

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



VICTOR VALLEY COMMUNITY COLLEGE  
DISTRICT,

Employer,

and

POLICE OFFICERS ASSOCIATION, VICTOR  
VALLEY COMMUNITY COLLEGE DISTRICT –  
POLICE DEPARTMENT,

Petitioner,

and

CALIFORNIA SCHOOL EMPLOYEES  
ASSOCIATION AND ITS CHAPTER 584,

Exclusive Representative.

Case No. LA-SV-164-E

Administrative Appeal

PERB Order No. Ad-388

November 18, 2010

Appearances: Craig Baumbusch, President, for Police Officers Association, Victor Valley Community College District – Police Department; California School Employees Association by Maureen C. Whelan, Staff Attorney, for California School Employees Association and its Chapter 584.

Before Dowdin Calvillo, Chair; McKeag and Wesley, Members.

DECISION

WESLEY, Member: This case is before the Public Employment Relations Board (Board) on appeal by the Police Officers Association, Victor Valley Community College District – Police Department (Association) of a Board agent's dismissal (attached) of its severance petition. The Association filed the severance petition pursuant to the Educational Employment Relations Act (EERA)<sup>1</sup> seeking to create a bargaining unit comprised of most, but not all, of the Campus Police Officers and Campus Reserve Police Officers included in the

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<sup>1</sup> EERA is codified at Government Code section 3540 et seq.

bargaining unit represented by the California School Employees Association and its Chapter 584 (CSEA). The Board agent dismissed the petition finding that the proposed bargaining unit was not an appropriate unit. The Board agent determined that the employees proposed to be included in the new unit had a community of interest with employees in the existing unit, and that the proposed unit would adversely affect the efficiency of operations of the employer, the Victor Valley Community College District (District).

The Board has reviewed the Board agent's dismissal and the record in light of the Association's appeal,<sup>2</sup> CSEA's response to the appeal and the relevant law. Based on this review, the Board finds the Board agent's dismissal to be well-reasoned, adequately supported by the record and in accordance with applicable law. The Board therefore adopts the Board agent's dismissal of the severance petition as the decision of the Board itself.

ORDER

The severance petition in Case No. LA-SV-164-E is hereby DISMISSED.

Chair Dowdin Calvillo and Member McKeag joined in this Decision.

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<sup>2</sup> The Association's request to stay the appeal in this case pending resolution of its lawsuit against the District is denied.

**PUBLIC EMPLOYMENT RELATIONS BOARD**

Los Angeles Regional Office  
700 N. Central Ave., Suite 200  
Glendale, CA 91203-3219  
Telephone: (818) 551-2804  
Fax: (818) 551-2820



September 1, 2010

Craig Baumbusch, President  
Police Officers Assn., VVCCD-PD  
P.O. Box 2403  
Wrightwood, CA 92397

Andy Evano, Labor Relations Representative  
California School Employees Association  
10211 Trademark Street, Unit A  
Rancho Cucamonga, CA 91730

Fusako Yokotobi, VP for Human Resources  
Victor Valley Community College District  
18422 Bear Valley Rd.  
Victorville, CA 92395-5850

Re: Victor Valley Community College District  
Case No. LA-SV-164-E  
**DISMISSAL OF PETITION**

Dear Interested Parties:

The above-referenced severance petition was filed with the Public Employment Relations Board (PERB or Board) on March 8, 2010. The Police Officers Association, Victor Valley Community College District (Association) seeks to create a bargaining unit consisting of "persons appointed as campus police officers or campus reserve police officers in compliance with California state laws and district policies" in the Victor Valley Community College District (District). The Association later clarified its position by explaining that it is petitioning to include those Campus Police Officers and Campus Reserve Police Officers who possess the certificates required to be considered a peace officer in California (collectively "Included Officers"). The Association sought to exclude all Campus Police Officers and Campus Reserve Police Officers that do not possess such certification (collectively "Excluded Officers") as well as all other employees. All Campus Police Officers and Campus Reserve Police Officers are currently in a wall-to-wall classified employees bargaining unit exclusively represented by California School Employees Association, Chapter 584 (CSEA).

