

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



IN THE MATTER OF:)
)
UNIT DETERMINATION FOR) Case No. SF-PC-1001 et al
PROFESSIONAL NON-ACADEMIC SENATE)
INSTRUCTIONAL EMPLOYEES (UNIT 18)) PERB Decision No. 270b-H
OF THE UNIVERSITY OF CALIFORNIA)
PURSUANT TO CHAPTER 744 OF THE) October 24, 1983
STATUTES OF 1978 (HIGHER EDUCATION)
EMPLOYER-EMPLOYEE RELATIONS ACT))
_____)

Appearances: Robert J. Bezemek, Attorney (Bennett & Bezemek) for University Council, American Federation of Teachers; Glenn Rothner, Attorney (Reich, Adell & Crost) for American Federation of State, County and Municipal Employees, AFL/CIO; Douglas H. Barton, Kent Jonas and Susan C. Paulsen, Attorneys (Corbett, Kane, Berk & Barton) and James N. Odle, Associate Counsel for the Regents of the University of California.

Before Tovar, Jaeger, Morgenstern and Burt, Members*

DECISION

In PERB Decision No 270-H, issued on December 28, 1982, the Public Employment Relations Board (PERB or Board) created two separate bargaining units for non-academic senate professional employees of the University of California. These are the non-academic senate instructional unit (instructional unit) and the research and allied professionals unit.

*Chairperson Gluck did not participate in this Decision.

Paragraph 3 of the Order in PERB Decision No. 270-H directed that in each of the units found appropriate managerial, supervisory, confidential and casual employees shall be excluded.¹ Thereafter, the parties stipulated

¹The Higher Education Employer-Employee Relations Act (HEERA) is codified at Government Code section 3560 et seq. All statutory references are to the Government Code unless otherwise specified.

Subsection 3562(1) of HEERA provides:

"Managerial employee" means any employee having significant responsibilities for formulating or administering policies and programs. No employee or group of employees shall be deemed to be managerial employees solely because the employee or group of employees participate in decisions with respect to courses, curriculum, personnel and other matters of educational policy. A department chair or head of a similar academic unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a managerial employee solely because of such duties.

Section 3580.3 of the HEERA provides:

"Supervisory employee" means any individual, regardless of the job description or title, having authority, in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. With respect to faculty or academic employees, any department chair, head of a similar academic unit or program, or

in the instructional unit to the exclusion, as supervisory, of the employees listed in Appendix A attached hereto. The Board has held that it will approve a stipulation in a unit determination matter when the stipulation does not contravene the Act or established Board policies. Centinela Valley Union High School District (8/7/78) PERB Decision No. 62. A review of the record in this proceeding reveals that it is adequate to support the stipulation. Therefore, the stipulation submitted

other employee who performs the foregoing duties primarily in the interest of and on behalf of the members of the academic department, unit or program, shall not be deemed a supervisory employee solely because of such duties; provided, that with respect to the University of California and Hastings College of the Law, there shall be a rebuttable presumption that such an individual appointed by the employer to an indefinite term shall be deemed to be a supervisor. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

Subsection 3562(e) of HEERA provides:

"Confidential employee" means any employee who is required to develop or present management positions with respect to meeting and conferring or whose duties normally require access to confidential information which contributes significantly to the development of such management positions.

Managerial and confidential employees are excluded from coverage under HEERA in subsection 3562(f). Supervisory employees have limited rights as set forth in section 3580 et seq.

by the parties regarding the exclusion of employees listed in Appendix A is hereby approved by the Board.²

The parties also submitted a stipulation stating that employees listed in Appendix B attached hereto shall vote challenged ballots in any representation election in the instructional unit if the parties are unable to agree whether they should be included in or excluded from the unit. The status of employees designated to vote challenged ballots will be determined at a later date in accordance with the provisions of the parties' stipulation and PERB's regulations and procedures. This stipulation is also approved.

