STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

WHEATLAND ELEMENTARY SCHOOL DISTRICT, Employer, and SCHOOL SECRETARIES II GROUP OF THE WHEATLAND SCHOOL DISTRICT, Petitioner, and CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION AND ITS WHEATLAND CHAPTER 626, Exclusive Representative.	Case No. SA-SV-150-E PERB Decision No. 1434 May 4, 2001

Appearances: Pam Barrington, Secretary, for School Secretaries II Group of the Wheatland School District; California School Employees Association by Maureen C. Whelan, Attorney, for California School Employees Association and its Wheatland Chapter 626.

Before Amador, Baker and Whitehead, Members.

DECISION

AMADOR, Member: This case comes before the Public Employment Relations Board (Board) on exceptions filed by the California School Employees Association and its Wheatland Chapter 626 to a hearing officer's proposed decision (attached) granting a severance petition filed by the School Secretaries II Group of the Wheatland School District. The petition seeks to establish a separate unit of employees of the Wheatland Elementary School District in the school secretary classification.

After reviewing the entire record, the Board hereby affirms the proposed decision and adopts it as the decision of the Board itself.

ORDER

The severance petition in Case No. SA-SV-150-E is hereby GRANTED. Accordingly, a unit of the Wheatland Elementary School District's employees in the secretary I and secretary II classifications is found to be appropriate for meeting and negotiating provided an employee organization becomes the exclusive representative.

The employee organizations whose names shall appear on the ballot are the California School Employees Association and its Wheatland Chapter 626 and School Secretaries II Group of the Wheatland School District, unless one of those organizations informs the Board in writing, within 15 workdays after the employer posts the Notice of Decision, that it does not desire to participate in the election. An election shall be conducted at the end of the posting period in such unit if: (1) both of the above-named employee organizations desire to participate in the election, or (2) only one organization desires to participate and the employer does not grant voluntary recognition.

The Board hereby ORDERS that this case be REMANDED to the Sacramento Regional Director for proceedings consistent with this Decision.

Members Baker and Whitehead joined in this Decision.

APPENDIX

NOTICE OF DECISION
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California

CASE: WHEATLAND ELEMENTARY SCHOOL DISTRICT
Case No. SA-SV-150-E
PERB Decision No. 1434

EMPLOYER: WHEATLAND ELEMENTARY SCHOOL DISTRICT
P.O. Box 818
Wheatland, CA 95692

EMPLOYEE ORGANIZATION
PARTIES TO PROCEEDING:

California School Employees Association and its Wheatland Chapter 626
8217 Auburn Blvd.
Citrus Heights, CA 95610

School Secretaries II Group of the Wheatland School District
P.O. Box 818
Wheatland, CA 95692

FINDINGS:

The Board finds the following unit is appropriate for meeting and negotiating, provided an employee organization becomes the exclusive representative:

Unit title: School Secretaries

Shall include: The classifications of School Secretary I and School Secretary II

Shall exclude: All other employees, including management, supervisory and confidential employees.

Pursuant to PERB Regulation section 33450, within ten days following issuance of this Notice of Decision, the Wheatland Elementary School District (District) shall post on all employee bulletin boards in each facility of the employer in which members of the unit described in the decision are employed, a copy of this Notice of Decision. The Notice of Decision shall remain posted for a minimum of 15 workdays. Reasonable steps shall be taken to ensure that this notice is not reduced in size, altered, defaced or covered with any other material.

The employee organizations whose names shall appear on the ballot are California School Employees Association and its Wheatland Chapter 626 and the School Secretaries II Group of the Wheatland School District, unless one of these organizations informs the regional director in writing, within 15 days after the employer posts the Notice of Decision, that it does not desire to participate in the election. The regional director shall conduct an election at the end of the posting period in such unit if: (1) both of the above named employee organizations desire to participate in the election, or (2) only one organization desires to participate and the employer does not grant voluntary recognition.

