

STATE OF CALIFORNIA  
DECISION OF THE EDUCATIONAL  
EMPLOYMENT RELATIONS BOARD

SHASTA UNION HIGH SCHOOL DISTRICT,

Employer,

and

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION,  
CHAPTER 181,

Employee Organization,

and

CALIFORNIA TEAMSTERS, PUBLIC, PROFESSIONAL  
AND MEDICAL EMPLOYEES UNION, LOCAL 911,

Employee Organization,

and

SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 22, AFL-CIO,

Employee Organization

Case No. S-R-296

EERB Decision No. 34

October 25, 1977

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Appearances: Jerome C. Byrne, Attorney (Gibson, Dunn and Crutcher) For Shasta Union High School District; Neil L. McAfee, for California School Employees Association, Chapter 181; Robert Jones, for California Teamsters, Public, Professional and Medical Employees Union, Local 911; Wilma R.K. Rader, Attorney (Van Bourg, Allen, Weinberg and Roger) for Service Employees International Union, Local 22, AFL-CIO.

Before Alleyne, Chairman; Gonzales and Cossack, Members.

OPINION

The Board has considered the record and the attached decision in light of the exceptions and briefs of the parties and has decided to affirm the findings of the hearing

officer. Accordingly, the decision as modified herein and the recommended order are adopted.

We note that the number of employees (however small) is not, alone, a basis for concluding that a wall-to-wall unit is appropriate. However, the number of employees in a district may be so small that a district, as a consequence, may have assigned to employees interchangeable functions and parallel working conditions that are consistent with the community of interest required to find appropriate a wall-to-wall unit under the Act's unit criteria. Additionally, there may be a situation where the number of employees is so small that to find other than a wall-to-wall unit may adversely affect the efficient operations of the school district. While future cases reaching the Board may present facts of the kind noted herein, this case does not.

By: Raymond J. Gonzales, Member      Reginald Alleyne, Chairman

Jerilou H. Cossack, Member, concurring:

We have established presumptively appropriate units in the classified service by balancing the three criteria set forth in Section 3545(a).<sup>1</sup> In this case, the hearing officer found two

<sup>1</sup> Gov. Code Sec. 3545(a) states:

In each case where the appropriateness of the unit is an issue, the board shall decide the question on the basis of the community of interest between and among the employees and their established practices including,

negotiating units appropriate, one described as a support services unit and one which combines office clerical employees and instructional aides. The District contends that a wall-to-wall unit is appropriate, essentially because of the small number of classified employees.

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As I stated in Greenfield Union School District, I am reluctant to find that an arbitrary number of employees mandates a wall-to-wall unit. In the instant case, the District contends that its proportionately smaller administrative staff, combined with declining revenues and reserves, argues in favors of a wall-to-wall unit. I agree that this is one factor which, when considered cumulatively with others, might justify a wall-to-wall unit. However, the District has not demonstrated that its ratio of administrative staff has resulted in broader supervisory or management responsibility, greater flexibility or simplified lines of supervision.<sup>3</sup>

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among other things, the extent to which such employees belong to the same employee organization, and the effect of the size of the unit on the efficient operation of the school district.

<sup>2</sup>EERB Decision No. 35, October 25, 1977.

<sup>3</sup>The District argues that it is highly decentralized and that its principals have substantial responsibility for all aspects of the operation of their individual schools. However, in both Sweetwater, EERB Decision No. 4, November 23, 1976, and Fremont, EERB Decision No. 6, December 16, 1976, school principals were as involved in the selection, dismissal and evaluation of on-site employees. The record in this case does not establish what, if any, effect this decentralization has had on the District's administration of its personnel policies.

The District also argues that there is a substantial combination of job functions of its employees. I agree that this is a factor to be weighed. However, as more fully set out in the hearing officer's proposed decision, the record discloses that five of the 27 bus drivers are regularly assigned for varying lengths of time during the work day to tasks unrelated to transportation. In fact, these other tasks are job functions regularly performed by support services employees and are critically related to providing the proper physical environment for students. Similarly, the custodian who regularly operates the cafeteria cash register is performing two job functions normally performed by support services employees. With the exception of one instructional aide who performs some unspecified "maintenance" work, it is clear that the instructional aides perform work of both a clerical and paraprofessional nature. They are thus appropriately included in the same unit with clerical and office-technical employees.

