

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

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| FOOTHILL-DeANZA COMMUNITY COLLEGE DISTRICT, Employer                            | ) |                      |
|   | ) |                      |
| and   | ) |                      |
|   | ) | Case No. SF-R-20     |
| CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, Employee Organization                  | ) | SF-R-79              |
|   | ) |                      |
| and   | ) | EERB Decision No. 10 |
|   | ) |                      |
|   | ) | March 3, 1977        |
| SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 715, AFL-CIO, Employee Organization | ) |                      |
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Appearances: Donald H. Ewing, Director, Education and Personnel Services, for Foothill-DeAnza Community College District; William Dobson, Attorney, for California School Employees Association, Chapter 416; Van Bourg, Allen, Weinberg and Roger by Stewart Weinberg, Attorney, for Service Employees International Union, Local 715, AFL-CIO.

Before: Alleyne, Chairman; Gonzales and Cossack, Members.

OPINION

PROCEDURAL HISTORY

Pursuant to Government Code Section 3544, California School Employees Association, Chapter 416 (CSEA), filed a request for recognition with Foothill-DeAnza Community College District seeking a comprehensive unit of all classified employees excluding management, supervisory and confidential employees and noon-duty supervisors. Service Employees International Union, Local 715, AFL-CIO (SEIU) filed an intervention requesting a "skilled trades and crafts" unit of approximately 90 of the 576 classified employees in the district. A unit determination hearing was conducted by a hearing officer of the Educational Employment Relations Board.

ISSUES

The first issue presented in this case is whether the "skilled trades and maintenance" unit requested by SEIU is appropriate.<sup>1</sup> The district and CSEA oppose this requested unit

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<sup>1</sup> The requested "skilled trades and maintenance" unit

and favor a single comprehensive unit.

The other issues are whether the employee in the following three job classifications are supervisory employees within the meaning of the Educational Employment Relationship Act: custodial foremana, grounds foreman and construction foreman. SEIU argues that the three job classifications are supervisory. Although it did not stte its position, CSEA appears to oppose the supervisory designation. The district takes no position on this issue.

#### DISCUSSION

The Board finds that the request unit of "skilled crafts and maintenance employees" is appropriate in the Foothill-DeAnza Community College District. The "skilled crafts and maintenance" unit petition for by SEIU in this case is similar to the "operations-support services" unit we found appropriate in the Sweetwater Unified School District decision.<sup>2</sup> The difference is that SEIU i Foothill-DeAnza did not petition for the "food services" employees.

The Sweetwater case established units for the classified service which are presumptively appropriate. The presumption is rebuttable. Further, a party may show that a unit which deviates from a presumptively appropriate unit is also appropriate. In this case, SEIU has shown that a unit of "skilled crafts and maintenance" employees is appropriate on the basis of a separate community of interest.

The functional characteristics of the "skilled crafts and maintenance employees" are very related. The functional relationship among these employees was one basis for the Board's decision to create an "operations-support services" unit in Sweetwater and other classified cases.<sup>3</sup> In the instant case, the record offers ample evidence to demonstrate that the skilled crafts and maintenance employees work primarily with their hands,

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includes the following job classifications: Crafts Leadman I, Crafts Leadman II, Maintenance Craftsman I, Maintenance Craftsman II, Crafts Maintenance Man I, Crafts Maintenance Man II, Utility Maintenance Man I, Utility Maintenance Man II, Pool Maintenance Man I, Pool Maintenance Man II, Typewriter and Office Repairman, Grounds Utility Leadman, Groundsman Gardener I, Groundsmand Gardener II, Groundsmand Gardener III, Custodian I, Custodian I (Matron), Custodian II, Refuse Truck Driver, Custodian Stage Assistant Warehouseman I and Warehouseman II.

<sup>2</sup> EERB Decision No. 4, November 32, 1976.

<sup>3</sup> Fremont Unified School District, EERB Decision No. 6, December 16, 1976; San Diego Unified School District, EERB Decision No. 8, February 18, 1977.

with tools and in various forms of manual labor, in contrast to the clerical and professional/technical employees who work with "paper". Only the skilled crafts and maintenance employees use safety equipment.