Dated:_____

WHEATLAND ELEMENTARY
SCHOOL DISTRICT

By:_____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR A MINIMUM OF FIFTEEN (15) WORKDAYS. REASONABLE STEPS SHALL BE TAKEN TO ENSURE THAT THIS NOTICE IS NOT REDUCED IN SIZE, ALTERED, DEFACED OR COVERED BY ANY OTHER MATERIAL.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

WHEATLAND ELEMENTARY SCHOOL DISTRICT, Employer, and SCHOOL SECRETARIES II GROUP OF THE WHEATLAND SCHOOL DISTRICT, Petitioner, and CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION AND ITS WHEATLAND CHAPTER 626, Exclusive Representative.	REPRESENTATION CASE NO. SA-SV-150-E PROPOSED DECISION (12/21/2000)

Appearances: Pinnell & Kingsley, by Kim Kingsley Bogard, Attorney, for Wheatland Elementary School District; Pam Barrington and Marlene Garcia, Representatives, for School Secretaries II of the Wheatland School District; and Sharon R. Furlong, Senior Labor Relations Representative, for California School Employees Association and its Wheatland Chapter 626.

Before Les Chisholm, Regional Director.

PROCEDURAL HISTORY

On March 7, 2000, the School Secretaries II Group of the Wheatland School District (Petitioner) filed a severance request with the Wheatland Elementary School District (District) and Public Employment Relations Board (PERB or Board) seeking to establish a separate unit of employees of the District in the school secretary II (SSII) classification. The severance request was amended on March 10, 2000, to include the school secretary I (SSI) classification.

The employees covered by the severance request are included in a wall-to-wall classified unit represented by California School Employees Association and its Wheatland Chapter 626 (CSEA).

CSEA submitted a response opposing the severance request on March 22, 2000. CSEA argued that, based on community of interest and bargaining history, the proposed unit was not an appropriate unit under PERB precedent.

By letter dated March 27, 2000, the District submitted a statement in support of the severance request, arguing the proposed unit is presumptively appropriate under PERB precedent and that its approval would add only a slight burden to the District in dealing with an additional bargaining unit.

On March 30, 2000, PERB issued a determination that the severance request had been timely filed with adequate proof of support. That determination letter also noted that the employer could not grant voluntary recognition to the Petitioner, under PERB's regulations,[1] due to the expressed opposition of CSEA.

A settlement conference with the parties on May 15, 2000, failed to resolve the unit appropriateness dispute. A formal hearing was then held on July 25, 2000. Briefs were filed by all parties, and the case was submitted for decision on October 16, 2000.

FINDINGS OF FACT

The District operates four schools, and has an average daily attendance of 1,687. The four schools are Wheatland (grades K-3), Bear River (4-8), Lone Tree (K-3) and Far West (4-6). The District employs a total of 210 employees, including 94 positions in the classified

[1] PERB's regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

bargaining unit. The classified bargaining unit includes secretaries, library technicians, food service employees, custodians, maintenance and grounds employees, paraeducators, and bus drivers. Excluded from the classified unit as confidential employees are an administrative assistant, payroll technician, two administrative secretaries and the business manager.[2]

The administrative organizational chart of the District has a director of special projects, food services director, supervisor of maintenance, operations and transportation, site principals, business manager and administrative assistant reporting to the superintendent. The District librarian/technology coordinator reports to the director of special projects.

SSII's

SSII's are employed at each of the four schools and are supervised by the site principal. Both Bear River and Lone Tree have two SSII positions. They are employed 11 months a year for 8 hours a day and may even be required to work on storm emergency days to make sure that children are not dropped off at the school.

