

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

SUMNER-BONNEY LAKE SCHOOL  
DISTRICT

and

WASHINGTON EDUCATION  
ASSOCIATION

For clarification of an existing bargaining unit.

CASE 136550-C-23

DECISION 14044 - PECB

ORDER CLARIFYING BARGAINING  
UNIT

*Ariella Wagonfeld*, Staff Attorney, for the Washington Education Association.

*David Brower*, Assistant Superintendent, for Sumner-Bonney Lake School District.

The Washington Education Association (union) and Sumner-Bonney Lake School District (employer or district) jointly seek to move the Health Technicians and Licensed Practical Nurses from the union's paraeducator bargaining unit to the union's classified bargaining unit. The parties negotiated the change, and on October 24, 2022, entered into a letter of agreement recognizing the change. The union and employer jointly filed a unit clarification petition on April 20, 2023.

The parties' request to move the Health Technicians and Licensed Practical Nurses from the paraeducator bargaining unit to the classified bargaining unit is granted. The parties jointly filed the petition. The parties agreed to waive timeliness challenges. The classified unit is the only appropriate bargaining unit for the Health Technicians and Licensed Practical Nurses (LPN) because the Health Technicians and LPNs share a community of interest with the Registered Nurses in the existing classified bargaining unit, and work jurisdiction issues exist if the Health Technicians and LPNs remain in the paraprofessional bargaining unit.

## BACKGROUND

The employer is a school district spanning the two cities in Pierce County. The district employs approximately 1,200 employees. Several different bargaining units exist in the district, including two bargaining units represented by the union: the Sumner Para Educator Association and the Classified Administrative Professionals Association of Bonney-Lake.

The union has represented the paraeducator bargaining unit and the classified bargaining unit for many years. The paraeducator unit consists of non-certificated instructional paraeducators, clerical paraeducators, playground paraeducators, health paraeducators, career specialists, and COTA/PTA/LPN/SLPA paraeducators.<sup>1</sup> There are approximately 240 employees in the paraeducator unit. The Health Technicians and LPNs were added to the paraeducator bargaining unit through voluntary recognition of the parties and have been represented by the union since at least 2004. There are approximately 20 Health Technicians and LPNs within the paraeducator unit.

The classified bargaining unit consists of administrative, technical, and security professionals, and non-certificated registered nurses (non-certificated RN).<sup>2</sup> There are approximately 120 employees in the classified unit.

The employer has organized its health services under the Executive Director of Student Services. The Executive Director of Student Services oversees and directs the work of the Health Services Department. The Executive Director oversees the Educational Staff Associate Nurses (ESA Nurses), who are certificated Registered Nurses and are members of a certificated bargaining unit.

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<sup>1</sup> The paraeducator bargaining unit was originally certified in *Sumner School District*, Decision 509 (PECB, 1978), where the bargaining unit was described as, “All non-certificated instructional aides, clerical aides and playground aides. Excluding: all bus drivers, secretaries, custodians and any other positions which are otherwise represented by another collective agent or representative.” After the original certification, the parties voluntarily included additional classifications in the unit.

<sup>2</sup> The classified bargaining unit was last certified in *Sumner-Bonney Lake School District*, Decision 13266-A (PECB, 2021), where the bargaining unit was described as, “All full-time and regular part-time administrative, technical and security professionals employed by the Sumner-Bonney Lake School District, excluding supervisors, confidential employees, and all other employees.” The parties were unable to identify when the non-certificated nurses were added to the bargaining unit, but it was prior to 2021.

The ESA Nurses develop the policies and procedures for the Health Services Department. The ESA Nurses oversee and direct the work of the non-certificated RNs, the LPNs, and the Health Technicians.

