

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

SAN JUAN COUNTY DEPUTY SHERIFFS'
GUILD

For clarification of an existing bargaining unit
of employees of:

SAN JUAN COUNTY

CASE 141391-C-24

DECISION 14034 - PECB

ORDER CLARIFYING BARGAINING
UNIT

Erica Shelley Nelson, Attorney at Law, Vick, Julius, McClure, P.S., for the San Juan County Deputy Sheriffs' Guild.

John A. Henry, Attorney at Law, Summit Law Group PLLC, for San Juan County.

San Juan County Deputy Sheriffs' Guild (union) represents a bargaining unit of nonuniformed personnel in corrections, dispatch, courthouse security, and other related functions at the Sheriff's Office in San Juan County (employer). *San Juan County*, Decision 13386 (PECB, 2021).¹ The bargaining unit includes Dispatchers.

Prior to June 6, 2024, none of the employees in the bargaining unit were eligible for interest arbitration. In 2024, legislation was enacted granting interest arbitration rights to certain public safety telecommunicators. Laws of 2024, ch. 124 (SB 5808). That legislation became effective on June 6, 2024.

¹ The bargaining unit is described as, "All full-time and regular part-time non-uniformed personnel in corrections, dispatch, courthouse security, and other related functions at the Sheriff's Office in San Juan County, and excluding temporary and on-call employees, supervisors, confidential employees, and employees represented by other collective bargaining units."

On October 16, 2024, the union filed a unit clarification petition to remove the Dispatchers from the existing nonuniformed bargaining unit. The petition was filed pursuant to WAC 391-35-310 which precludes interest arbitration eligible employees from being in the same bargaining unit as noninterest arbitration eligible employees. The employer does not oppose the union's petition.

The union's request for clarification is granted because the adoption of SB 5808 necessitates the Dispatchers be placed in their own separate bargaining unit. The Dispatchers at the San Juan County Sheriff's Office are now interest arbitration eligible employees while the rest of the bargaining unit consists of nonuniformed employees who are not eligible for interest arbitration. RCW 41.56.030(14)(b). Based upon the different impasse resolution processes, employees who are eligible for interest arbitration cannot be included in the same bargaining units as employees who are not eligible for interest arbitration. WAC 391-35-310. The Dispatchers shall be placed in their own bargaining unit that is represented by the union.

ANALYSIS

Determination of Appropriate Bargaining Unit

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 unit determinations is to ensure there is a community of interest among the employees sufficient to enable them to bargain effectively with their employer and avoid potential work jurisdiction disputes and fragmentation. *Quincy School District*, Decision 3962-A (PECB, 1993); *King County (Amalgamated Transit Union, Local 587)*, Decision 6696 (PECB, 1999).

In making bargaining unit determinations, this agency considers "the duties, skills, and working conditions of the public employees; the history of collective bargaining . . .; the extent of organization among the public employees; and the desire of the public employees." RCW 41.56.060. 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).

A unit clarification petition that seeks to add or remove employees to or from an existing bargaining unit requires a recent meaningful change in circumstances that alters the community of interest such that clarification is necessary. WAC 391-35-020; *University of Washington*, Decision 10496-A (PSRA, 2011) (citing *City of Richland*, Decision 279-A). Among the types of changes that can alter the 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.

Employees eligible for interest arbitration impasse procedures will not be commingled in bargaining units with employees who are not eligible for interest arbitration impasse procedures. *Thurston Fire District 9*, Decision 461 (PECB, 1978); *King County*, Decision 6668 (PECB, 1999). Whether employees occupy positions eligible for interest arbitration is determined by statute. Uniformed personnel, who are eligible for interest arbitration, are generally defined by RCW 41.56.030(14).

Application of Standards

When the legislature passed SB 5808 and granted interest arbitration rights to public safety telecommunicators, the employer's Dispatchers became interest arbitration eligible.

While the Dispatchers became uniformed personnel eligible for interest arbitration as a means of settling labor disputes, the rest of the bargaining unit employees remained nonuniformed employees who are not eligible for interest arbitration. Because the Dispatchers and nonuniformed

employees are currently included in the same bargaining unit, the existing bargaining unit has become inappropriate. WAC 391-35-310.

The Dispatchers must be placed in their own separate bargaining unit based upon long-standing rule and precedent. *Thurston Fire District 9*, Decision 461; *King County*, Decision 6668. The union shall continue to represent the uniformed personnel and nonuniformed personnel for purposes of collective bargaining.

FINDINGS OF FACT

1. San Juan County is a public employer within the meaning of RCW 41.56.030(13).
2. The San Juan County Deputy Sheriffs' Guild is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a bargaining unit of nonuniformed personnel in corrections, dispatch, courthouse security, and other related functions at the Sheriff's Office in San Juan County. The bargaining unit includes Dispatchers.
4. The legislature passed Laws of 2024, ch. 124 (SB 5808) which grants interest arbitration rights to certain public safety telecommunicators. SB 5808 was signed by the governor and became effective on June 6, 2024.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 3 and 4, the bargaining unit described in finding of fact 3 is inappropriate because it includes both uniformed employees eligible for interest arbitration and nonuniformed employees who are not eligible for interest arbitration.

ORDER

The bargaining unit described in finding of fact 3 shall be modified to remove the uniformed personnel, as follows:

1. The nonuniformed employees bargaining unit shall be described as:

All full-time and regular part-time nonuniformed personnel in corrections, courthouse security, and other related functions at the Sheriff's Office in San Juan County, and excluding temporary and on-call employees, supervisors, confidential employees, and all other employees.

2. The Dispatchers bargaining unit shall be described as:

All full-time and regular part-time Dispatchers at the Sheriff's Office in San Juan County, excluding temporary and on-call employees, supervisors, confidential employees, and all other employees.

ISSUED at Olympia, Washington, this 28th day of January, 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.



RECORD OF SERVICE

ISSUED ON 01/28/2025

DECISION 14034 - 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 141391-C-24

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