The SSII's duties include responsibility for the front office at the school, performing a variety of complex clerical/secretarial duties and routine administrative functions on behalf of the principal. They are generally the initial point of contact for visitors, including students, faculty, parents and members of the general public, and frequently deal with visitors who have complaints or questions. The office has to be staffed at all times. SSII's deal with child protective services and welfare issues, and have access to confidential information relating to students and parents. The secretaries schedule IEPs, which are meetings with parents, school

[2] There are no office technical or business services employees at the District office who are not considered confidential employees.

personnel and students relating to special education programs and services, and type minutes from those meetings.

The SSII's perform bookkeeping functions for student body accounts, arrange and coordinate school and community activities at the school site, schedule meetings and maintain calendars for administrative and other school personnel, register students, maintain attendance records, maintain a variety of other student records such as health, enrollment and transcripts, produce a variety of materials including newsletters and correspondence, and answer questions concerning the school's program. They maintain and operate office equipment and help train new personnel, such as teachers, who need to be able to operate equipment. They type evaluations for both classified and certificated personnel.

The SSII's also have responsibilities involving student health issues in the absence of the school nurse, including making sure that children take medication, administering first aid, and making 911 calls when necessary. In terms of medical problems, they have had to deal with everything from head lice to applying band aids to dealing with such matters as head wounds and broken bones.

The position requires a high school diploma or equivalent. The SSII is paid on salary range number 14.

SSI

The only SSI position is located at Lone Tree School. The position is part-time (3 or 3 and ½ hours per day). According to testimony the SSI is supervised by the school psychologist but the official job description indicates the position reports to the school principal.

The job description lists duties of an SSI that are generally similar to those of an SSII, except that the position is not located in the school's front office and the function is limited to

providing clerical/secretarial support for the school psychologist. There is no indication in the record that the SSI has the same first aid functions as the SSII.

The SSI position also requires a high school diploma or equivalent. The SSI is paid on salary range number 9.5.

Library Technician and Senior Library Technician

The library technicians and senior library technician work 8 hours a day, 5 days per week, 10 months a year. Two library technicians are located at Lone Tree School, and the senior library technician is located in a room off the back of the library at Lone Tree. At Far West, Wheatland and Bear River, there is one library technician. They all report to the District librarian/technology coordinator, Jim Collins. Mr. Collins' office is in the District office in Wheatland.

The job classifications of library technician and senior library technician were titled library clerk I and II prior to a reclassification and salary upgrade approved in 1996-1997. The upgrades received were from range 9 to 11 for the library technician and from 11 to 13 for the senior library technician. The job title changes and upgrades came about because of technology changes, particularly involving the use of computers in the libraries. As a part of the transition from the old record keeping system to the computer-based system, the technicians did the data entry to transfer information from cards into the computer data base.

The library technicians assist students in either finding the books they need or, depending on the student's age, showing them how to use the computer to search for the book they would like to read or need to find. At the Lone Tree school, for example, they typically will have 13 classes at minimum that come in to use the library each day, with 200 to 300 students per day. As indicated by the job description, their overall function includes providing

support for classroom instruction and library services. This function includes orientation sessions and reading to students.

The District librarian estimated that the orientation sessions require approximately 10 percent of the library technicians' time on an annual basis. He further testified that the "vast majority" of their time is spent in instruction related activities, including the orientations, reading stories, and helping students locate books and materials.

Library technicians can be required to monitor student behavior and discipline students.

The duties of library technician also include basic circulation functions such as checking books and other library materials in and out, following up on overdue materials, and inspecting incoming materials for damage. They catalogue, shelve and inventory materials using established systems including the Dewey Decimal format. They mend and recover books and magazines and arrange for repairs to damaged books. After new books have been catalogued, they make sure the bar code information shows up in the computer and enter it manually if necessary.

They run reports to show overdue books or what is owed for books, whether books are damaged, and prepare notices to send home to parents. They deal with parents who come in to question notice of a lost or damaged book. They handle first aid when kids come in with a skinned knee or other problem and, after initial assistance, send them to the school secretary.

When a library technician is absent, the library may be closed but substitutes are also used to keep the libraries open.