Prior to October 2022, the non-certificated RNs, LPNs, and Health Technicians had separate job descriptions. The three classifications were in two separate bargaining units. The union and the employer recognized that the non-certificated RNs, LPNs, and Health Technicians were performing the same continuum of work and existing in two separate bargaining units, which was creating work jurisdiction issues. In October 2022, the union and the employer met and negotiated. The parties determined that the LPNs and Health Technicians should be moved to the classified bargaining unit with the non-certificated RNs. The parties entered a letter of agreement (LOA) on October 24, 2022, which moved the LPNs and Health Technicians to the classified unit. After the parties negotiated the LOA, the employer updated the job descriptions for all three classifications.

Now the non-certificated RNs and LPNs have the same job description. They are classified staff members who work in the health room. An LPN provides care under the supervision of an RN. They provide skilled nursing and emergency care to students and staff as needed. Non-certificated RNs develop individual health plans, and LPNs implement those plans. Both RNs and LPNs identify students in assigned schools who have health problems. They maintain student health records and input student health information into the computer. They provide and coordinate hearing, vision, and special education screenings to meet mandates of RCW 28A.210.020. They monitor all student medications administered at school as prescribed by a licensed provider for purposes of ensuring compliance with state law. They arrange for health room coverage or substitutes as needed. When a non-certificated RN is absent, an LPN will cover for the RN. Non-certificated RNs and LPNs may have to travel to cover open positions. Both non-certificated RNs and LPNs also provide back-up to other school office staff, who are included in the classified bargaining unit. The minimum qualifications for both positions include a high school diploma or equivalent. Additionally, a non-certificated RN or LPN must (1) be a graduate of an accredited practical nurse or vocational program and have successfully completed LPN coursework with a Washington State Practical Nurse License or (2) hold an associate's degree or higher in nursing with a Washington State Registered Nurse license. Non-certificated RNs and LPNs must possess

and maintain CPR/AED and first aid cards. Non-certificated RNs and LPNs are hourly classified positions. Non-certificated RNs and LPNs work seven to eight hours a day and work up to 202 days per year.

Health Technicians are classified employees who work in the health room. Under the supervision of a non-certificated RN, Health Technicians implement individual health plans. They provide professional assistance in carrying out a coordinated program of temporary care for ill or injured students and staff. They identify students in assigned schools who have health problems. They provide health and emergency aid to students. They assist with special needs students in performing tube feeding, catheterization, suctioning, and attending to changing as needed. They administer medications and maintain appropriate documentation. They provide hearing, vision, and special education screenings to meet mandates of RCW 28A.210.020. If a non-certificated RN is absent, a Health Technician can cover for the RN. Health Technicians also provide backup to other school office staff, who are included in the classified bargaining unit. The minimum qualifications for the position include a high school diploma or its recognized equivalent and six months of experience working with school-age children. Health Technicians must possess and maintain CPR/AED & first aid cards. Health Technicians are hourly classified positions. Health Technicians work seven to eight hours a day and work up to 202 days per year.

## ANALYSIS

### Applicable Legal Standards

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. RCW 41.80.070; *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 goal in making 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. *Central Washington University*, Decision 9963-B (PSRA, 2010); *Quincy School District*, Decision 3962-A (PECB, 1993).

This agency's role is to determine whether there is *a* community of interest, not what the *best* community of interest is. Consequently, the fact that other groupings of employees may also be

appropriate, or even more appropriate, does not render another configuration inappropriate. *State – Secretary of State*, Decision 12442 (PSRA, 2015) (citing *Snohomish County*, Decision 12071 (PECB, 2014); *City of Winslow*, Decision 3520-A (PECB, 1990)).

In examining the community of interest for the purpose of making bargaining unit determinations, this agency considers “the duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation.” RCW 41.80.070. Bargaining unit determinations are made on a case-by-case basis, and the criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A (PECB, 1997). Not all of the factors will arise in every case, and where they do exist, 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).

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 clarifications 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, with a mechanism to make changes to an existing bargaining unit based upon a change in circumstances to ensure its continued appropriateness. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units).