On August 4, 2010, PERB issued the Association an Order to Show Cause (OSC) as to why its petition should not be dismissed for seeking to create an inappropriate bargaining unit. A copy of the OSC is included as an attachment to this letter. PERB afforded the Association until August 18, 2010 to file a response to the OSC to provide additional facts demonstrating the appropriateness of its petitioned-for unit. PERB explained to the Association that any factual assertions must be supported by declarations under penalty of perjury by witnesses with

personal knowledge and should indicate that the witnesses, if called to testify, would competently testify about the facts asserted. On August 17, 2010, the Association filed its response to the OSC. The Association raises several arguments supporting the appropriateness of its proposed unit but provides few additional facts and did not challenge the majority of the factual conclusions relied on in the OSC. Furthermore, the additional facts provided by the Association are not supported by declarations as instructed in the OSC.<sup>1</sup>

1. Unit Determinations Under the Educational Employment Relations Act

As explained in more detail in the OSC, in making unit determination under the Educational Employment Relations Act (EERA),<sup>2</sup> PERB considers factors such as: (1) the community of interest among employees; (2) the effect on the efficient operations of the school district; and (3) the representation and negotiation history for the employees involved. (Gov. Code, § 3545(a); *Long Beach Community College District* (1989) PERB Decision No. 765; *Rio Hondo Community College District* (1979) PERB Decision No. 87.) PERB explained in the OSC that there was substantial evidence in the undisputed record that the Included Officers share a community of interest with the Excluded Officers and that separating Included Officers and Excluded Officers into different bargaining units would adversely affect the District's bargaining operations. For those reasons, PERB found that the unit proposed by the Association was not an appropriate bargaining unit in accordance with EERA section 3545(a).<sup>3</sup>

The Association argues that PERB should not separate Campus Police Officers into a different bargaining unit from Campus Reserve Police Officers and contends that *Sweetwater Union High School District* (1976) EERB Decision No. 4 (*Sweetwater*)<sup>4</sup> and *Long Beach Community*

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<sup>1</sup> The Association does include as an attachment a document entitled "Memorandum of Points and Authorities [in support of] Petition for Writ of Mandamus," which includes some factual assertions followed by the statement that "I Craig Baumbusch, declare: I composed the forgoing Petition for Writ of Mandamus and know the contents thereof in the above entitled action. I am informed, believe and allege based on information and belief that the contents are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct." In *Santa Ana Unified School District* (2010) PERB Decision No. Ad-383, the Board found a similar statement was not sufficient to constitute a "declaration by a witness with personal knowledge signed under penalty of perjury." Thus the facts alleged in the Association's attachment do not satisfy the requirements set forth in the OSC.

<sup>2</sup> EERA is codified at Government Code section 3540 et seq. The text of EERA and PERB Regulations may be found at [www.perb.ca.gov](http://www.perb.ca.gov).

<sup>3</sup> PERB also found that the history of representation of the classifications at issue neither favored nor disfavored the Association's proposed unit.

<sup>4</sup> Prior to January 1978, PERB was known as the Educational Employment Relations Board or EERB. (See Gov. Code, § 3540; *Madera Unified School District* (2007) PERB Decision No. 1907, fn. 3, other citations omitted.)

*College District* (1999) PERB Decision No. 1315 (*Long Beach CCD*), stand for the proposition that a unit of police officers should be considered presumptively appropriate. The Association contends that CSEA has the burden of demonstrating such a unit is inappropriate. However, the appropriateness of a police officer unit in a community college district is not in dispute in this case because the Association has not petitioned for all of the District's Campus Police Officers and Campus Reserve Police Officers.<sup>5</sup> The Association has petitioned to create a unit of only Included Officers. The central issue of this petition is whether that proposed unit is appropriate. PERB considered this issue in the OSC according to the factors outlined above and concluded that, under any burden of proof, the Association's proposed unit is not appropriate.