Library technicians must have a high school diploma or equivalent, be able to type and have knowledge of the Dewey Decimal and other standard library systems. They take the same

proficiency test in English that instructional aides are required to take. The District librarian has provided computer courses for the library technicians including use of the Internet.

The senior library technician orders books and supplies for all four libraries, and tracks both general and categorical fund budgets involved in these expenditures. She maintains a running database of things that need to be ordered, does the actual ordering, files records of purchases and invoices, processes books and supplies that come in and makes sure they are distributed. The senior library technician is also responsible for cataloging the new books. Her duties do not include processing text books.

The senior library technician performs some secretarial functions for the District librarian, including typing correspondence, making phone calls and doing filing.

The senior library technician has a first aid kit in her room. She has helped sick students. She has not had any medical emergency situations to deal with. Once initial assistance has been provided, the injured or sick child is taken to the school office.

The senior library technician must have a high school diploma or equivalent, have first aid or CPR certification, and have one year's experience as a library assistant or technician.

Assistant Grant Coordinator

This position performs a variety of clerical and secretarial duties in support of the grant coordinator. These duties include answering the telephone, typing, handling sensitive records such as student academic and health records, ordering supplies, operating office equipment, filing, and preparing reports. The position can be used to assist with day-to-day operations of the school office. The assistant coordinator, located at Lone Tree School, is supervised by the grant coordinator, who reports to an assistant principal, who reports to the Lone Tree principal. The position is funded at 17.5 hours per week, and is placed on range 9 of the salary schedule.

Sources of Funding

SSI and II positions, as well as the senior library technician, are funded by the District general fund. The District funds the library technician positions with California Lottery monies that, while shown on an unrestricted line in the general fund, the District considers restricted to instructional purposes. Paraeducator positions are funded by categorical funding.

Representation History

CSEA has represented the established unit since voluntary recognition was granted in May 1976. The CSEA contract provides that medical, dental and other benefits generally apply to any four hour or more classified employee, including the secretaries. The parties' agreement includes an agency shop provision.

The CSEA chapter has co-presidents, one of whom is a school bus driver. The most recently formed negotiating team for the chapter included the chapter vice-president, two custodians, a bus driver, and a paraeducator. At least two secretaries were asked to participate on the team, but they declined.

Among issues brought to CSEA by unit employees over the past few years was, in 1998-99, a requested change to allow use of vacation by school secretaries through December instead of August. The contract was amended to reflect that change. In listing issues addressed since 1994, this was the only issue identified by CSEA specific to the secretaries though they were covered by various other issues that affected all employees.

Changes in job classification for the library technicians and senior library technician were negotiated in 1996-97 and the employees received upgrades in February 1997. SSII's requested an upgrade in 1998. The SSII classification had not been looked at in about twelve years and the secretaries believed that there were duties that had been added that would support

an upgrade in pay. They submitted their request to CSEA, and CSEA then opened up the idea of a reexamination of job duties and possible upgrades to every classification in the bargaining unit.

In January 1998, based on the request by the secretaries, CSEA requested that SSII's move from range 14 to 17 and have their title changed to administrative assistant. CSEA submitted other reclassification and upgrade requests, including for the warehousemen and custodians, at the same time.

The cost of the proposed upgrades for secretaries was $26,890. The District at the time stated there was only approximately $45,000 in new money for pay or benefit increases for the classified unit. CSEA was also seeking increases for other employees at the time and trying to extend benefits to employees of less than four hours. The District proposed a more general review of job descriptions, including issues related to compliance with the Americans with Disabilities Act , and then negotiate the recommendations of the study in the following year. In the 1997-98 negotiations, the reclassification issue was dropped and CSEA ratified an agreement that included no reclassifications but with a 3.4 percent salary increase for all employees in the bargaining unit.

Interchange

There is one current SSII who worked previously as a library technician and another previously worked as a paraeducator.

