

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UC-2-08

(PETITION FOR REDESIGNATION)

COOS COUNTY,)	
)	
Petitioner,)	
)	
v.)	ORDER REDESIGNATING
)	BARGAINING UNIT
OREGON AFSCME COUNCIL 75,)	
LOCAL 2936,)	
)	
Respondent.)	
_____)	

Respondent, Oregon AFSCME Council 75, Local 2936 (AFSCME), is the exclusive bargaining representative for a bargaining unit of employees employed by Petitioner, Coos County (County). The bargaining unit consists of about 134 employees, including approximately 7 in the classifications of juvenile detention counselor I, II, and III, and lead juvenile detention counselor.

The parties' most recent collective bargaining agreement expired on June 30, 2007. As of the date of this petition, they had not completed bargaining for a successor agreement. On March 5, 2008, AFSCME declared an impasse in mediation and asked this Board to "initiate interest arbitration for the mixed bargaining unit." Also on March 5, this Board notified the County of AFSCME's request and, pursuant to OAR 115-040-0015(5), gave the County 10 days to either (1) object to the request for interest arbitration on grounds the unit does not include strike-prohibited employees, or (2) request that the unit be redesignated because it contains both strike-permitted and strike-prohibited employees.

On March 18, 2008, the County filed this redesignation petition which seeks to remove the juvenile detention counselors from the existing AFSCME bargaining

unit.¹ On March 19, this Board's Elections Coordinator served the County's petition on AFSCME. On March 24, the County posted notices of the redesignation petition in the work areas of the affected employees. The notice stated that objections to the petition were due within 14 days of the posting. No objections were filed. The parties stipulate that the juvenile detention counselors are prohibited by law from striking. The AFSCME bargaining unit as currently constituted is thus a mixed unit that contains both strike-permitted and strike-prohibited employees. In a mixed unit, all employees are prohibited from striking. *AFSCME v. Executive Department*, 52 Or App 457, 479-80, 628 P2d 1228, *rev den*, 291 Or 771, 642 P2d 308 (1981).

DISCUSSION

We generally grant a redesignation petition when the petition proposes a facially appropriate unit and there are no objections to the petition.² *Josephine County v. AFSCME, Local 3694, Council 75*, Case No. UC-5-05, 20 PECBR 853 (2005); and *Coos County v. Oregon AFSCME Council 75, Local 2936*, Case No. UC-1-04, 20 PECBR 534, 535 (2004). This petition meets both criteria. There are no objections to the petition, and the redesignation is appropriate on its face.

The parties stipulate that the juvenile detention counselors are strike-prohibited. See *Lane County Juvenile Department Association v. Lane County Juvenile Department and Lane County Peace Officers Association*, Case No. RC-123-87, 11 PECBR 395, 405-406 (1989) (employees of a juvenile detention facility are strike-prohibited guards when their focal duties are to keep juveniles in and under the care of the facility). There are approximately 7 such employees in a bargaining unit of about 134. "This Board has never permitted, *and will not maintain*, a bargaining unit which combines a small minority of strike-prohibited employees with a large majority of strike-permitted employees. We separate the two groups because of the difference in the dispute resolution process between the two groups. We will not permit a few strike-prohibited employees to deny the right to strike to a much larger group." *Multnomah County v. Multnomah County Employees Union Local 88*, Case No. UC-4-92, 13 PECBR 689, 699-700 (1992) (footnote omitted, emphasis added). See also *AOCE v. State of Oregon, Department of Corrections and AFSCME, Council 75*, Case No. UC-24-99,

¹The County filed its redesignation petition more than 10 days from the date on which we notified it that AFSCME had requested interest arbitration. The petition is nonetheless timely under OAR 115-025-0000(1)(e), because it was filed at a time when no contract existed

²Because there are no objections to the petition, a hearing is unnecessary. OAR 115-025-0045; and *Coos County v. Oregon AFSCME Council 75, Local 2936*, Case No. UC-1-04, 20 PECBR 534, 535 (2004).

18 PECBR 441, 450 (2000) (the policies of the Public Employee Collective Bargaining Act do not favor mixed units).

We will grant the requested redesignation. Oregon AFSCME Council 75, Local 2936 continues to represent the redesignated units.

ORDER

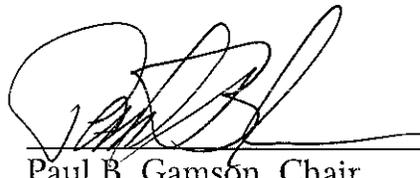
1. The petition for redesignation is granted. The bargaining unit description is amended to delete the classifications of juvenile detention counselor I, II, and III, and lead juvenile detention counselor from Appendix A of the parties' collective bargaining agreement.

2. The juvenile detention counselors are redesignated into an appropriate unit described as follows:

“All regular full-time and regular part-time employees of Coos County in the classifications of Juvenile Detention Counselor I, II and III, and Lead Juvenile Detention Counselor; *excluding* supervisory, managerial, temporary, seasonal and confidential employees.”

3. Oregon AFSCME Council 75, Local 2936 represents both units as redesignated.

DATED this 25th day of April 2008.



Paul B. Gamson, Chair



Vickie Cowan, Board Member



Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.