A. Community of Interest

PERB found in the OSC that, based on the undisputed facts, the Included Officers share a significant community of interest with the Excluded Officers. For example, both Included Officers and Excluded Officers have similar job titles, salaries, benefits, supervision, uniforms, and job duties. PERB noted that some of the Excluded Officers lack the ability to make arrests and to issue citations for moving violations, but noted that those duties were relatively minor compared to the several other job duties that Included Officers and Excluded Officers shared. PERB also noted that, according to the Association, Excluded Officers do not possess the same training as Included Officers, but found that such differences were not significant enough to negate a finding that Included Officers and Excluded Officers share a community of interest. Because of the similarity in working conditions between Included Officers and Excluded Officers, PERB found in the OSC that separating these classifications into separate bargaining units was not appropriate. After review of the response filed by the Association, PERB finds no cause to depart from the conclusions reached in the OSC.

The Association states that PERB should not have relied on the District's statement that its Police Department, as a whole, makes fewer than 10 arrests per year and contends that the

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<sup>5</sup> Moreover, the Association's interpretation of *Sweetwater*, *supra*, EERB Decision No. 4 and *Long Beach CCD*, *supra*, PERB Decision No. 1315 is incorrect. In *Sweetwater*, *supra*, EERB Decision No. 4, the Board found that three types of classified employee bargaining units commonly share a community of interest with one another and are therefore considered to be presumptively appropriate bargaining units. Those three units are: (1) Instructional Aides; (2) Office-Technical and Business Services; and (3) Operations-Support. If an employee organization proposes to create one of these three units through a severance petition, then the burden is on the party opposing severance to demonstrate that the established unit is more appropriate than the "*Sweetwater*" unit. (*San Juan Unified School District* (1995) PERB Decision No. 1082.) If, however, neither the existing bargaining unit nor the petitioned-for unit are one of the three "*Sweetwater*" units, then the issue is whether the petitioned-for unit is an appropriate unit. (*Long Beach CCD*, *supra*, PERB Decision No. 1315). In *Long Beach CCD*, *supra*, PERB Decision No. 1315, the Board found that, under a specific set of facts, a unit consisting of campus safety officers was appropriate.

District's Police Department makes between 11 and 12 arrests per year. As explained above, the Association's factual assertions are not supported by declarations made under penalty of perjury. Therefore the Association has not provided PERB with an adequate basis for relying on this assertion. However, even assuming the Association's assertions about the number of arrests is true, it would not change the conclusion that both the Included Officers and the Excluded Officers perform substantially similar job duties and that the Included Officers make a relatively small number of arrests per year. Because it is undisputed that both Included Officers and Excluded Officers share similar working conditions, it cannot be concluded that the Included Officers and Excluded Officers lack a community of interest.

In the OSC, PERB noted that there was a dispute between the parties over which employees possess the certificates described by the Association, but PERB found it unnecessary to resolve this dispute. The Association contends that resolution of this dispute is necessary to address the unit issue because it claims that two of the Excluded Officers are performing the duties of a peace officer in violation of the Penal Code. According to the Association, the failure to resolve the dispute involving the certification of these two employees allows for "the misperception that specific positions identified in the Association's petition do not have a community of interest separate and distinct from other positions in CSEA's bargaining unit." This argument is unpersuasive for at least two reasons. First, as explained above, PERB's evaluation of the community of interest between the positions in the Association's proposed unit and the existing classified unit considered the totality of the positions' working conditions and not just minor differences in certain job duties. Second, even if PERB were to assume that Excluded Officers are performing the duties in question unlawfully, it would provide further support for the conclusions reached in the OSC. PERB found that Included Officers and Excluded Officers share a community of interest based, in part, on similarities in job duties. According to the Association, Excluded Officers share even more job duties with Included Officers than what was found in the OSC.

The Association argues that the two Excluded Officers that are performing these duties are doing so illegally. Assuming for the purposes of discussion that the Association's interpretation of the Penal Code is true, the Association does not explain how the legality of the duties performed by these employees has any effect on PERB's unit determination. To the extent that the Association is seeking to have PERB require the District to comply with the Association's interpretation of the Penal Code, PERB lacks the jurisdiction to do so. (*State of California (Department of Corrections)* (2004) PERB Decision No. 1559a-S.)