I also agree with the District's contention that transfer between job classifications is a factor to be considered. Again, however, the record discloses only one instance in the past couple of years of a transfer between the two units. All other transfers were within the units.

We have specifically and repeatedly asserted our understanding that the inclusion of the criteria of "the effect of the size of the unit on the efficient operation of the school district" manifested a Legislative concern about fragmentation of units

and the consequent burden on an employer of multiple negotiating processes and postures with a variety of negotiated agreements difficult to administer because their provisions differ.<sup>4</sup> The District in the instant case has not offered sufficient evidence to distinguish it from other districts in which we have found multiple units presumptively appropriate. Accordingly, I affirm the order of the hearing officer.

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Jerilou H. Cossack, Member

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<sup>4</sup>Sweetwater Union High School District, supra, EERB Decision No. 4, November 23, 1976.

EDUCATIONAL EMPLOYMENT RELATIONS BOARD  
OF THE STATE OF CALIFORNIA

In the Matter of

SHASTA UNION HIGH SCHOOL DISTRICT,

Employer,  
and

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION,  
CHAPTER 181,

Employee Organization,  
and

CALIFORNIA TEAMSTERS, PUBLIC, PROFESSIONAL  
AND MEDICAL EMPLOYEES UNION, LOCAL 911,

Employee Organization,  
and

SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 22, AFL-CIO,

Employee Organization.

Case No. S-R-296

PROPOSED DECISION

(7/21/77)

Appearances: Jerome C. Byrne, Attorney (Gibson, Dunn and Crutcher), for Shasta Union High School District; Neil L. McAfee, for California School Employees Association, Chapter 181; Robert Jones, for California Teamsters, Public, Professional and Medical Employees Union, Local 911; Wilma R.K. Rader, Attorney (Van Bourg, Allen, Weinberg and Roger), for Service Employees International Union, Local 22, AFL-CIO.

Before Ronald E. Blubaugh, Hearing Officer.

## PROCEDURAL HISTORY

On April 1, 1976, the California School Employees Association, Shasta High School Chapter No. 181, filed a petition with the governing board of the Shasta Union High School District asking for recognition as the exclusive representative of a comprehensive unit of classified employees.<sup>1</sup> The unit described in the CSEA petition was for all the District's classified employees to "include but not be limited to" those in the following classifications:

Food services, clerical and secretarial, operations and maintenance to include custodial/maintenance/grounds, instructional aides (paraprofessional) and transportation.

On April 5, 1976, the California Teamsters Public, Professional and Medical Employees Union<sup>2</sup> filed an intervention seeking recognition as the exclusive representative of employees in a transportation unit comprised of bus drivers and maintenance men.

On April 19, 1976, the Service Employees International Union, Local 22, AFL-CIO<sup>3</sup> filed an intervention seeking recognition as the exclusive representative of employees in a maintenance and operations unit comprised of the following classifications:

Assistant maintenance supervisor, athletic field technician, custodian, school laundry worker, head custodian, grounds caretaker and swim pool technician/maintenance.

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<sup>1</sup> Hereafter the California School Employees Association, Shasta High School Chapter No. 181, will be referred to as the "CSEA" and the Shasta Union High School District will be referred to as the "District."

<sup>2</sup> Hereafter, the California Teamsters Public, Professional and Medical Employees Union will be referred to as the "Teamsters."

<sup>3</sup> Hereafter, the Service Employees International Union, Local 22, AFL-CIO, will be referred to as the "SEIU."

On May 3, 1976, the District Board of Trustees issued its employer decision in which it concurred with the unit requested by CSEA and objected to the units proposed by Teamsters and SEIU. On May 25, 1976, the SEIU requested the Educational Employment Relations Board to conduct a hearing and resolve the question about the appropriateness of the unit. A hearing was conducted by an EERB hearing officer on February 23-24, 1977, at one of the District's high schools in Redding.

