

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

UNITED AUTOMOBILE, AEROSPACE,
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA LOCAL 4121

Involving certain employees of:

WASHINGTON STATE UNIVERSITY

CASE 135073-E-22

DECISION 13591-A - PECB

FINAL CERTIFICATION

Amy Bowles, Attorney at Law, Douglas Drachler McKee & Gilbrough LLP, for United Automobile, Aerospace, and Agricultural Implement Workers of America Local 4121.

Cheryl L. Wolfe, Senior Counsel, Attorney General Robert W, Ferguson, for the Washington State University.

On May 4, 2022, the United Automobile, Aerospace, and Agricultural Implement Workers of America Local 4121 (UAW Local 4121) filed a petition to represent certain employees of the Washington State University. Consistent with established rules and procedures, the Public Employment Relations Commission (PERC) conducted an investigation with the parties to identify the eligible employees in the petitioned-for bargaining unit, any eligibility challenges, determine whether the petitioner met the required showing of interest and whether the petition can proceed to an election or card check. After an investigation, PERC determined that a card check could be conducted and reserved the eligibility challenges for a subsequent determination. The tally indicated that the UAW Local 4121 was entitled to certification and the eligibility issues did not affect the outcome of the card check. PERC issued an interim certification in *Washington State University*, Decision 13591 (PECB, 2022) and conducted further proceedings to resolve the eligibility challenges. The interim certification included the following bargaining unit description:

All employees enrolled in academic programs and employed by Washington State University in the following classifications: Graduate Teaching Assistant; Graduate Staff Assistant; Graduate Project Assistant; Graduate Veterinary Assistant; Tutor, Reader and/or Grader in all academic units and tutoring centers; Graduate Research Assistant, and any other student employees whose duties and responsibilities are substantially equivalent to those employees in the described positions; excluding students who have incidental or 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 remaining issues included a challenge to three employees' service expectancy impacting their inclusion in the bargaining unit. Prior to a ruling, the parties resolved their differences on the three challenges. Before a final certification could be issued, the parties determined there were additional issues not previously raised in the investigatory process.

First, despite the petition identifying student employees performing tutor, reader, and grader duties in all academic units and tutoring centers, the parties determined no employees performing that work were included on the list of eligible employees. Upon initial review there were more than 650 employees that should have been included on the list of eligible employees. That number of employees, absent additional cards, would have precluded proceeding with a card check. Given that a bargaining unit has been certified and the nature of the length of appointments of the employees in the bargaining unit, the most expedient process is to modify the existing bargaining unit to remove the tutors, readers, and graders in all academic units and tutoring centers from the bargaining unit description. The parties can file a representation petition or unit clarification petition to address the tutors, readers, and graders.

Second, the parties determined there were additional temporary hourly graduate assistants who were not included on the agreed upon list of employees, while the full-time graduate assistants were included. The parties agree that these temporary, hourly graduate assistants should be included in the bargaining unit like the full-time graduate assistants. The number of employees would not have precluded conducting the card check. WAC 391-25-350 provides that it is presumptively appropriate to include casual or temporary employees in the same bargaining unit as their full-time counterparts. This issue does not necessitate any need to amend the certification

or other resolution by this agency. If the parties disagree about their inclusion, then that matter should be resolved through a unit clarification.

Finally, the parties are disputing the number of appointment weeks to determine the threshold for temporary or casual employees. This matter has no bearing on the certification of the current bargaining unit. There are no employees currently in dispute related to this issue. If there is a dispute on whether an employee has met the threshold for a temporary or casual employee, the parties can file a unit clarification petition in the future.

None of these issues preclude issuing a final certification in this matter. The second and third issue are typically addressed by parties during the life of a bargaining unit. In the event a situation develops that requires resolution by this agency, the matter will be resolved in a unit clarification or election proceeding. No further proceedings are necessary in this case.

ORDER

1. This will stand as the final certification in this representation proceeding and the bargaining unit description will be modified as follows:

All employees enrolled in academic programs and employed by Washington State University in the following classifications: Graduate Teaching Assistant; Graduate Staff Assistant; Graduate Project Assistant; Graduate Veterinary Assistant; Graduate Research Assistant, and any other student employees whose duties and responsibilities are substantially equivalent to those employees in the described positions; excluding students who have incidental or 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.

2. The above-captioned matter is CLOSED.

ISSUED at Olympia, Washington, this 13th day of February, 2024.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "M. Sellars", written over the printed name below.

MICHAEL P. SELLARS, Executive Director



RECORD OF SERVICE

ISSUED ON 02/13/2024

DECISION 13591-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 135073-E-22

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