#### B. Efficiency of Operations

PERB also found that creating a unit of Included Officers while leaving the Excluded Officers in the classified bargaining unit would adversely affect the District's operations because it would cause the District to negotiate the working conditions of the same job classifications, i.e., Campus Police Officers and Campus Reserve Police Officers, with both the Association and with CSEA. After review of the response filed by the Association, PERB finds no cause to depart from the conclusions reached in the OSC.

The Association argues that PERB has given too much weight to the proposed unit's effect on the efficiency of the District's operations. Quoting *Santa Ana Unified School District, supra*, PERB Decision No. Ad-383, the Association notes that "the Board has never found the efficiency factor to outweigh representation rights." (Citations omitted.) Unlike the present case, that case concerned a petition to represent previously unrepresented substitute teachers. The portion of that Board's decision quoted by the Association refers to the Board's finding in that case that denying the union's petition would result in substitute teachers having "no representation whatsoever." In the present case, all the positions at issue in the Association's petition are currently represented by CSEA. Accordingly, PERB's finding that the Association's petition is not appropriate does not result in Campus Police Officers or Campus Reserve Police Officers having no representation. Moreover, EERA and PERB case law are clear that the efficiency of the employer's operations is one factor to be considered when making unit determinations. (*Long Beach Community College District, supra*, PERB Decision No. 765; *Rio Hondo Community College District, supra*, PERB Decision No. 87.) PERB's decision to do so in this case was not in error.

The Association also argues that it will adversely affect the District's operations if the community at large discovers that the District is allowing Campus Police Officers who do not possess the proper certification to issue citations for moving violations. This position is unpersuasive for several reasons. First, the Association has not presented any facts, supported by declaration, demonstrating that any of the Excluded Officers that lack certification are in fact issuing citations for moving violations.<sup>6</sup> Second, it is speculative, at best, to predict the reaction of the community to the information at issue. Third, the Association has not established that PERB's unit determination would alter the District's assignment of duties or its efforts to comply with the Association's interpretation of the Penal Code. Thus, any community effects would be present regardless of PERB's unit determination.

For these reasons and based on the substantial and undisputed evidence, the positions in the proposed unit share a community of interest with positions in the existing classified unit and a severance of the proposed unit would adversely affect the District's operations. Therefore, the Association's proposed unit is not an appropriate unit and the petition is dismissed.

#### Right of Appeal

An appeal of this decision to the Board itself may be made within ten (10) calendar days following the date of service of this decision. (Cal. Code Regs., tit. 8, § 32360.) To be timely filed, the original and five (5) copies of any appeal must be filed with the Board itself at the following address:

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<sup>6</sup> The Association does make reference to these allegations in its attachment entitled "Memorandum of Points and Authorities [in support of] Petition for Writ of Mandamus." However, for the reasons already specified above, this does not qualify as a declaration by a witness with personal knowledge signed under penalty of perjury.

Public Employment Relations Board  
Attention: Appeals Assistant  
1031 18th Street, Suite 200  
Sacramento, CA 95811-4124  
(916) 322-8231  
FAX: (916) 327-7960

A document is considered "filed" when actually received during a regular PERB business day. (Cal. Code Regs., tit. 8, §§ 32135, subd. (a) and 32130; Gov. Code, § 11020, subd. (a).) A document is also considered "filed" when received by facsimile transmission before the close of business together with a Facsimile Transmission Cover Sheet which meets the requirements of PERB Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Cal. Code Regs., tit. 8, § 32135, subds. (b), (c) and (d); see also Cal. Code Regs., tit. 8, §§ 32090 and 32130.)

The appeal must state the specific issues of procedure, fact, law or rationale that are appealed and must state the grounds for the appeal (Cal. Code Regs., tit. 8, § 32360, subd. (c)). An appeal will not automatically prevent the Board from proceeding in this case. A party seeking a stay of any activity may file such a request with its administrative appeal, and must include all pertinent facts and justifications for the request (Cal. Code Regs., tit. 8, § 32370).