The educational qualifications of most of the classifications in SEIU's proposed unit are an education equivalent to the completion of the eighth grade, as well as an appropriate license if one is required by law, and one or more years of experience or journeyman training if it is applicable. In contrast, other classified employees, such as instructional assistants and technicians are required to possess a bachelor's degree. Special services employees and clerical workers must possess the equivalent of a 12th grade education.

In terms of the work location for the employees sought by SEIU, most skilled construction and maintenance employees report to the corporation yard of the Foothill-DeAnza District. The warehouse is also located in the corporation yard. Although gardeners are assigned to work on a particular campus, they report occasionally to the corporation yard. Custodial employees report to separate locations on each campus.

Regarding salary and benefits, hours of work and interaction of the employees, the record is insufficient to make any relevant distinctions among the various job classifications of classified employees except to note that there is a "special services salary schedule" for those classified employees that are generally described as professional or technical employees. The remainder of the classified employees are paid on the basis of a separate salary schedule.

Concerning the criterion of established practices, the parties stipulated to the following:

California School Employees Association has been recognized by the Foothill Community College District for approximately ten years under the Winton Act to represent an undifferentiated unit of all classified employees [in] employee/employer relations... For the academic year of 1974/75 and 1975/76 an independent organization by the name of employees of California Community Colleges, was also recognized for purposes of meeting and conferring under the Winton Act, by the Foothill Community College District with respect to an undifferentiated unit of classified employees ... In the school year 1975/76, after the date for formal recognition has passed, SEIU, 715, sought and obtained the right, informally, to represent individual employees, or groups of employees, in blue collar classifications on an informal basis, grievances, and for purpose of obtaining information concerning employees. And during a two-month period in the school year 1974/75, after the date for formal recognition had

passed, a local union of the International Brotherhood of Teamsters, sought recognition for a unit of blue collar employees, but recognition was denied on the basis of timeless.

Based on this stipulation regarding bargaining history, no further evidence was presented on this point. The stipulation does not suggest a unit different than the unit indicated by the community of interest criterion.

The testimony given on the efficiency of operation by the Director of Business Services also does not compel a unit different than that indicated by the community of interest criterion. The Director of Business Services testified that the district has "always insisted on the concept of a total staff", so the entire staff has always been treated equally, such as with regard to benefits. Also there is a "constant commingling" of the entire staff. He believes that the employees will suffer unrest and not be supportive of one another as a consequence of segregation into more than one unit. We have previously found that more than a single unit of classified employees does not unduly burden the efficiency of operation of a school district.<sup>4</sup> Multiple units consisting of discrete groups of employees which take cognizance of the different interests and working conditions of the employees can only enhance the district's ability to deal effectively with its employees.

Based on the foregoing facts demonstrating a community of interest among the "skilled crafts and maintenance" employees, we hold that these employees constitute a separate appropriate negotiating unit. We note that the unit does not include food services employees since the intervenor does not seek to represent this classification of employees.

The remaining classified employees in Foothill-DeAnza Community College District shall constitute a second negotiating unit. No party presented evidence indicating that the residual unit was inappropriate and we therefore do not find it appropriate.

#### Supervisory Issues

In Sweetwater, supra we indicated that Government Code 3540.1(m) is written in the disjunctive and that an employee need possess only one of the enumerated functions of duties to be a supervisor. We find that the custodial foreman, the construction foreman, and the grounds foreman do not possess any of the authorities or functions described in Government Code Section 3540.1(m) and therefore we include them in the unit previously described as a "skilled crafts and maintenance" unit.

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<sup>4</sup> Id.; supra note 2; and Pittsburg Unified School District, EERB Decision No. 3, October 14, 1976.

## Custodial Foreman

We find that the two custodial foreman are not supervisors.