As noted, each school site has at least one SSII and at least one library technician. The SSI and senior library technician are both located at Lone Tree. Each school site also has custodians, food service workers, and paraeducators.

The senior library technician's contact with the school secretaries is infrequent, involving occasional contact about a book or supply order. She communicates more often with the District office.

At Wheatland School, the library technician fills in for the secretary at the lunch break for a ½ hour. The coverage is primarily for the purpose of answering the phone but other functions may be performed as well. The library technician may bring her own work to do while she is there.

POSITIONS OF THE PARTIES

Petitioner

Petitioner contends that the job duties of school secretaries distinguish them from other classified employees represented by CSEA and warrant approval of the requested severance. Petitioner cites Sweetwater Union High School District (1976) EERB[3] Decision No. 4 (Sweetwater) as authority for approval of office technical employees as an appropriate unit.

Petitioner disputes CSEA's argument that other District employees have like duties based on their use of computers. Petitioner argues that no other classified employees have the same responsibilities as secretaries, nor do other classified employees have the same working conditions (11-month employees, nursing duties, person in charge in absence of school principal). Petitioner contends their duties and working conditions are more akin to those of confidential employees than other positions in the bargaining unit.

Petitioner also contends that school secretaries have not been effectively represented by CSEA. Petitioner cites CSEA's decision in 1998 to drop a proposal for an upgrade because it

[3] Prior to January 1, 1978, PERB was known as the Educational Employment Relations Board.

would cost too much money, and the fact that the decision was made without communicating with the secretaries.

District

The District contends that the unit sought by Petitioner is presumptively appropriate under Sweetwater, as it encompasses all office-technical employees who are not excluded as confidential. The District acknowledges that one other clerical classification exists (assistant grant coordinator) but, noting that it will cease to exist at the end of June 2001, argues that it would be an "odd result to deny the recognition of a bargaining unit based on the exclusion of a classification that will cease to exist in a matter of months."

The District disagrees with CSEA on the question of whether the library technicians are clerical positions. Citing descriptions of office technical employees in Sweetwater, Sacramento City Unified School District (1977) EERB Decision No. 30 (Sacramento) and Marin Community College District (1978) PERB Decision No. 55 (Marin), the District contends that library technicians have as their primary purpose furthering the educational program and that their clerical duties are "simply a by-product" of this purpose and, thus, library technicians are distinguished from the school secretaries.

The District also argues that, even if not a presumptively appropriate unit, the proposed unit of school secretaries is "an appropriate" unit under applicable Board precedent. In support of this alternative theory, the District contends that school secretaries have a community of interest that is separate and distinct from other classified employees, including the assistant grant coordinator and library technicians. The District finds distinctions between the secretaries and assistant grant coordinator in the areas of compensation, hours of employment and lines of supervision. The District finds the secretaries and library technicians

distinguishable in the areas of work function, compensation and lines of supervision, while they are distinguished from the senior library technician by work function and supervision.

The District also contends that representation history supports creation of the proposed unit, pointing to evidence of internal conflicts within CSEA that contributed to the Petitioner's loss of confidence in CSEA, and the school secretaries' dissatisfaction with efforts in support of their reclassification and upgrade.

Finally, the District states that it does not contend that approval of the requested unit would impair or harm its operational efficiency.

CSEA

CSEA urges that the proposed severance be denied because the requested unit is not an appropriate unit under applicable PERB precedent, including Sweetwater. Citing Fremont Unified School District (1976) EERB Decision No. 6 (Fremont), Beverly Hills Unified School District (1978) PERB Decision No. 63, and Marin, CSEA argues that PERB has long favored an office technical unit that, unlike the requested unit, includes typist clerks, education clerks, secretaries, library technicians and other office support employees.[4] CSEA further notes that, in Sweetwater, the Board included an instructional aide-clerical classification in the office technical rather than paraprofessional unit and also included the school clerk/library technician in the office technical unit.