Generally, established bargaining units present a stability and maturity that lead to sound labor relations. *City of Grand Coulee*, Decision 13806 (PECB, 2024). A unit clarification petition disrupts that status quo and stability. Accordingly, a unit clarification petition requires a recent, meaningful change in circumstances that alters the existing community of interest such that

clarification is necessary. WAC 391-35-020.<sup>3</sup>; *University of Washington*, Decision 10496-A (PSRA, 2011) (citing *City of Richland*, Decision 279-A); *South Sound 911*, Decision 13736 (PECB, 2023). A change in circumstances is meaningful if the bargaining unit is no longer appropriate without clarification. The question is not whether the purported changes result in other or more appropriate unit configurations. The question is whether the bargaining unit remains appropriate. If the bargaining unit remains appropriate, clarification under this process is not required. In conducting this examination, the agency applies the same statutory unit determination criteria as RCW 41.80.070, which is used to establish the unit's initial appropriateness. *See South Sound 911*, Decision 13736.

Among the types of changes that can alter an existing community of interest and necessitate clarification are meaningful changes to job duties, reorganization of the workforce, or other significant changes to the workplace environment. *See Lewis County (Teamsters Local 252)*, Decision 6750 (PECB, 1999). A mere change in job titles is not necessarily a material change in working conditions that would qualify under chapter 391-35 WAC to alter the composition of a bargaining unit through the unit clarification process. *See University of Washington*, Decision 10496-A.

When modifying bargaining units, this Commission is mindful that a close relationship exists between a bargaining unit and the work jurisdiction of that bargaining unit. *Port of Seattle*, Decision 6181 (PORT, 1998) (citing *South Kitsap School District*, Decision 472 (PECB, 1978)). If an employer assigns new work to employees in a bargaining unit, that work becomes historical bargaining unit work unless there is a prior agreement between the employer and the exclusive bargaining representative to make the transfer of work temporary. *State – Social and Health Services*, Decision 9551-A (PECB, 2008) (citing *Kitsap County Fire District 7*, Decision 7064-A (PECB, 2001)). If a question exists regarding the assignment of new work or the reassignment of existing work to another bargaining unit following a meaningful change in circumstances, the unit

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<sup>3</sup> In accordance with WAC-391-35-020(4)(c), parties may waive the timeliness requirement of WAC 391-35-020(4)(a).

clarification process is the proper forum to resolve the long-term placement of that work. *Clallam County Fire District 3*, Decision 12587 (PECB, 2016).

### Application of Standards

#### *Appropriate Bargaining Unit*

The LPNs and Health Technicians should be moved to the same bargaining unit as the non-certificated RNs because their work is inextricably intertwined with each other. The petition to move the LPNs and Health Technicians from the paraeducator bargaining unit to the classified bargaining unit is granted.

The LPNs and Health Technicians were added to the paraeducator bargaining unit through voluntary recognition. It is unclear when the non-certificated RNs were added to the classified unit. Work jurisdiction issues due to the placement of these three job classes in two separate bargaining units have always existed. However, those issues have only intensified over time and become untenable as the LPNs' and Health Technicians' work has become more integrated with that of the non-certificated RNs.

In October 2022, the union and the employer recognized that a change of circumstances had occurred. Work jurisdiction issues existed between the LPNs, Health Technicians, and non-certificated RNs because all three classifications were performing the same or similar work. Over time, the job duties of the LPNs and Health Technicians had changed, and the work they performed intermingled with the work performed by the non-certificated RNs. The parties negotiated and reached an agreement that the Health Technicians, LPNs, and non-certificated RNs needed to be in one bargaining unit. The parties petitioned PERC to ensure the certification was formally changed.

The LPNs and Health Technicians have similar qualifications and requirements as the non-certificated RNs. All three positions work under the same Health Services Team. All three positions work under the direction of the ESA nurses. All three positions work in the same locations, with the same equipment, and require a continuum of skill sets. All three positions require the employees to exercise independent judgment and discretion when treating students who come to the health room but do so in accordance with policies and procedures developed by the

Health Services Department and ESA Nurses. If non-certificated RNs are absent, LPNs and Health Technicians fill the open positions. Non-certificated RNs, LPNs, and Health Technicians are all hourly classified employees that work the same hours and same number of days during the school year. Additionally, all three positions backup other school office staff who are included in the classified unit. Moving the LPNs and Health Technicians to the classified bargaining unit would place all non-certificated health services employees in one bargaining unit and would remove work jurisdiction issues.