During the course of the hearing, both the Teamsters and the SEIU amended their petitions. The Teamsters amended its petition to exclude all but those employees occupying the positions of school bus driver, school bus driver/custodian, school bus driver/building maintenance, school bus driver/delivery/stores, school bus driver/driver training, school bus driver/bus maintenance, head bus driver/bus maintenance, and transportation clerk. The SEIU amended its petition to add the positions of custodian-continuation high school and laundry supervisor and to delete school bus driver/custodian.

By stipulation, the parties excluded the following positions:

As management -- the business manager, the transportation supervisor and the food services supervisor;

As supervisory -- the chief maintenance supervisors at each of the four major schools and the four supervising secretaries at each of the four schools;

As confidential -- instructional services secretary, business manager's secretary and superintendent's secretary.

The hearing officer adopts the stipulation without inquiry.

#### FINDINGS OF FACT

The Shasta Union High School District is located in Shasta County. There are approximately 2,800 square miles within the District's boundaries, about three-fourths of the county's geographical area.

The District has three regular high schools, a school for ninth graders and a continuation high school. Total enrollment at the end of the first month of the 1976-77 school year was 5,102 students which converts to an average daily attendance of about 5,000.

There are 158 classified employees, of whom three were excluded from the unit as management, eight as supervisory and three as confidential. There are 260 certificated employees.

As of February 1977, the District's classified work force was distributed approximately as follows: 18 instructional aides and guidance technicians; 37 secretaries, clerks and related office employees; 41 custodians, grounds caretakers, and related maintenance and operations employees; 34 food service employees and 27 transportation employees, a number of whom spend part of their time in various maintenance and operations duties.

A common application form is used by applicants for all classified jobs in the District. There are no particular educational requirements for the various jobs although applicants for certain jobs must have the requisite skills. Applicants for bus driving positions must have the appropriate California licenses. All successful candidates for classified jobs must pass the same physical examination.

Medical, dental and life insurance benefits, vacation, sick leave and personal leave rights are identical for all District employees. The fringe benefits for classified employees who work less than a 40 hour week are prorated.

The work year varies for classified employees. Instructional aides work nine months to coincide with the school year. Guidance technicians work a 12-month year. All of the clerical and office personnel except the health clerk work a 12-month year. The health clerk works nine months. The maintenance and operations employees work a

year but some of them have different duties in the summer from what they have during the regular school year. All food service personnel work a nine-month year except for a small number of employees who also work during a six-week summer program. Transportation department employees have work years of varying lengths, according to whether they have summer assignments.

There is a considerable amount of interchange in work assignments for District employees in the maintenance and operations and transportation departments. This is reflected both in their work during the school year and in the summer months. There are two bus drivers who spend at least two hours a day during the regular year performing maintenance at District schools. In the summer, one of these drivers spends eight hours a day performing school maintenance and the other spends five hours performing school maintenance and three hours driving a bus. There is one bus driver who splits his workday evenly between driving and performing custodial work at a high school cafeteria during the regular school year. Another driver spends three hours a day during the regular school year maintaining driver education vehicles. Another driver spends three hours a day during the school year delivering mail and working as a warehouseman. During the summer, that driver spends five hours a day as a warehouseman and only three hours driving a bus. The bus drivers who perform maintenance carry out such duties as welding, carpentry and painting. Another driver, who spends seven hours daily driving

during the school year, drives only three hours a day during the summer and occupies the other five hours as a grounds caretaker.

The District has at least one custodian who performs maintenance work during the summer. That custodian has done such work as classroom renovation and plumbing during the summer months.

