

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON OFFICE OF THE
SECRETARY OF STATE

and

THE WASHINGTON FEDERATION OF
STATE EMPLOYEES

For clarification of an existing bargaining unit.

CASE 138814-C-24

DECISION 13955 - PSRA

ORDER CLARIFYING BARGAINING
UNIT

Herb Harris, Manager of PERC Activities, for the Washington Federation of State Employees.

Carmen Hargis-Villanueva, Assistant Attorney General, Attorney General Robert W. Ferguson, for Washington Office of the Secretary of State.

The Washington Federation of State Employees (union) represents a bargaining unit of employees in the Elections Division of the Washington Office of the Secretary of State (employer). *State – Secretary of State*, Decision 12076 (PSRA, 2014). The employer recently created the Civic Engagement Program and the External Civil Rights Specialist positions. These positions build and maintain relationships with internal and external stakeholders, implement civic engagement programs and services to increase participation in the civic process. These positions work in disenfranchised, underserved, and historically marginalized communities.

On March 28, 2024, the parties jointly filed a unit clarification petition asking this agency to place the External Civil Rights Specialists in the union’s Elections Division bargaining unit. The parties agree that the External Civil Rights Specialists only share a community of interest with the employees in that bargaining unit.

The Elections Division bargaining unit will be clarified to include the External Civil Rights Specialists. Those employees only share a community of interest with the employees in the Elections Division bargaining unit. Adding these employees will eliminate work jurisdiction issues.

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 Standard

The union represents a bargaining unit of employees in the Elections Division of the employer. *State – Secretary of State*, Decision 12076. The bargaining unit is defined as follows:

All civil service employees covered under Chapter 41.06 RCW and Chapter 41.80 RCW in the Elections Division of the Washington Secretary of State's Office, excluding supervisors, confidential employees, Washington Management Service employees, and all other employees.

Id.

Among the employees in the bargaining unit are Program Specialists. Those employees work collaboratively to provide outreach and multi-lingual educational services. The Program Specialists work with external stakeholders to form partnerships in communities throughout the state that will foster and promote voting and civic participation. The employees' primary focus is with K-12 and college students but also includes military and overseas voters, voters with nontraditional addresses, language access communities, and indigenous communities.

The employer has created a new Civic Engagement Program that includes three employees in the new External Civil Rights Specialist job class. The External Civil Rights Specialists develop and implement civic engagement programs and activities to increase civic and community trust and participation in the civic process, including voting. The positions build and maintain networks with internal and external stakeholders. These positions work with historically underserved, disenfranchised, and marginalized populations, including communities of color, rural communities, people experiencing homelessness, and current and formerly incarcerated individuals.

The work performed by the External Civil Rights Specialists is similar to and overlaps with the work performed by the Program Specialists in the Elections Division. Work jurisdictions issues will occur if the External Civil Rights Specialists are not included in the Election Division bargaining unit.

FINDINGS OF FACT

1. The Washington Office of the Secretary of State (employer) is an employer within the meaning of RCW 41.80.005(8).
2. The Washington Federation of State Employees is an employee organization within the meaning of RCW 41.80.005(7).
3. The Washington Federation of State Employees represents a bargaining unit of employees in the Elections Division. The bargaining unit is described as follows:

All civil service employees covered under Chapter 41.06 RCW and Chapter 41.80 RCW in the Elections Division of the Washington Secretary of State's Office, excluding supervisors, confidential employees, Washington Management Service employees, and all other employees.

4. Among the employees in the Elections Division bargaining unit are Program Specialists. Those employees work collaboratively to provide outreach and multi-lingual educational services. The Program Specialists work with external stakeholders to form partnerships in communities throughout the state that will foster and promote voting and civic participation. The employees' primary focus is with K-12 and college students but also includes military and overseas voters, voters with nontraditional addresses, language access communities, and indigenous communities.
5. The employer has created a new Civic Engagement Program that includes three employees in the new External Civil Rights Specialist job class.

6. The External Civil Rights Specialists develop and implement civic engagement programs and activities to increase civic and community trust and participation in the civic process, including voting. The positions build and maintain networks with internal and external stakeholders. These positions work with historically underserved, disenfranchised, and marginalized populations, including communities of color, rural communities, people experiencing homelessness, and current and formerly incarcerated individuals.

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 4 and 6, the positions described in finding of fact 5 only share a community of interest with the bargaining unit described in finding of fact 3.

ORDER

The External Civil Rights Specialists in the Civic Engagement Program shall be added to the bargaining unit described in finding of fact 3. The bargaining unit description shall be modified as follows:

All civil service employees covered under Chapter 41.06 RCW and Chapter 41.80 RCW in the Elections Division and Civic Engagement Program of the Washington Secretary of State's Office, excluding supervisors, confidential employees, Washington Management Service employees, and all other employees.

ISSUED at Olympia, Washington, this 17th day of September, 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 09/17/2024

DECISION 13955 - 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 138814-C-24

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