

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Employer,

and

COALITION OF UNIVERSITY EMPLOYEES,

Exclusive Representative.

Case Nos. SF-UM-620-H
SF-UM-621-H

Request for Judicial Review
PERB Decision No. 2185-H

PERB Order No. JR-26-H
October 26, 2011

Appearances: Hanson Bridgett by Molly A. Lee, Attorney, for Regents of the University of California; Beeson, Tayer & Bodine by Peter McEntee, Attorney, for Coalition of University Employees.

Before McKeag, Dowdin Calvillo and Huguenin, Members.

DECISION

McKEAG, Member: This case comes before the Public Employment Relations Board (PERB or Board) on a request for judicial review filed by the Coalition of University Employees (CUE) of the Board's decision in *Regents of the University of California* (2011) PERB Decision No. 2185-H. In that case, an administrative law judge (ALJ) considered two petitions for unit modification. The first petition was filed by the Regents of the University of California (University) and sought to remove certain positions from the systemwide clerical and allied services bargaining unit (CX Unit). The second petition was filed by CUE and sought to modify the CX Unit to ensure that the duties performed by the incumbents in the disputed positions were appropriately assigned to classifications within the CX Unit.

The ALJ found that the positions at issue shared a greater community of interest with employees in non-clerical bargaining units and, therefore, were properly reclassified in

positions outside of the CX Unit. Accordingly, the ALJ granted the petition for unit modification filed by the University and dismissed the petition filed by CUE. The Board affirmed the ALJ's proposed decision.

The Board has reviewed the entire record in light of CUE's request for judicial review, the University's response and the relevant law. Based on this review, the Board denies CUE's request for judicial review.

DISCUSSION

The Higher Education Employer-Employee Relations Act (HEERA)¹ section 3564 describes the circumstances under which a party may obtain judicial relief of a unit modification determination. This section provides in relevant part:

No employer or employee organization shall have the right to judicial review of a unit determination except: (1) when the board in response to a petition from an employer or employee organization, agrees that the case is one of *special importance* and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint.

(Emphasis added.)

The Board applies a strict standard when reviewing requests for judicial review. (*The Regents of the University of California* (1998) PERB Decision No. 1301-H.) The Board has held that a case has "special importance" if: (1) there is a novel issue presented; (2) the issue primarily involves the construction of a unique statutory provision; and (3) the issue is likely to arise frequently. (*Trustees of the California State University* (2004) PERB Order No. JR-23-H (*Trustees*)).

¹ HEERA is codified at Government Code section 3560 et seq. All further statutory references are to the Government Code, unless otherwise specified.

In the instant case, the University is attempting to remove certain positions from the CX Unit through the process of reclassification. According to the University, the duties performed by the incumbents in the disputed positions have evolved over time such that the majority of the work in each position no longer constitutes bargaining unit work. Such reclassifications, however, are a routine aspect of labor relations and are, in fact, addressed in the parties' collective bargaining agreement. Accordingly, we find the issue presented in this case is not "novel". In addition, the resolution of this case does not involve the construction of a unique statutory provision; rather, it involves the interpretation of a PERB regulation.

Based on the foregoing, we find CUE failed to establish the first two elements of the test set forth in the *Trustees* case. Accordingly, this case lacks the "special importance" necessary for granting judicial review.

ORDER

The request for judicial review filed by the Coalition of University Employees of the Public Employment Relations Board's decision in *Regents of the University of California* (2011) PERB Decision No. 2185-H is hereby DENIED.

Members Dowdin Calvillo and Huguenin joined in this Decision.