Similarly, the District's instructional aides perform a wide variety of assignments. At Enterprise High School, there are two instructional aides. One of them works in the school reading laboratory. She spends about 80 percent of her time with young people and the remainder in clerical duties. The other operates the audio-visual room, catalogs and distributes films and performs minor maintenance and cleanup in the room. At Nova School, there are 10 full-time aides. Eight of them work in classrooms, assisting children under the direction of a teacher. Another aide performs only clerical tasks for teachers, operates a duplicating machine and has very little contact with students. Still another aide maintains and operates audio-visual equipment, coordinates the ordering of film and projectors for teachers. At Shasta High School, there is only one instructional aide whose work primarily is to handle audio-visual material. At Central Valley High School, there are two instructional aides. One works with students in the reading program and the other operates audio-visual equipment.

There was evidence that classified employees, other than instructional aides, have direct contact of an instructional nature with students. Twenty students in a manpower training program work with and are supervised by such various classified employees as custodians, grounds keepers, maintenance employees, secretaries, transportation employees and cafeteria employees. Those supervising employees grade the students' work.

There has not been a great deal of movement of classified employees from one job category to another. In recent years one employee has moved from the cafeteria to a

clerical assignment, another from the cafeteria to instructional aide and back to the cafeteria, another from instructional aide to health clerk, another from instructional aide to library clerk and a fifth employee from health clerk to junior clerk.

Classified employees work a variety of hours in the District. Their hours vary both in total number and in starting and ending times. There seems to be no districtwide pattern, even for employees in the same job categories. Individual schools set their own hours which may or may not be the same as the hours worked in the District office.

The District has a small administrative staff, averaging two administrators per 100 teachers compared to a statewide average of 3.41 in districts of a similar size. As a result, most classified employees have a common line of supervision from either the business manager or the principals of their individual schools, or both. Applications for all classified jobs are filed with the business manager. However, the authority to make effective recommendations about hiring is at a lower level for most jobs. The transportation supervisor hires the bus drivers and the other employees in that department. The food service supervisor hires the employees in that program.

School principals have a significant role in the evaluation of all classified employees in their schools. The principal of one school testified that he reviews the evaluations of custodial, maintenance and cafeteria employees. If he disagrees with the evaluation he has a conference with the evaluator. He testified that all changes he has requested on evaluations have been carried out. Bus drivers are evaluated by the transportation supervisor.

Prior to the passage of the Educational Employment Relations Act<sup>4</sup> employee organizations had engaged in meeting and conferring with the District under the Winton Act.<sup>5</sup>

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<sup>4</sup> Government Code Section 3540 et seq.

<sup>5</sup> Former Education Code Section 13080 et seq.

Under the District's then existing policy, an employee organization would be recognized by the Board of Trustees if it filed an annual request and provided certain information. The required information included the name and address of the organization, name and address of the officers, a copy of the organization's articles of incorporation, by-laws and other written rules and regulations, and the number of District employees who belong to the organization. The rules provided a process for an independent verification by a third party of the membership total. The superintendent testified that the District never denied recognition to any organization which sought it and never encouraged employees to belong to any organization in preference to any other.

The District has recognized a chapter of the CSEA since 1957 and a chapter of the SEIU (or its predecessor organization) since 1966. During the years under the Winton Act, the CSEA has traditionally represented all classified employees. In certain years, it has obtained special differentials for bus drivers, instructional aides and cooks. SEIU has traditionally represented custodians. Both CSEA and SEIU have represented their members in grievances over the years. There is no history of separate representation for bus drivers and the Teamsters was not a recognized organization under the Winton Act.

There was conflicting evidence about whether it would be inefficient for the District to contain more than one unit for classified employees.. The District and the Teamsters both called witnesses who have a background in labor-management relations. The District's witness was the director of personnel and employee relations in the San Mateo Union High School District. Her experience was under the Winton Act in dealing with three employee organizations which she said "tended to represent" distinctively identifiable groups. Based on her experience,

she said it would require the District to spend one-and-a-half as much time dealing with two units as it would with one. The superintendent testified that the District probably would have to hire another administrator at a cost of \$35,000 to \$40,000 a year if there are multiple units for classified employees. The witness for the Teamsters was the business representative of the International Brotherhood of Electrical Workers, Local Union 1245, which has contracts with about a dozen public agencies under the Meyers-Milias-Brown Act.<sup>6</sup> He said that local governments typically have about four units and the added burden from multiple units is insignificant.