Evidence concerning the supervisory status of custodial foreman was scant. The business Services Manager testified that the custodial foreman does not effectively recommend the termination of employees. He stated, "they initiate a recommendation but they do not necessarily always succeed." The custodial foreman prepares formal evaluations for the employees who work under him but these evaluations are reviewed by the next level supervisor. The custodial foreman is involved in the hiring process to a limited extent. He may participate in the interview and make recommendations, but the ultimate decision remains with the Manager of Plant Services. It was stated that the custodial foreman can recommend the promotion of custodians working under him, but there is no evidence to indicate whether or not these recommendations have any effect. The custodial foreman does not schedule the hours of work of the custodial staff. While it was stated that they may cause an employee to correct improperly performed work, it was not shown that they regularly inspect the work of other employees or require such correction.

The evidence does not demonstrate that the custodial foreman perform any of the activities enumerated in Government Code Section 3540.1(m) and they are therefore not supervisors within the meaning of the Educational Employment Relations Act.

## Construction Foreman

We find that the construction foreman are not supervisors.

There was little evidence regarding the construction foreman. The role of the construction foreman is to give advice to the crafts employees or to lay out a job and to help the maintenance supervisor and the electrician plan the construction work to be performed each week. Five carpentry and four painting employees report to the crafts leadmen, who then report to the construction foreman who in turn reports to the Maintenance and Construction Supervisor who reports to the Manager of Plant Services. The craft employees in the areas of electricity, plumbing, heating and ventilation report directly to the Maintenance and Construction Supervisor.

The Maintenance and Construction Supervisor prepares the written evaluations of the foreman and the leadman. The construction foreman prepares the evaluations of employees in the carpentry shop and counter-signs evaluations prepared by the leadman painter. Disciplinary action of an employee is recommended by a leadman through the foreman to the Maintenance and Construction Supervisor who must confer with the Manager of Plant Services prior to taking any formal action.

The evidence does not demonstrate tht the construction foreman perform any of the activities enumerated in Government Code Section 3540.1(m) and they are therefore not supervisors within the meaning of the Educational Employment Relations Act.

#### Grounds Foreman

We find that the grounds foremen are not supervisors.

The evidence on the grounds foreman was also very sparse. The grounds stff at each campus report to a grounds foreman who reports to Grounds Supervisor who reports to the Manager of Plant Services. The job description of the grounds foreman, admitted as e vidence without objection, published by the district, indicated that the grounds foreman, under direction, is to "plan, supervise and assist in the gardening and groundskeeping work of school grounds and landscaped areas and to do other work as required." The foregoing is not sufficient evidence of the supervisory nature of the position of grounds foreman and we therefore cannot conclude that the grounds foreman performs any of the functions detailed in Government Code Section 3540.1(m).

There are no clear indicia of the supervisory status of any of the three foremen mentioned above. Their duties and functions reflect more the nature of leadmen or senior journeymen than supervisors. There are two or three levels of intervening authority (Director of Business Offices, Manager of Plant Services, and Grounds Supervisor or Maintenance and Construction Supervisor in the cases of the grounds foreman and construction foreman respectively) between the foreman and the Superintendent.

Since it was not sufficiently proven that the foremen exercise any of the activities listed in Government Code Section 3540.1(m), we hold that they are not supervisors with the meaning of the Educational Employment Relations Act.

#### ORDER

The Educational Employment Relations Board directs that:

1. The following units are appropriate for the purpose of meeting and negotiating, provided an employee organization becomes the exclusive representative:

Unit A - The skilled trades and crafts employees, including the custodial foreman, construction foreman and grounds foreman; excluding all other employees, including noon-duty supervisor, and management, supervisory and confidential employees.

Unit B - All classified employees not included in Unit A; excluding all employees in Unit A, noon-duty supervisors, and management, supervisory and confidential employees.

2. The employees in the following job positions are not "supervisors" with the meaning of Government Code Section 3540.1(m):

custodial foreman, construction foreman, grounds foreman

3. The employee organizations have the 10 workdays posting period of the Notice of Decision in which to 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, or (2) if only one employee organization qualifies for the ballot and the employer does not grant voluntary recognition.

\_By: Raymong J. Gonzales, Member

Reginald Alleyne, Chairman

Jerilou H. Cossack, Member

Dated: March 1, 1977