If a timely appeal is filed, any other party may file with the Board an original and five (5) copies of a response to the appeal within ten (10) calendar days following the date of service of the appeal (Cal. Code Regs., tit. 8, § 32375).

#### Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding and on the regional office. A "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself (see Cal. Code Regs., tit. 8, § 32140 for the required contents). The document will be considered properly "served" when personally delivered or deposited in the mail or deposited with a delivery service and properly addressed. A document may also be concurrently served via facsimile transmission on all parties to the proceeding. (Cal. Code Regs., tit. 8, § 32135, subd. (c).)



Extension of Time

A request for an extension of time in which to file an appeal or opposition to an appeal with the Board itself must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party (Cal. Code Regs., tit. 8, § 32132).

Sincerely,

~~Eric~~ J. Cu  
Regional Attorney

EC

Enclosure



**PUBLIC EMPLOYMENT RELATIONS BOARD**

Los Angeles Regional Office  
700 N. Central Ave., Suite 200  
Glendale, CA 91203-3219  
Telephone: (818) 551-2804  
Fax: (818) 551-2820



August 4, 2010

Craig Baumbusch, President  
Police Officers Assn., VVCCD-PD  
P.O. Box 2403  
Wrightwood, CA 92397

Andy Evano, Labor Relations Representative  
California School Employees Association  
10211 Trademark Street, Unit A  
Rancho Cucamonga, CA 91730

Fusako Yokotobi, VP for Human Resources  
Victor Valley Community College District  
18422 Bear Valley Rd.  
Victorville, CA 92395-5850

Re: Case No. LA-SV-164-E  
Victor Valley Community College District  
**ORDER TO SHOW CAUSE**

Dear Interested Parties:

The above-referenced severance petition was filed with the Public Employment Relations Board (PERB or Board) on March 8, 2010. The Police Officers Association, Victor Valley Community College District (Association) seeks to create a bargaining unit consisting of "persons appointed as campus police officers or campus reserve police officers in compliance with California state laws and district policies" in the Victor Valley Community College District (District). On April 20, 2010, the Association clarified its position by explaining that certain individuals employed by the District as either campus police officers or campus reserve police officers are employed as peace officers, but do not possess the required certifications to actually be a peace officer in California. The Association seeks to create a unit of campus police officers and campus reserve police officers, but seeks to exclude all persons in those positions who do not possess what the Association asserts is the proper peace officer certifications.

Campus police officers and campus reserve police officers are currently in a wall-to-wall classified bargaining unit that is exclusively represented by California School Employees Association, Chapter 584 (CSEA). PERB's records show that CSEA has represented this unit since May 11, 1976. On March 24, 2010, CSEA filed a statement in opposition to the Association's severance petition. CSEA questioned whether the Association had the support of a majority of the employees in the proposed unit. CSEA also questioned the appropriateness of the bargaining unit described by the Association.

On April 23, 2010, PERB made the administrative determination that the proof of support submitted with the Association's severance petition was sufficient to meet the requirements of PERB Regulation 32050(b).<sup>1</sup> On May 10, 2010, the District declined to recognize the Association as the exclusive representative of the proposed unit due to the outstanding issues raised by CSEA. On May 19, 2010, CSEA reiterated its position challenging the appropriateness of the proposed unit.

On July 7, 2010, PERB conducted an informal conference to explore settlement and clarify the issues raised by the parties. The matter was not resolved during this conference.

**Facts:**

PERB's investigation into the issues raised by the parties uncovered the following facts.

According to the Association, to be considered a "peace officer" under the California Penal Code, the officer must possess a certificate demonstrating completion of a recognized peace officers' training course, as well as a certificate demonstrating successful completion of a psychological evaluation. Again, according to the Association, four of the twelve individuals currently employed by the District as either a campus police officer or a campus reserve police officer do not possess at least one of these two required certificates. According to the Association, those employees who do not qualify to be considered a peace officer under the California Penal Code are not authorized to perform the duties of a peace officer which primarily include carrying a firearm, making arrests and writing citations for traffic violations other than parking violations (moving violations).