²The Board does not specifically designate these classifications and employees as managerial, supervisory or confidential. In the State Employer-Employee Relations Act, Phase III, Unit Determination Proceeding (10/18/79) PERB Order No. Ad-79-S, the Board stated that it:

. . . views the focus of the Phase III unit determination proceedings to be a determination of those rank and file employees who are to be included in the designated appropriate units. However, the burden is on the . . . party which may seek to exclude employees from units because of alleged managerial, supervisory or confidential status—to affirmatively justify their exclusion. This can be done by showing evidence of actual job requirements which would disqualify the subject employees from placement in representation units irrespective of which exclusionary category those employees may fit.

Thus, the Board only approves the exclusion of the classifications and employees from the unit and not the specific bases for the exclusions.

ORDER

Upon the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that:

(1) The employees listed in Appendix A are excluded from the Non-Academic Senate Instructional Unit according to the agreement of the parties and based upon the factual record in this proceeding.

(2) The employees listed in Appendix B attached hereto shall vote challenged ballots in any representation election if the parties are unable to agree whether they should be included in or excluded from the unit.

(3) Any technical errors in this Order shall be presented to the director of representation who shall take appropriate action thereon in accordance with this Decision.

By the BOARD

APPENDIX A

<u>Name</u>	<u>Job Code</u>	<u>Job Title</u>	<u>Campus</u>
Anderson, Jerry L.	1605	Lecturer 9 mos.	UCI
Morris, Linda	1605	Lecturer 9 mos.	UCD
Wampler, David R.	1605	Lecturer 9 mos.	UCD
White, Jennifer	1605	Lecturer 9 mos.	UCB
Christie, Erik	1608	Visiting Lecturer 9 mos.	UCI
Young, Linda	1608	Visiting Lecturer 9 mos.	UCD
Wagner, Vernon W.	1609	Visiting Lecturer 9 mos. 1/9 payment	UCI
Ino, John	1618	Visiting Lecturer 11 mos.	UCSF
Rabison, Sandy	1618	Visiting Lecturer 11 mos.	UCSF
Roberts, Brenda	1618	Visiting Lecturer 11 mos.	UCSF
Hofinga, Peter H.	2100	Supervisor of Physical Education - 9 mos.	UCI
Lindeburgh, Franklin	2100	Supervisor of Physical Education - 9 mos.	UCR
Thornton, Raymond H.	2100	Supervisor of Physical Education - 9 mos.	UCI
Schmalenberger, Herbert A.	2100	Supervisor of Physical Education - 9 mos.	UCD
Singleton, Jue L.	2110	Supervisor of Physical Education - 11 mos.	UCD
Boyle, Virginia	2220	Supervisor of Teacher Education	UCI
Dohms, Patricia	2220	Supervisor of Teacher Education	UCR

APPENDIX B

Positions to Vote Challenge Ballots

<u>Name</u>	<u>Employee No.</u>	<u>Title Code</u>	<u>Title Name</u>	<u>Campus</u>
Jefferson, A. E.	0100411645	01505	Assoc, in ____ - 9 mos. 1/9th pmt.	UCB
	0100411645	04671	Principal Clerk	UCB
Martinez, J. R.	0100533660	01608	Visiting Lecturer - 9 mos.	UCB
Ambrosiano, L. M.	0200012756	01618	Visiting Lecturer - 11 mos.	UCSF
Begg, E. L.	0300054480	01615	Lecturer - 11 mos.	UCD
	0300054480	03300	Specialist	UCD
Breidenbach, R. W.	0300092190	01615	Lecturer - 11 mos.	UCD
	0300092190	03000	____ in the A.E.S.	UCD
Catlin, P. B.	0300134150	01615	Lecturer - 11 mos.	UCD
	0300134150	03000	____ in the A.E.S.	UCD
Dejong, T. M.	0300195895	01615	Lecturer - 11 mos.	UCD
	0300195895	03020	Asst ____ in the A.E.S.	UCD
	0300195895	03475	Asst. Coop. Ext. (Agronomist)	UCD
Grimes, D. W.	0300319050	01615	Lecturer - 11 mos.	UCD
	0300319050	03000	____ in the A.E.S.	UCD
Huntington, G. L.	0300397790	01615	Lecturer - 11 mos.	UCD
	0300397790	03300	Specialist	UCD
Jones, M. B.	0300425785	01615	Lecturer - 11 mos.	UCD
	0300425785	03000	____ in the A.E.S.	UCD
Leising, J. G.	0300484925	01098	Summer Differential	UCD
	0300484925	01605	Lecturer - 9 mos.	UCD
	0300484925	02220	Supervisor of Teacher Ed.	UCD
Maggenti, A. R.	0300520100	01032	Associate Divisional Dean	UCD
	0300520100	01099	Administrative Stipend.	UCD
	0300520100	01615	Lecturer - 11 mos.	UCD
	0300520100	03000	____ in the A.E.S.	UCD
Martin, G. C.	0300531280	01615	Lecturer - 11 mos.	UCD
	0300531280	03000	____ in the A.E.S.	UCD
Pruitt, W. O.	0300675162	01615	Lecturer - 11 mos.	UCD
	0300675162	03000	____ in the A.E.S.	UCD
Robinson, F. E.	0300706375	01615	Lecturer - 11 mos.	UCD
	0300706375	03000	____ in the A.E.S.	UCD