The increased integration of the work of the LPNs and Health Technicians with non-certificated RNs has only increased over time, and any community of interest the LPNs and Health Technicians may have had with the paraeducator bargaining unit has been altered. The work and job classifications have intermingled. To remedy the existing work jurisdiction issues, the LPNs and Health Technicians must be moved to the classified bargaining unit. Both bargaining units will continue to be represented by the union. The union's Sumner Para Educator Association bargaining unit will be described as,

All non-certificated instructional paraeducators, clerical paraeducators, playground paraeducators, career specialists and COTA/PTA/SLPA paraeducators in the Sumner-Bonney Lake School District, excluding all bus drivers, secretaries, custodians, any other classified positions within the District, supervisors, confidential employees, and all other employees.

The union's Classified Administrative Professionals Association of Sumner-Bonney Lake bargaining unit will be described as,

All full-time and regular part-time administrative, technical, non-certificated Registered Nurses, Licensed Practical Nurses (LPN), Health Technicians, and security professionals in the Sumner-Bonney Lake School District, excluding supervisors, confidential employees, and all other classified employees including but not limited to employees represented by IUOE- Child Nutrition & Transportation, IUOE- Custodians, IUOE- Maintenance & Diesel Technicians, Sumner Paraeducator Association and all other employees.



FINDINGS OF FACT

1. The Sumner-Bonney Lake School District (employer) is a public employer within the meaning of RCW 41.56.030(13).
2. The Washington Education Association (union) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The employer is a school district spanning the two cities in Pierce County. The district employs approximately 1,200 employees. Several different bargaining units exist in the district, including two bargaining units represented by the union: the Sumner Para Educator Association and the Classified Administrative Professionals Association of Bonney-Lake.
4. The union represents two separate units: a paraeducator bargaining unit and a clerical bargaining unit.
5. The union has represented the paraeducator bargaining unit and the classified bargaining unit for many years. The paraeducator unit consists of non-certificated instructional paraeducators, clerical paraeducators, playground paraeducators, health paraeducators, career specialists, and COTA/PTA/LPN/SLPA paraeducators. There are approximately 240 employees in the paraeducator unit. The Health Technicians and LPNs were added to the paraeducator bargaining unit through voluntary recognition of the parties and have been represented by the union since at least 2004. There are approximately 20 Health Technicians and LPNs within the paraeducator unit.
6. The employer has organized its health services under the Executive Director of Student Services. The Executive Director of Student Services oversees and directs the work of the Health Services Department. The Executive Director oversees the Educational Staff Associate Nurses (ESA Nurse), who are certificated Registered Nurses and are members of a certificated bargaining unit. The ESA Nurses develop the policies and procedures for the Health Services Department. The ESA Nurses oversee and direct the work of the non-certificated RNs, the LPNs, and the Health Technicians.