CSEA also contends that the employees in the proposed unit lack geographic or functional unity, that the Petitioner has failed to establish a separate and distinct community of

[4] In its brief, CSEA expressed confusion over whether the Petitioner intended to include the SSI position. As noted above, Petitioner amended its petition on March 10, 2000, to include the SSI position and confirmed this intent on the record during the hearing in this matter.

interest shared by the school secretaries, and that the representation history does not support a severance of these employees. CSEA last argues that, despite an acknowledged absence of evidence, establishment of the separate unit would have a detrimental effect on the District's efficiency of operations.

ISSUE

Is the proposed unit an appropriate unit for purposes of meeting and negotiating pursuant to the Educational Employment Relations Act (EERA)?[5]

DISCUSSION

Unit Determination Criteria

In each unit determination case, the Board is bound to follow the criteria set forth in EERA at section 3545(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.

In Sweetwater, the Board referenced the statement of legislative intent contained in EERA section 3540[6] in holding that:

[5] The EERA is codified at Government Code section 3540 et seq.

[6] The relevant portion of section 3540 quoted by the Board reads as follows:

> . . . Implicit in this statement of legislative intention is the notion that the employees will have the ability to choose an organization which is an effective representative. An effective representative will generally be one largely determined by the community of interest and established practices of the employees rather than the efficient operation of the school district.

However, in the same decision, the Board also noted that

> [i]t is a legitimate concern that excessive fragmentation of negotiating units may burden an employer with multiple negotiating processes and postures and with a variety of negotiated agreements difficult to administer because their provisions differ. . . .

The Board ruled early in its history that it must in each case determine the "appropriateness" of a unit without being limited only to a choice between "an" or the "most" appropriate unit, and must in each case weigh and balance the statutory criteria in order to achieve consistency of application and the general objectives of EERA. (Antioch Unified School District (1977) EERB Decision No. 37 (Antioch).)

In Sweetwater, the Board announced its preference for three units of classified employees: instructional aides; office-technical and business services; and operations and support services. The significance of the Sweetwater "preferred" units was further explained in Compton Unified School District (1979) PERB Decision No. 109 (Compton) where the Board held that

---

> It is the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice, to be represented by the organizations in their professional and employment relationships with public school employers, to select one employee organization as the exclusive representative of the employees in an appropriate unit, . . .

> a variant unit will not be awarded unless it is more appropriate than the Sweetwater unit based on a separate and distinct community of interest among employees in the variant unit or other section 3545(a) criteria. [Emphasis added; fn. omitted.]

The Sweetwater units were held in Antioch to

> reflect a proper balance between the harmful effects on an employer of excessive unit fragmentation and the harmful effects on employees and the organizations attempting to represent them of an insufficiently divided negotiating unit or units. . . .

More recently, in South Bay Union Elementary School District (1990) PERB Decision No. 816 (South Bay), the Board reiterated its preference for Sweetwater units, as well as its disinclination to approve a wall-to-wall classified unit, when it reversed a decision finding a wall-to-wall classified unit appropriate for a small school district.[7] Citing Shasta Union High School District (1977) EERB Decision No. 34 and Greenfield Union School District (1977) EERB Decision No. 35, the Board did not foreclose the possibility of ever finding a wall-to-wall unit appropriate but stated that such a finding could only be made "where there exists interchangeable functions and parallel working conditions consistent with the community of interest required to find a unit appropriate." (South Bay.) The Board rejected the proposed wall-to-wall unit in South Bay because the parties "failed to present evidence that interchangeable functions and parallel working conditions exist among the classified employees."

When a petition is filed to sever a presumptively appropriate Sweetwater unit from a larger, non-Sweetwater unit, the burden is on those opposing the severance to show that the established unit is more appropriate than the requested unit. (Livermore Valley Joint Unified

[7]The wall-to-wall unit favored by the hearing officer in that case would have included only 37 employees.