The job description for the campus police officer position describes the position's job duties as follows:

Under the direction of an area administrator, patrol and guard campus property, buildings and equipment to protect against theft, vandalism and fire; maintain order, security and prevent illegal acts; enforce campus parking and traffic regulations, state and local laws; perform investigative duties relating to campus incidents; issue citations and make arrests as necessary; act as a branch of the criminal justice system.

It is undisputed that this is an accurate description of campus police officers' duties. It is further undisputed that these are also the duties of the campus reserve police officer position. According to the District, the main duties of both of these positions are to patrol the District's property, assist students and staff as escorts or by opening locked vehicles, and drafting reports

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<sup>1</sup> PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

on various incidents observed while on duty. The District maintains that its police department makes fewer than 10 arrests and issues fewer than 10 moving violation citations per year.

All campus police officers and campus reserve police officers are supervised by the District's Chief of Police. Both positions are paid at range 13 on the District's salary scale. All employees in these two positions wear a uniform consisting of either a blue dress shirt and slacks or a white dress shirt and slacks. Campus police officers are classified as such because they are given a regular work shift by the District. Campus reserve police officers do not work a regular shift but are called to fill-in when a campus police officer is absent or when the District hosts an event that requires additional security personnel. Four campus reserve police officers have not been given a work assignment from the District for more than one year. This includes individuals who, according to the Association, possess all the required certifications to be classified as a peace officer as well as individuals who do not possess such certifications.

**Discussion:**

The Educational Employment Relations Act (EERA) section 3545(a)<sup>2</sup> 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, 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.

In making unit determinations under EERA section 3545(a), the Board considers factors such as: (1) the community of interest among employees; (2) the effect on the efficient operations of the school district; and (3) the representation and negotiations history for the employees involved. (*Long Beach Community College District* (1989) PERB Decision No. 765; *Rio Hondo Community College District* (1979) PERB Decision No. 87.)

In *Long Beach Community College District* (1999) PERB Decision No. 1315, the Board found that a unit of police officers at a community college district was appropriate where the above-described factors supported that conclusion. That case concerned the appropriateness of a bargaining unit consisting of all the employer's police officers. In the present case, the Association seeks to create a bargaining unit consisting of all campus police officers and campus reserve police officers who have completed both levels of certification that the Association contends are necessary to be considered a peace officer under the Penal Code. Thus, the issue currently before PERB is whether such a unit is appropriate.

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<sup>2</sup> EERA is codified at Government Code section 3540 et seq. The text of EERA and PERB Regulations may be found at [www.perb.ca.gov](http://www.perb.ca.gov).

1. Community of Interest

To determine whether a community of interest exists among employees, the Board considers a variety of factors such as duties, wages, hours, benefits, supervision, qualifications, and interchange among employees. (*San Diego Community College District* (2001) PERB Decision No. 1445, citing *Office of the Santa Clara County Superintendent of Schools* (1978) PERB Decision No. 59.) Such determinations are made after considering the totality of the circumstances. (*Ibid.*) In severance cases, the petitioner must show that the proposed unit has a “separate and distinct community of interest” from the existing bargaining unit. (*Lodi Unified School District* (2001) PERB Decision No. 1429.)

Applying these factors to the present petition, it is undisputed that all campus police officers and campus reserve police officers are paid at the same range of the salary scale and receive the same benefits. All employees in both positions are supervised by the District’s Chief of Police. In addition, all employees in both positions wear similar uniforms. Such similarities are evidence that all campus police officers and campus reserve police officers, regardless of the certificates possessed, share a community of interest with one another.

In addition, it is undisputed that all campus police officers and campus reserve police officers have the same job duties including patrolling the District’s property, providing security, conducting investigations, and enforcing traffic and other local laws. The Association asserts that the four individuals employed as campus police officers or campus reserve police officers do not possess the required certifications and therefore cannot perform arrests or issue citations for moving violations. This assertion is disputed by both the District and CSEA. However, these two job duties account for a relatively small proportion of campus police officer and campus reserve police officer duties.<sup>3</sup> Thus, irrespective of this dispute, all campus police officers and campus reserve police officers appear to have substantially similar job duties.