#### CONCLUSIONS OF LAW

Even though EERB precedent on the composition of classified units is by now well established, all parties to this case have chosen to request something contrary. The District and CSEA seek a comprehensive unit, even though the EERB has not found such a unit appropriate in any disputed case. The Teamsters seek a separate transportation unit even though the EERB has not approved such a unit in any of its decisions. The SEIU's requested maintenance and operations unit comes the closest to meeting the requirements of EERB precedent but as will be seen, that unit also is not appropriate in this case.

Initially, it is concluded that the comprehensive unit requested by the District and CSEA is not appropriate.

Essentially, the District offers three alternative theories for why a comprehensive unit should be found appropriate. It first contends that all District employees share a community of interest. Secondly, it contends that in the past the parties have established a single unit for meeting and conferring purposes. Finally, the District reasons that because of its small size the creation of multiple negotiating units would be inefficient.

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<sup>6</sup> Government Code Section 3500 et seq.

These contentions parallel the requirements of the Educational Employment Relations Act.<sup>7</sup>

In support of its argument that all classified employees share a community of interest, the District points to an identity of wages and fringe benefits, terms and conditions of employment, a similarity of work functions "respecting relationships with students," departmental interchange of employees, the simultaneous employment of some employees in two departments, and identical supervision and evaluation procedures.

The EERB has considered similar arguments in a series of cases and found them unpersuasive. The Board determined the presumptively appropriate classified units in Sweetwater Union High School District<sup>8</sup> and Fremont Unified School District.<sup>9</sup> Those units are 1) an instructional aides (paraprofessional)

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<sup>7</sup> Government Code Section 3545 provides the following criteria for EERB decisions about the appropriateness of a unit:

(a) In each case where the appropriateness of the unit is an issue, the board shall decide the question on the basis of the community of interest between and among the employees and their established practices including, among other things, the extent to which such employees belong to the same employee organization, and the effect of the size of the unit on the efficient operation of the school district.

(b) In all cases:

(1) A negotiating unit that includes classroom teachers shall not be appropriate unless it at least includes all of the classroom teachers employed by the public school employer, except management employees, supervisory employees, and confidential employees.

(2) A negotiating unit of supervisory employees shall not be appropriate unless it includes all supervisory employees employed by the district and shall not be represented by the same employee organization as employees whom the supervisory employees supervise.

(3) Classified employees and certificated employees shall not be included in the same negotiating unit.

<sup>8</sup> EERB Decision No. 4, November 23, 1976.

<sup>9</sup>

EERB Decision No. 6, December 16, 1976.

unit, 2) an office-technical and business services unit, and 3) an operations-support services unit.

Instructional aides were placed in a separate unit by the EERB because their primary duties involve directly assisting in the educational development of students. The key factor was that the aides have an instructional relationship with students which is unlike the relationship other classified employees have with students.

Office-technical employees were placed in a separate unit by the EERB because their job duties are unlike those of other employees. Office-technical employees generally perform clerical and record-keeping work rather than physical labor. They are required to type, operate business machines, maintain files and keep records.

The operations-support services employees share a community of interest, the EERB concluded, because their job is to provide a proper physical environment and support services for students. They clean and repair, provide food and transportation.

When the record in the present case is examined, it is clear that employees in the Shasta Union High School District perform the same essential job functions described in the EERB decisions cited above. Although the District has demonstrated that its employees have common pay and benefits regardless of assignment, it remains clear that their work duties differ vastly. With several exceptions, instructional aides work with students, clerical employees work with records and office equipment and operations-support employees perform manual labor, cook and drive buses. The District has shown a considerable interchange between the bus drivers and various other support employees. But it has not shown interchange between bus drivers and instructional aides or between the maintenance workers and the clerical staff. Although the District requires

no special educational requirements which differ for various employees, it does require successful job applicants to have the skills of the positions they seek. Clerical employees must have the ability to operate office machines. Bus drivers must have the proper state licenses and abilities to drive buses. Thus the District's classified employees bring differing skills when they are hired and do differing work when they are employed.

