Tutor is defined as “a person charged with the instruction and guidance of another.” <https://www.merriam-webster.com/dictionary/tutor> (last visited February 22, 2023). To tutor is “to teach or guide usually individually in a special subject or for a particular purpose.” *Id.* A lab, short for laboratory, is broadly defined as “a place providing opportunity for experimentation, observation, or practice in a field of study.” <https://www.merriam-webster.com/dictionary/laboratory> (last visited February 22, 2023). An assistant is a “helper.” <https://www.merriam-webster.com/dictionary/assistant> (last visited February 22, 2023).

The Computer Assistants working for the STC teach or guide students in using technology in-order-to support their academic work. These student employees help in spaces designed for experimentation or practice in technology, namely the STC and the Makerspace. The Computer Assistants in the STC perform work that is substantially equivalent to a Tutor in the tutoring center or to a Lab Assistant. These Computer Assistants should be included in the bargaining unit.

FINDINGS OF FACT

1. Western Washington University (employer) is a public employer withing the meaning of RCW 41.56.030(13).
2. The United Autoworkers Local 4121 (union) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. On December 2, 2022, United Autoworkers Local 4121 filed a petition to represent certain student employees enrolled in academic programs at Western Washington University who were granted collective bargaining rights under RCW 41.56.0215.
4. An interim certification certified the bargaining unit and described it as “All employees enrolled in academic programs and employed by Western Washington University in the following classifications: (1) Graduate Teaching/Research Assistant; (2) Graduate Research Assistant; (3) Research Assistant; (4) Teaching Assistant; (5) Tutors, Reader and/or Grader in all academic units and tutoring centers; (6) Faculty Assistant; (7) Lab Assistant; and any other student employees whose duties and responsibilities are substantially equivalent to those employees in (1) – (7); excluding students who have no service expectancy imposed upon them by the employer, casual employees, confidential employees, supervisors, employees covered under chapter 41.76 RCW, employees included in any other bargaining unit, and all other employees.”
5. The employer objected to the inclusion of Computer Assistants employed in its Student Technology Center in the bargaining unit.
6. The employer is a regional university located in Bellingham, Washington. The Student Technology Center (STC) is a part of the employer’s organization which “supports the advancement of student knowledge of technology from fundamental skills to advanced applications.” The STC is a place where students “attend workshops, schedule peer tutoring, and make use of manuals, tutorials on advanced equipment and software to promote their learning.”

7. The STC employs students classified by the employer as Computer Assistants. They provide a variety of technological and academic support to students, faculty, and staff. This support ranges from helping students, faculty, and staff learn how to use different computer programs and hardware to helping students use various technology in their academic classes. Some examples include assistance with Microsoft, Apple, Adobe, Amazon, WordPress, InDesign, data analysis, and presentation programs. This assistance may involve generically learning how to use or may relate to certain tasks for a specific assignment or to complete the course work. A common request for assistance involves helping students use Excel and WordPress in assignments and presentations.
8. The petitioned-for Computer Assistants work in one of two locations: The STC, located in Haggard Hall or in the Makespace, an engineering department facility where they assist students in the use of equipment.⁵ Students can make appointments or drop-in to use the STC services.
9. The bargaining unit also includes student workers who are classified by the employer as Tutors and Faculty Assistants. The Tutors work in tutoring centers located on campus in a variety of academic subjects such as mathematics and science and in the Hacherl Research and Writing Studio, which is located in Haggard Hall. Tutors provide instruction on a one-to-one basis or in small group settings. Tutors help students who are struggling with the academic materials or coaching. Some of the areas in which Tutors provide assistance include: homework assignments, programming tasks, research, writing, speaking, listening, calculus, linear algebra, statistics, executive function skills, learning strategies, study skills, or academic life management.
10. Faculty Assistants perform a wide variety of duties across the university usually related to specific courses or directed by a specific faculty member. These duties can include

⁵ The employer has other Computer Assistants performing information technology help desk work and managing the check-out of physical items such as cameras or other electronic equipment. The Computer Assistants outside of the STC are not in the petitioned-for unit.

classroom instruction, grading, holding office hours for student contact, student mentoring, or other tasks directed by faculty. The Makerspace facility has Faculty Assistants performing substantially the same work as the Computer Assistants who report to the STC: assisting students with the use of equipment in the Makerspace.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction over this matter pursuant to chapter 41.56 RCW and chapter 391-25 WAC.
2. Based upon findings of fact 4 through 10, the Computer Assistants at the STC perform work substantially equivalent to a Tutor in the tutoring center or to a Lab Assistant, which are included in the certified bargaining unit described in finding of fact 4.

ORDER

The Computer Assistants in the STC are included in the bargaining unit certified in *Western Washington University*, Decision 13678 (PECB, 2023). Absent the filing of an appeal under WAC 391-25-660, a final certification will be issued consistent with this order of eligibility.

ISSUED at Olympia, Washington, this 17th day of April, 2024.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director



RECORD OF SERVICE

ISSUED ON 04/17/2024

CORRECTED DECISION 13678-A - 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 136078-E-22

EMPLOYER: WESTERN WASHINGTON UNIVERSITY

REP BY: LIZ PARKES
WESTERN WASHINGTON UNIVERSITY
516 HIGH ST. MS 9056
BELLINGHAM, WA 98225
parkese@wwu.edu

EVAN D. CHINN
SUMMIT LAW GROUP PLLC
315 5TH AVE S STE 1000
SEATTLE, WA 98104
evanc@summitlaw.com

KERENA A. HIGGINS
OFFICE OF THE ATTORNEY GENERAL
2211 RIMLAND DR STE 325
BELLINGHAM, WA 98226
kerena.higgins@atg.wa.gov

PARTY 2: UAW LOCAL 4121

REP BY: AMY BOWLES
DOUGLAS DRACHLER MCKEE & GILBROUGH LLP
1215 FOURTH AVE STE 1350
SEATTLE, WA 98161
amyb@ddmglaw.com

DAVID PARSONS
UAW LOCAL 4121
2633 EASTLAKE AVE E STE 200
SEATTLE, WA 98102
dparsons@uaw.net