<u>Name</u>	<u>Employee No.</u>	<u>Title Code</u>	<u>Title Name</u>	<u>Campus</u>
Sommer, N. F.	0300785550	01615	Lecturer - 11 mos.	UCD
	0300785550	03000	_____in the A.E.S.	UCD
Treguboff, C. E.	0300842805	01618	Visiting Lecturer - 11 mos.	UCD
Viglierchio, D. R.	0300859897	01096	Stipend.-Department Chairp.	UCD
	0300859897	01615	Lecturer - 11 mos.	UCD
	0300859897	03000	_____in the A.E.S.	UCD
Weinbaum, S.	0300881155	01615	Lecturer - 11 mos.	UCD
	0300881155	03010	Assoc. _____ in the A.E.S.	UCD
Winterlin, W. L.	0300908500	01615	Lecturer - 11 mos.	UCD
	0300908500	03000	_____in the A.E.S.	UCD
Broesamle, Jr., W. H.	0400096971	01608	Visiting Lecturer - 9 mos.	UCLA
Kinderman, J. V.	0400448555	01608	Visiting Lecturer - 9 mos.	UCLA
Waldinger, G. L.	0400865675	01609	Visiting Lecturer - 9 mos. 1/9th	UCLA
Reardon, J. L.	0500685800	02220	Supervisor of Teacher Ed.	UCR
Crosswhite, J. R.	0600176714	01608	Visiting Lecturer - 9 mos.	UCSD
Hunt, H. F.	0600396550	01096	Stipend.-Department Chairp.	UCSD
	0600396550	02100	Supervisor of Phys. Ed. - 9 mos.	UCSD
	0600396550	03575	Speaker - University Exten.	UCSD
Kobayashi, B. N.	0600459300	02100	Supervisor of Phys. Ed. - 9 mos.	UCSD
Souviney, R. J.	0600786700	02220	Supervisor of Teacher Ed.	UCSD
Sweet, J. M.	0600817923	02100	Supervisor of Phys. Ed. - 9 mos.	UCSD
Fisher, M. J.	0700115680	01608	Visiting Lecturer - 9 mos.	UCSC
Kilpatrick, R. C.	0700446573	02120	Assoc. Suprvsr. of Phys. Ed. - 9 mos.	UCSC
Murray, R. A.	0700574500	02120	Assoc. Suprvsr. of Phys. Ed. - 9 mos.	UCSC
Roos, E. Y.	0700724465	01608	Visiting Lecturer - 9 mos.	UCSC
Baker, F. J.	0900039358	01600	Senior Lecturer - 9 mos.	UCI
Dempsay, L. B.	0900200000	01099	Administrative Stipend.	UCI
	0900200000	02100	Supervisor of Phys. Ed. - 9 mos.	UCI
Leisure, M. J.	1000484966	01618	Visiting Lecturer - 11 mos.	S/W