



## Why PERC is Important and How its Decisions can Affect My Job

Labor relations issues of public employees in Washington State are governed and adjudicated by the Public Employment Relations Commission (PERC).

PERC is an independent State of Washington agency that administers several state statutes, including the Public Employees Collective Bargaining Act. Although Washington statute mandates the rules governing the labor relations' process, these rules are interpreted, clarified, and subtly changed by each decision PERC issues based on the facts and issues presented in that case.

Over the past year, PERC has made many decisions clarifying or changing rules regarding mandatory subjects of bargaining, confidential employee exclusions, unfair labor practices (ULPs), information requests, and skimming issues amongst others.

As a steward, you are the first line of defense in protecting the rights of Local 17 members. Understanding the subtle changes that PERC decisions have on issues like past practice and mandatory subjects of bargaining is important so that you can spot unfair labor practices or changes in working conditions, and with the help of your union representative, take appropriate action. The better educated you are, the less management can get away with

It would take an entire treatise to adequately discuss all of the cases PERC ruled on last year, so below is a brief overview of one important PERC decision. All PERC decisions are available on PERC's website at [www.perc.wa.gov/search.asp](http://www.perc.wa.gov/search.asp).

### **Mandatory Subjects of Bargaining:**

*King County, Decision 9495-A (PECB, 2008),*

In *King County, 9495-A (PECB, 2008)*, PERC held that where an employer (King County in this case) changes the use of a pre-existing surveillance camera in a way that could be used to discipline employees, the employer is obligated to inform the union about the potential change and provide an opportunity for the union to request bargaining. If the union requests to bargain a change concerning a mandatory subject of bargaining, the employer's refusal or failure to bargain is a ULP.

A public employer has a duty to bargain with the bargaining representative (union) of its employees, RCW 41.56.030(4), and "personnel matters, including wages, hours, and working conditions" of represented employees are mandatory subjects of bargaining. *Federal Way School Dist., Decision 232-A (EDUC, 1977)*. "An employee considering changes affecting mandatory subjects must give notice and an opportunity to bargain" to the union "prior to making a decision to implement those changes." *Lake Washington Technical College, Decision 4721-A (PECB, 1995)*. Finally, an employer commits an unfair labor practice when it fails

or refuses to bargain a mandatory subject of bargaining in good faith. RCW 41.56.140 (1) and (4).

### **Mixed Cases**

Some workplace decisions relate to both the conditions of employment that require mandatory bargaining and also to managerial prerogatives, which do not require bargaining. In mixed cases like this, PERC determines whether a decision is a mandatory subject of bargaining by balancing the extent that the decision affects the wages, hours, and working conditions of employees against the extent to which decisions are a managerial prerogative.

The Supreme Court of Washington has declared that mandatory bargaining is "limited to matters of direct concern to employees" while "managerial decisions that only remotely affect 'personnel matters,' and decisions that are predominantly 'managerial prerogatives'" are non-mandatory subjects. *Internat'l Assoc. of Fire Fighters, Local 469 v. City of Yakima, 91 Wn.2d 101, 200 (1978)*.

But even where an employer's decisions are not a mandatory subject of bargaining, the employer is required to bargain the effects that decision has on the working conditions of its represented employees. *Skagit County, Decision 6348 (PECB, 1998)*.

For example, while an employer has no duty to bargain its decision to reduce its budget (a managerial prerogative), it does have an obligation to bargain the effects of that decision if the budget reduction affects working conditions. In this case, King County installed surveillance cameras at solid waste facilities, telling the union that it would not use the cameras for disciplinary purposes. When the County then changed its mind and attempted to use the cameras for discipline, the union demanded to bargain the effects and King County refused to bargain.

PERC held in favor of the union, ruling that the changed use of the surveillance cameras for discipline substantially impacted working conditions such that King County had an obligation to give notice to the union and bargain both the decision to use the camera for disciplinary purposes and the impact the change will have on working conditions. PERC also ruled that such bargaining had to be completed before King County could use the camera's for disciplinary purposes.

This case is important because it clearly states the rules governing mandatory and permissive subjects of bargaining and clarifies that a change in purpose of existing equipment or technology can trigger an employer's notice and bargaining obligations. — *By Local 17 Union Representative Jacob Metzger*



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