It is also undisputed in this case that all campus police officers and campus reserve police officers are required to possess the same qualifications. As mentioned above, there is a dispute over whether all of the employees in these classifications possess such certifications, but given the similarities amongst all campus police officers and campus reserve police officers, it is not necessary to resolve this dispute. Based on these similarities, it appears that all campus police officers and campus reserve police officers share a community of interest. Accordingly, the specific positions identified in the Association’s petition do not have a community of interest separate and distinct from other positions in CSEA’s bargaining unit. (See *Lodi Unified School District, supra*, PERB Decision No. 1429.) This disfavors finding that the petitioned-for unit is appropriate.

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<sup>3</sup> According to the District, the entire District police department makes fewer than 10 arrests and issues fewer than 10 citations for moving violations per year.

## 2. Efficiency of the District's Operations

The efficiency of operations factor addresses what effect, if any, the proposed unit configuration has on the employer's operations. (*San Francisco Community College District* (1994) PERB Decision No. 1068.) For example, the Board has recognized that a unit configuration that results in a "proliferation of small units" can adversely affect an employer's operations. (*Ibid.*) The Board has also found that the additional obligations an employer incurs from administering and negotiating with another bargaining unit, under certain circumstances, may adversely affect the employer's operations. (*State of California (Department of Personnel Administration)* (1993) PERB Decision No. 988-S.)

In the present case, the Association proposes dividing campus police officers and campus reserve police officers into two different units depending solely on whether the employees in those positions possess certain certifications. The Association's proposal would require the District to negotiate the terms and conditions of employment for campus police officers and campus reserve police officers with both the Association and with CSEA, even though the positions share many of the same working conditions. Such a proposal would likely result in duplication of the District's negotiation efforts. In addition, the Association's proposal allows for the situation where two employees in the same job classification and with similar job responsibilities could be subject to different working conditions depending on which organization the employee is represented by. This could result in the undesirable possibility that employees in the positions at issue will decide whether to obtain the proper training and certification based on which employee organization, CSEA or the Association, provides them with more favorable working conditions. Such a possibility adversely affects the District's ability to manage its employees as well as operate its police department. For all of these reasons, the unit proposed by the Association appears to negatively affect the efficiency of the District's operations.

## 3. History of Representation

Another factor considered in unit determinations is the extent to which the representative organization for the positions at issue have been capable of effectively representing those positions in subjects that are within the scope of representation. (*Los Angeles Unified School District* (1998) PERB Decision No. 1267.)

In the present case, CSEA has represented the District's classified employees' unit, including campus police officers and campus reserve police officers, since approximately May 11, 1976. There was no indication from the parties that CSEA's representation of campus police officers and campus reserve police officers changes depending on whether employees in those positions possess the required certifications. In addition, no party has presented information at this point regarding the effectiveness or ineffectiveness of CSEA's representation of campus police officers or campus reserve police officers. Based on the information provided by the parties, this factor does not weigh heavily in favor of or against the Association's proposed unit.

However, given the lack of a separate and distinct community of interest among the positions included in the proposed unit, as well as the potentially adverse consequences the proposed unit may have on the District's operations, the bargaining unit described in the Association's petition does not appear to be an appropriate unit.

In light of the above, the Association is afforded this opportunity to SHOW CAUSE as to why its severance petitions should not be dismissed for seeking to create an inappropriate bargaining unit. Factual assertions must be supported by declarations under penalty of perjury by witnesses with personal knowledge and should indicate that the witness, if called, could competently testify about the facts asserted. If the facts asserted are reliant on a writing, the writing must be attached to the declaration and authenticated therein. Legal argument and supporting materials must be filed with the undersigned no later than August 18, 2010. Service and proof of service pursuant to PERB Regulation 32140 are required.

Upon receipt of the Association's argument and factual assertions, or the expiration of the time allowed for same, the undersigned shall contact each of the parties regarding further case processing steps, including a deadline for responses to the Association's submittal, if requested.

Sincerely,

Eric J. Cu  
Regional Attorney

EC