

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

PUBLIC SCHOOL EMPLOYEES OF
WASHINGTON

For clarification of an existing bargaining unit
of employees of:

DEER PARK SCHOOL DISTRICT

CASES 138890-C-24 and 138891-C-24

DECISION 13866 - PECB

ORDER CLARIFYING
BARGAINING UNITS

Kami Hoekema, Field Representative, for Public School Employees of Washington.

Alexa Allman, Superintendent, for Deer Park School District.

On April 29, 2024, Public School Employees of Washington (union) filed two unit clarification petitions seeking to merge two existing bargaining units that it represents at Deer Park School District (employer). The first bargaining unit is comprised of classified cooks, assistant cooks, bus drivers, custodians, mechanics, maintenance employees, and grounds employees. *Deer Park School District*, Decision 13750 (PECB, 2023). The second bargaining unit is comprised of all classified paraeducators in the district. *Deer Park School District*, Decision 8752 (PECB, 2004).

The union provided notice indicating that the memberships of both bargaining units have voted in favor of merging. The employer has indicated that it supports the union's request to merge the bargaining units. Because the parties have agreed to merge the bargaining units and the resulting bargaining unit is appropriate under RCW 41.56.060, the proposed merger is granted.

ANALYSIS

Applicable Legal Standards

The authority to determine and certify appropriate bargaining units is a function delegated to this agency by the legislature. RCW 41.56.060; *Central Washington University*, Decision 10215-B

(PSRA, 2010). Included with this authority is the power to, upon request, modify a bargaining unit through a unit clarification proceeding. *See Pierce County*, Decision 7018-A (PECB, 2001).

Although this agency has the authority to determine and modify bargaining units, an employer may extend voluntary recognition under chapter 41.56 RCW to representatives of groups of employees for the purposes of collective bargaining. *Toppenish School District*, Decision 10394-B (PECB, 2011). An employer and union are required to submit representation matters to this agency only if there is a dispute regarding representation. RCW 41.56.050; *Toppenish School District*, Decision 10394-B. If such recognition is extended, the employer is then obligated to bargain with the union. *City of Kennewick*, Decision 482-B (PECB, 1980).

Merger of Bargaining Units

Prior to 2011, a bargaining representative seeking to merge two or more bargaining units that it represented in an employer's workforce was required to file a unit merger petition under WAC 391-25-420. Upon receipt of such a petition, this agency would determine if the resulting bargaining unit would be appropriate under RCW 41.56.060 and, if it was, conduct a representation election to determine if the employees in both bargaining units desired the merger. WAC 391-25-420(2)(d)(ii). If either bargaining unit rejected the merger, then the petition would be dismissed. WAC 391-25-420(2)(d)(i).

The legislature amended RCW 41.56.050 in 2011. Since then, an employer and a union have been allowed to agree to merge two or more bargaining units without the need for a representation election. If there is a disagreement between the parties about the proposed merger, the parties are required to submit the matter to this agency. The WAC 391-25-420 merger rule would apply, and this agency would conduct an election. RCW 41.56.050(2). If the parties agree about the merger, they are not required to submit the matter to this agency. However, the parties may seek a determination from this agency as to whether the merger of two existing bargaining units would result in an appropriate bargaining unit under RCW 41.56.060. If the resulting bargaining unit is appropriate on its face, a certification may be issued for the newly merged bargaining unit. This will provide the parties with an assurance that the bargaining unit conforms to the RCW 41.56.060 statutory requirements.

This process is similar to a process that exists for state civil service employees who collectively bargain under chapter 41.80 RCW. Under that process, a union representing two or more bargaining units of state civil service employees may petition this agency to merge those bargaining units. The only question this agency asks is whether the resulting bargaining unit is appropriate under the unit determination standards. If so, a certification will be issued. RCW 41.80.070(3).

Application of Standards

In this case, the parties have agreed that the existing bargaining units can be merged to form a single bargaining unit. The union has also demonstrated that the employees in both bargaining units are in favor of the merger. Thus, the parties do not dispute the merger.

The only question is whether the resulting bargaining unit is appropriate. A merged bargaining unit consisting of cooks, assistant cooks, bus drivers, custodians, mechanics, maintenance employees, grounds employees, and paraeducators is an appropriate bargaining unit under the statute. The employees share a community of interest. Nothing suggests that work jurisdiction issues would be created.

FINDINGS OF FACT

1. Deer Park School District (employer) is a public employer within the meaning of RCW 41.56.030(13).
2. Public School Employees of Washington (union) is an exclusive bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a bargaining unit comprised of classified cooks, assistant cooks, bus drivers, custodians, mechanics, maintenance employees, and grounds employees.
4. The union also represents a bargaining unit comprised of all classified paraeducators in the district.

5. The employees share a community of interest. Nothing suggests that work jurisdiction issues would be created.
6. The union provided notice indicating that the memberships of both bargaining units have voted in favor of merging. The employer has indicated that it supports the union's request to merge the bargaining units.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction over this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 5 and 6, a bargaining unit consisting of the employees described in findings of fact 3 and 4 is an appropriate bargaining unit under RCW 41.56.060.

ORDER

The bargaining units described in findings of fact 3 and 4 that are represented by the Public School Employees of Washington are merged to form a single bargaining unit described as follows:

All full-time and regular part-time cooks, assistant cooks, bus drivers, custodians, mechanics, maintenance employees, grounds employees, and paraeducators of Deer Park School District; excluding supervisors, confidential employees, and all other employees.

ISSUED at Olympia, Washington, this 6th day of June, 2024.

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 06/06/2024

DECISION 13866 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: STEPHANIE BALLOU

CASES 138890-C-24 and 138891-C-24

EMPLOYER: DEER PARK SCHOOL DISTRICT

REP BY: ALEXA ALLMAN
DEER PARK SCHOOL DISTRICT
428 N MAIN ST
DEER PARK, WA 99006
alex.allman@dpsd.org

PARTY 2: PUBLIC SCHOOL EMPLOYEES OF WASHINGTON

REP BY: KAMI HOEKEMA
PUBLIC SCHOOL EMPLOYEES OF WASHINGTON
1825 N HUTCHINSON RD STE 101
SPOKANE VALLEY, WA 99212
khoekema@pseofwa.org