School District (1981) PERB Decision No. 165 (Livermore); San Juan Unified School District (1995) PERB Decision No. 1082 (San Juan); Temple City Unified School District (1995) PERB Decision No. 1110.) Thus, if the requested unit is a Sweetwater style office technical unit, the burden would be on CSEA to show the established wall-to-wall unit is more appropriate. However, even if the requested unit is not presumptively appropriate under Sweetwater, the unit may still be approved if it is "an" appropriate unit. (Long Beach Community College District (1999) PERB Decision No. 1315 (Long Beach).)

Analysis

The Petitioner's arguments fail in certain respects to establish a credible basis for approval of the requested severance. For example, the emphasis placed by Petitioner on the SSII's role in first aid and other student health issues does not appear from the evidence to distinguish them from other classified employees, including bus drivers and library technicians.

There is certainly no persuasive evidence that the interests of secretarial employees have been "trampled upon or ignored" by CSEA. (State of California (Department of Personnel Administration) (1989) PERB Decision No. 773-S.) However, the SSII's efforts to obtain CSEA support and ultimate approval of an upgrade and reclassification does illustrate the tensions that are created by a wall-to-wall unit for an exclusive representative's attempts, even in good faith, to represent diverse interests.[8]

The record here reflects that CSEA and the District have had a longstanding but not always stable bargaining relationship. While CSEA has addressed the needs of secretarial

[8] As stated by Marcia Rice, CSEA's labor relations representative assigned to the District, "Wall-to-wall units are very interesting to negotiate for." (Hearing Transcript, p. 80.)

employees in certain respects, CSEA and the secretarial employees have opposing views on the relative importance of upgrades for the SSII classification and general wage increases. While secretarial employees have been represented on the CSEA negotiations team in the past, they have not participated recently.

The Board has recognized that negotiating history must be considered, along with other section 3545 criteria, as an important factor in evaluating a severance request. (Livermore.) However, the Board has also made clear that where the existing wall-to-wall unit was established by voluntary agreement and its appropriateness was not fully litigated before PERB, the negotiating history will not be granted the same deference to which it might otherwise be entitled. (Livermore; Long Beach.)

CSEA's opposition to the proposed unit emphasizes the omission of the library technician and senior library technician classifications. CSEA contends that these positions share a community of interest with the SSII and SSI and, consistent with PERB precedent, should be included in order to form a presumptively appropriate office/technical unit.

As noted by CSEA, the Board included library clerks in an office-clerical unit in Marin. However, the Board described that unit as one including employees who "do not regularly or primarily interact directly with students in connection with the educational program." Meanwhile, in the same decision, the Board placed the library technical assistant in a technical/quasi-professional unit. In Fremont, another case cited by CSEA, the Board included library clerks I and II with school secretaries and other clerical positions without discussion. In that case, the Board distinguished instructional aides from other classified employees, in part, by holding that other classified employees' duties "do not involve direct interaction with students and their educational development."

While the library technicians perform clerical functions, they clearly also perform functions directly related to the education of students. As the Board said in Sacramento, employees in a office/technical unit "perform only clerical and record keeping work." Thus, while library technicians and school secretaries may share certain interests relating to educational requirements, working indoors, and performance of clerical duties, PERB precedent clearly favors their placement in separate units based on the educational development functions of the library technician positions.

It follows logically, and the record evidence clearly demonstrates, that the senior library technician has more in common with the library technicians than with the SSII's or SSI. Thus, the Petitioner's exclusion of the senior library technician does not render the proposed unit inappropriate.

The working conditions, job duties, lines of supervision and educational requirements of the SSII and SSI classifications support finding the positions share a community of interest. Most important, they constitute with one exception the only non-confidential positions[9] that "perform only clerical and record keeping work" for the District.