7. The classified bargaining unit consists of administrative, technical, and security professionals, and non-certificated registered nurses (non-certificated RN). There are approximately 120 employees in the classified unit.
8. Prior to October 2022, the non-certificated RNs, LPNs, and Health Technicians had separate job descriptions. The three classifications were in two separate bargaining units. The union and the employer recognized that the non-certificated RNs, LPNs, and Health Technicians were performing the same continuum of work and existing in two separate bargaining units, which was creating work jurisdiction issues. In October 2022, the union and the employer met and negotiated. The parties determined that the LPNs and Health Technicians should be moved to the classified bargaining unit with the non-certificated RNs. The parties entered a letter of agreement (LOA) on October 24, 2022, which moved the LPNs and Health Technicians to the classified unit. After the parties negotiated the LOA, the employer updated the job descriptions for all three classifications.
9. Now the non-certificated RNs and LPNs have the same job description. They are classified staff members who work in the health room. An LPN provides care under the supervision of an RN. They provide skilled nursing and emergency care to students and staff as needed. Non-certificated RNs develop individual health plans, and LPNs implement those plans. Both RNs and LPNs identify students in assigned schools who have health problems. They maintain student health records and input student health information into the computer. They provide and coordinate hearing, vision, and special education screenings to meet mandates of RCW 28A.210.020. They monitor all student medications administered at school as prescribed by a licensed provider for purposes of ensuring compliance with state law. They arrange for health room coverage or substitutes as needed. When a non-certificated RN is absent, an LPN will cover for the RN. Non-certificated RNs and LPNs may have to travel to cover open positions. Both non-certificated RNs and LPNs also provide back-up to other school office staff, who are included in the classified bargaining unit. The minimum qualifications for both positions include a high school diploma or equivalent. Additionally, a non-certificated RN or LPN must (1) be a graduate of an accredited practical nurse or vocational program and have successfully completed LPN coursework with a Washington State Practical Nurse License or (2) hold an associate's

degree or higher in nursing with a Washington State Registered Nurse license. Non-certificated RNs and LPNs must possess and maintain CPR/AED and first aid cards. Non-certificated RNs and LPNs are hourly classified positions. Non-certificated RNs and LPNs work seven to eight hours a day and work up to 202 days per year.

10. Health Technicians are classified employees who work in the health room. Under the supervision of a non-certificated RN, Health Technicians implement individual health plans. They provide professional assistance in carrying out a coordinated program of temporary care for ill or injured students and staff. They identify students in assigned schools who have health problems. They provide health and emergency aid to students. They assist with special needs students in performing tube feeding, catheterization, suctioning, and attending to changing as needed. They administer medications and maintain appropriate documentation. They provide hearing, vision, and special education screenings to meet mandates of RCW 28A.210.020. If a non-certificated RN is absent, a Health Technician can cover for the RN. Health Technicians also provide back-up to other school office staff, who are included in the classified bargaining unit. The minimum qualifications for the position include a high school diploma or its recognized equivalent and six months of experience working with school-age children. Health Technicians must possess and maintain CPR/AED & first aid cards. Health Technicians are hourly classified positions. Health Technicians work seven to eight hours a day and work up to 202 days per year.

#### 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 10, any community of interest the LPNs and Health Technicians may have had with the paraeducator bargaining unit has been altered. The work and job classifications have intermingled. To remedy the existing work jurisdiction issues, the LPNs and Health Technicians must be moved to the classified bargaining unit. Both bargaining units will continue to be represented by the union.

ORDER

The unit clarification petition filed by the union and employer is granted. The LPNs and Health Technicians will be removed from the union's paraeducator unit and will be placed in the union's classified unit. Both bargaining units will continue to be represented by the Washington Education Association (union). The union's Sumner Paraeducator Association bargaining unit will be described as,

All non-certificated instructional paraeducators, clerical paraeducators, playground paraeducators, career specialists and COTA/PTA/SLPA paraeducators in the Sumner-Bonney Lake School District, excluding all bus drivers, secretaries, custodians, any other classified positions within the District, supervisors, confidential employees, and all other employees.

The union's Classified Administrative Professionals Association of Sumner-Bonney Lake bargaining unit will be described as,

All full-time and regular part-time administrative, technical, non-certificated Registered Nurses, Licensed Practical Nurses (LPN), Health Technicians, and security professionals in the Sumner-Bonney Lake School District, excluding supervisors, confidential employees, and all other classified employees including but not limited to employees represented by IUOE- Child Nutrition & Transportation, IUOE- Custodians, IUOE- Maintenance & Diesel Technicians, Sumner Paraeducator Association and all other employees.

ISSUED at Olympia, Washington, this 12th day of February, 2025.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "M. Sellars", is written over the printed name of Michael P. Sellars.

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.