

# Unit Clarification FAQ

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## What is the purpose of a unit clarification?

Unit clarifications are used to add or remove employees from an existing bargaining unit to ensure the bargaining unit continues to be appropriate after there has been a change in employee status.

## Who can file a unit clarification petition?

- Unions may file to clarify units they currently represent.
- Employers may file to clarify units that are included in its workforce.
- Individual employees may not file unit clarification petitions.

## What is the time limit for filing a unit clarification petition?

### A case can be filed at any time to address:

Newly created positions, the allocation of employees claimed by two or more bargaining units, employees eligible for interest arbitration, and confidential employees.

### For Supervisory or Part-time employees:

A petition will only be timely if:

- The party challenging the status of the employee has put the other party on notice during negotiations for the next collective bargaining agreement and;
- The unit clarification petition is filed prior to the signing of the next collective bargaining agreement.

### For a change of circumstances:

Petitions concerning a change of circumstances that alter the community of interest of an existing bargaining unit must be filed within a reasonable time of the change.

- Change of circumstances is any event that alters the duties, skills, or working conditions of the employees in the bargaining unit.
- Community of interest is grouping employees by similar work, duties, skills, or working conditions to create appropriate units.

## When will PERC not clarify a bargaining unit?

PERC will not clarify a bargaining unit in certain instances:

- If positions have been historically excluded from an existing unit by a PERC certification, positions will not be added to the existing unit unless there has been a change of circumstances that alters the community of interest of the employees involved.
- If the number of positions requested to be added to a bargaining unit is greater than the number of employees currently in the bargaining unit.
- For classified employees at school districts, existing bargaining units may not be divided unless there is an agreement between the school district and existing bargaining representative to divide the bargaining unit.

## **How is a unit clarification case processed?**

- A unit clarification petition is reviewed to determine whether it appears to be under PERC's authority and timely under the rules.
- If it is determined to be timely and under PERC's authority, an assignment letter is sent to the parties and a Hearing Officer contacts the parties generally within 2 weeks to schedule a hearing.
- The hearing is scheduled based on the availability of the parties.
- It generally takes a court reporter 15 – 30 days to prepare a written transcript of the hearing following the close of the hearing, depending on the number of hearing days.
- The parties generally have 30 days to file closing briefs to the Hearing Officer following completion of the written transcript.
- PERC will typically issue a written decision 90 days after the closing briefs are filed.

## **What happens at a unit clarification hearing?**

A hearing is similar to a trial before a judge. The PERC Hearing Officer acts as both an Administrative Law Judge and Investigator. Parties must provide evidence through testimony of witnesses and exhibits regarding the disputed issues. The Hearing Officer is also permitted to ask questions of witnesses, call witnesses, and request that parties submit any evidence into the record as needed.

## **Will PERC represent me or provide me with an attorney?**

No. PERC staff is strictly neutral and can only answer questions about rules and procedures, and cannot provide legal advice.

## **Do I need to hire an attorney?**

You are not required to have an attorney. It is recommended that you:

- Study the statute and rules.
- Review your claims and evidence.
- Make your own decision whether to hire an attorney at your own expense.

## **When and how will I be informed of PERC's decision?**

After the hearing, PERC will issue a written decision based on the evidence presented at the hearing. A decision is typically issued 90 days after the closing briefs are filed. PERC staff cannot provide any information about the content of a decision until it is officially issued. Once issued, the decision is mailed to parties on the case and posted on the PERC website: [www.perc.wa.gov](http://www.perc.wa.gov).