The one exception is the assistant grant coordinator position. Based on the duties, working conditions, and supervision of this position, it clearly should be included in a Sweetwater office technical unit. While the District argues in its brief that the assistant coordinator position is budgeted from categorical funds and will cease to exist at the end of the current school year, the evidence is silent on both points.

Nevertheless, the District's ultimate argument, that omission of a single position should not serve to defeat an otherwise appropriate unit, is well taken. The omission of the assistant grant coordinator position does not allow finding the proposed unit presumptively appropriate, but approval of the requested unit requires only that it be determined to be "an" appropriate unit. (Antioch; Long Beach.)[10]

Conclusion

The finding here is that the SSII's and SSI share a community of interest based on common duties, function, working conditions and supervision. It is further held that their community of interest is separate and distinct from other classified employees of the District because they do not perform manual labor, operate heavy equipment or work outdoors (in contrast to such positions as custodians, groundsworkers and bus drivers) and do not (in contrast to paraeducators and library technicians) have as a regular or primary duty "direct interaction with students and their educational development." Their separate and distinct community of interest is also based on the fact that they alone, with the sole exception of a single, part-time position, are the only non-confidential classified employees who "perform only clerical and record keeping work" for the District.

---

[9] CSEA contends at one point that if the SSII's believe they are confidential employees they should have filed a unit modification petition rather than a severance request. This argument is disregarded, as neither EERA nor PERB regulations allow individual employees or a group of employees to file a petition to have their position(s) excluded as confidential. Only an employer or exclusive representative can file such a petition.

[10] Under State of California (Department of Personnel Administration), supra, PERB Decision No. 773-S, modification of the requested unit to include the assistant grant coordinator position is not an option.

PROPOSED ORDER

After an examination of the foregoing findings of fact and conclusions of law, and the entire record in this case, it is hereby ORDERED that the instant severance request is GRANTED. Accordingly, a unit of the District's employees in the secretary I and secretary II classifications is found to be appropriate for meeting and negotiating provided an employee organization becomes the exclusive representative.

The employee organizations whose names shall appear on the ballot are the California School Employees Association and its Wheatland Chapter 626 and School Secretaries II Group of the Wheatland School District, unless one of those organizations informs the undersigned in writing, within 15 workdays after the employer posts the Notice of Decision, that it does not desire to participate in the election. An election shall be conducted at the end of the posting period in such unit if: (1) both of the above-named employee organizations desire to participate in the election, or (2) only one organization desires to participate and the employer does not grant voluntary recognition.

Right of Appeal

Pursuant to California Code of Regulations, title 8, section 32305, this Proposed Decision and Order shall become final unless a party files a statement of exceptions with the Board itself within 20 days of service of this Decision. The Board's address is:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95814-4174
FAX: (916) 327-7960

In accordance with PERB regulations, the statement of exceptions should identify by page citation or exhibit number the portions of the record, if any, relied upon for such exceptions. (Cal. Code Regs., tit. 8 , sec. 32300.)

A document is considered "filed" when actually received before the close of business (5:00 p.m.) on the last day set for filing or when mailed by certified or Express United States mail, as shown on the postal receipt or postmark, or delivered to a common carrier promising overnight delivery, as shown on the carrier's receipt, not later than the last day set for filing. (Cal. Code Regs., tit. 8 , secs. 32135(a) and 32130.)

A document is also considered "filed" when received by facsimile transmission before the close of business on the last day for filing together with a Facsimile Transmission Cover Sheet which meets the requirements of California Code of Regulations, title 8, section 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 , sec. 32135(b), (c) and (d); see also Cal. Code Regs., tit. 8 , secs. 32090 and 32130.)

Any statement of exceptions and supporting brief must be served concurrently with its filing upon each party to this proceeding. Proof of service shall accompany each copy served on a party or filed with the Board itself. (See Cal. Code Regs., tit. 8 , secs. 32300, 32305, 32140, and 32135(c).)

Les Chisholm
Regional Director