Similarly, the District has placed a mistaken reliance upon past practices. The EERB has said it will give little weight to past practices under the Winton Act where it does not know

... whether the rules and regulations adopted by the employer required an employee organization to represent all classified employees as a precondition to becoming a designated representative. Because of the unspecified and possibly unilateral nature of the unit designation procedure which existed in this district under the Winton Act, in determining appropriate negotiating units in this case we give little weight to "established practices" as they relate to the composition of the unit represented under the authority of that Act.<sup>10</sup>

In this case, the employer did not require an organization to represent all classified employees as a condition of its gaining recognition under the Winton Act. It thus would seem that the problem which concerned the EERB in Sweetwater presents no obstacle to examination of the past history in the Shasta Union High School District. Even so, past history provides no assistance to the District's position. While it is clear that CSEA did represent employees in all job categories, it is also clear that for more than 10 years there has been a history of independent representation for custodians. There is no clear

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<sup>10</sup> Sweetwater, supra footnote No. 8. See also: Fremont, supra footnote No. 9; Grossmont Union High School District, EERB Decision No. 11, March 9, 1977; and Los Rios Community College District, EERB Decision No. 18, June 9, 1977.

history of meeting and conferring between the District and a single group of classified employees. The District even has established two separate systems of processing grievances, one for the CSEA and one for the SEIU.

Finally, the District's reliance on efficiency of operation as prohibiting multiple units is also unpersuasive. The District's expert witness was a person who has never been involved in negotiations where there was more than one unit. The expert's experience involved meeting and conferring where there was more than one employee organization. The superintendent, who also warned that multiple units would be inefficient, likewise had no experience other than under the Winton Act. By contrast, the witness for the Teamsters had considerable collective bargaining experience under the Meyers-Milias-Brown Act dealing with local governments having distinctly separate units. The witness for the Teamsters testified that after the parties agree on a first contract, multiple units do not subsequently provide a significantly greater hardship on the employer than single, comprehensive units.

It seems obvious that multiple units would lead to a multiple series of negotiations and could lead to separate and differing contracts. This could provide some additional problems in contract administration. As the EERB observed in Sweetwater, however,

... while a single unit is theoretically the most conducive to the efficient operation of the school district, it is only one of three criteria for unit determination set forth in Section 3545(a).

The District relies on its relatively small size of 5,102 students as further justification for creation of a single unit. It thus distinguishes all existing EERB precedent. It should be noted, however, that average daily attendance in the Pittsburgh Unified School District was 6,200 students. In considering that district, the EERB created two units.<sup>11</sup> While

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<sup>11</sup> EERB Decision No. 3, October 14, 1976, Pittsburg Unified School District.

it is possible that the EERB will find that a single unit is appropriate in some very small districts, the enrollment at Shasta is sufficiently close to that in Pittsburg that it seems most unlikely that the Board would find a single unit appropriate at Shasta, solely on the basis of size.

At its best reading, the evidence in the present case is conflicting about the impact of multiple units. If the testimony of the District's witnesses is weighed in light of their relative inexperience with EERA-type units, the stronger testimony refutes the concept that more than one unit would provide a significant hardship for the District.

For these reasons, the hearing officer concludes that the single, comprehensive unit sought by the District and the CSEA is not appropriate in this case.

It also is concluded that the separate transportation unit sought by the Teamsters is not appropriate.

The EERB has considered requests for separate transportation units in Sweetwater and in Fremont and refused to create such units in both cases.

In the present case, the bus drivers clearly have no distinct identity from the other maintenance and operations employees. A number of drivers work part of their day performing maintenance at schools, delivering mail, working in the warehouse or working as a custodian. During the summer, some drivers become welders, carpenters, painters or grounds keepers. There is no history of any organization separately representing bus drivers or transportation workers.

Because of the interchange between bus drivers and other employees and the overlapping duties, it is apparent that the bus drivers do not belong in a separate unit.

It seems clear from board precedent and the facts in this case that the custodial, maintenance, transportation and grounds employees have a community of interest and belong in a unit together.

Likewise it seems clear under EERB precedent that clerical employees do not share a community of interest with maintenance and operations employees and belong in a separate unit.

That leaves only two groups of employees unaccounted for: the instructional aides and the food service employees.

There was no request by any party to represent instructional aides in a separate unit. The petitions of the District and the CSEA would place all classified employees in the same unit. The petitions of the SEIU and Teamsters do not seek to represent instructional aides. The hearing officer, therefore, will not attempt to separate the instructional aides into a distinct unit but will leave them with the clerical and office employees, in a residual unit after the creation of the maintenance and operations unit.

The final question is the placement of the food service employees.

In Sweetwater and Fremont, the EERB placed the food services employees in the operations-support services unit, following the rationale that their work contributed to providing a proper physical environment for students. In Foothill-DeAnza<sup>12</sup> the EERB found that the skilled crafts and maintenance unit requested by SEIU was an appropriate unit. The SEIU had not requested food services employees in that unit and the EERB did not order their placement in the unit. Rather, the EERB left the food services employees in the residual unit with the clerical employees.

Foothill can be distinguished from the present case. In the present case, the unit requested by the SEIU has been found inappropriate because the bus drivers and other transportation employees were not included within it. The Foothill rationale is rooted in the concept that the EERB will allow a unit differing from the Sweetwater units if a party can show

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<sup>12</sup> EERB Decision No. 10, March 1, 1977.

that it is an appropriate unit. Foothill does not apply, however, once it is shown that the requested unit is not appropriate.

In this case, the SEIU unit has been found inappropriate. Therefore, the hearing officer will return to the presumptively appropriate operations-support services unit or Sweetwater and accordingly will place the food services employees in the operations-support services unit.

#### ORDER

It is the proposed decision that:

The following units are appropriate for the purpose of meeting and negotiating, providing an employee organization becomes the exclusive representative of either or both units:

Operations-Support Services Unit consisting of all employees occupying the positions of custodian, grounds caretaker, custodian-continuation high school, athletic field technician, head custodian, laundry technician, laundry supervisor, swim pool technician/maintenance, assistant maintenance supervisor, cafeteria assistant, cafeteria cook and baker, cafeteria manager, transportation clerk, school bus driver, school bus driver/custodian, school bus driver/building maintenance, school bus driver/delivery/stores, school bus driver/driver training, school bus driver/bus maintenance, head school bus driver/bus maintenance;

Instructional Aides, Office-Technical and Business Services Unit consisting of all persons occupying the positions of instructional aide, guidance technician, offset machine operator, junior clerk, health clerk, junior payroll clerk, intermediate clerk, accounts payable clerk, junior secretary, library clerk, senior secretary, continuation school secretary, senior account clerk, chief account clerk, chief payroll clerk, and all remaining job classifications;

And excluding from both units as management employees, the business manager, the transportation supervisor and the food services supervisor;

And excluding from both units as supervisory, the chief maintenance supervisors at each of the four schools and the four supervising secretaries at each of the four schools;

And excluding from both units as confidential, the instructional services secretary, the business manager's secretary and the superintendent's secretary.

The parties have seven (7) calendar days from receipt of this proposed decision in which to file exceptions in accordance with Section 33380 of the Board's Rules and Regulations. If no party files timely exceptions, this proposed decision will become a final order on August 2, 1977, and a Notice of Decision will issue from the Board.

Within ten (10) workdays after the employer posts the Notice of Decision, the employee organizations shall demonstrate to the Regional Director at least 30 percent support in the above units. The Regional Director shall conduct an election at the end of the posting period if: (1) more than one employee organization qualifies for the ballot in either or both units, or (2) only one employee organization qualifies for the ballot in either or both units and the employer does not grant voluntary recognition to that employee organization.

The date used to establish the number of employees in the above units shall be the date of this decision unless another date is deemed appropriate by the Regional Director and noticed to the parties. In the event another date is selected, the Regional Director may extend the time for employee organizations to demonstrate at least 30 percent support in the units.

Dated: July 21, 1977

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Ronald E. Blubaugh  
Hearing Officer