

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



CALIFORNIA STATE EMPLOYEES' )  
ASSOCIATION, )  
 )  
Exclusive Representative, ) Case No. S-UM-416-S  
 )  
and ) PERB Decision No. 794-S  
 )  
STATE OF CALIFORNIA (DEPARTMENT )  
OF PERSONNEL ADMINISTRATION), )  
 )  
Employer. )  
\_\_\_\_\_ )

Appearances: Howard Schwartz, Attorney, for California State Employees' Association; Kenneth R. Hulse, Labor Relations Counsel for the State of California (Department of Personnel Administration).

Before Hesse, Chairperson; Craib and Camilli, Members.

DECISION

CRAIB, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Department of Personnel Administration (State) to the attached proposed decision of a PERB administrative law judge (ALJ). The State excepts to the ALJ's determination that state bargaining Unit 3 (Unit 3), the library and education unit, should be modified in such a way as to create a new state bargaining unit (Unit 21). The California State Employees' Association (CSEA) sought the unit modification to alleviate what it perceived as a serious conflict between Unit 3 members who teach or serve as librarians in state institutions, such as California Youth Authority, Department of Corrections, Department of Education schools for the deaf and blind, and diagnostic schools and those

Unit 3 members who work as consultants and field representatives for the Department of Education, librarians who do not work in institutions, state archivists, and instructors at the California Maritime Academy (CMA). The thrust of the State's argument is that the classifications currently represented in Unit 3 have a sufficient community of interest to remain in the same unit.

After reviewing the entire record, including the exceptions filed by the State, I find the ALJ's findings of fact to be free of prejudicial error and adopt them as the findings of the Board itself. I am also in agreement with the ALJ's conclusions of law and write separately to respond to certain issues raised by my dissenting colleague.<sup>1</sup>

#### DISCUSSION

Unit 3 was originally established by the Board itself during the state unit determination hearings after the passage of the Ralph C. Dills Act (Act).<sup>2</sup> (Unit Determination for the State of California (1979) PERB Decision No. 110-S.) The Board determined that these employees belonged in the same unit for two reasons.

First, all employees in this unit are licensed by the Department of Education or hold an advanced degree and perform at a responsible level often exercising

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<sup>1</sup>The State raised no arguments in its exceptions which were not fully and correctly addressed by the ALJ in the proposed decision; therefore, since we are adopting the proposed decision as the decision of the Board itself, we need not address the exceptions here.

<sup>2</sup>The Ralph C. Dills Act, formerly known as the State Employer-Employee Relations Act, is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references are to the Government Code.

independent judgment and are therefore entitled to a separate unit as professionals pursuant to section 3521 (c) . [<sup>3</sup>] Second, as employees who deliver related educational services, including teaching, consulting, and library services, they clearly share common interests and goals.

(Id, at p. 21.) Although the Board held that librarians and institutional teachers shared a community of interest with consultants because all performed tasks related to education, it did not fully address the criteria set forth in section 3521 of the Act.<sup>4</sup> The Board stated:

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<sup>3</sup>That subsection provides:

There shall be a presumption that professional employees and nonprofessional employees should not be included in the same unit. However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (b) establishes.

<sup>4</sup>Section 3521 provides, in pertinent part:

(a) In determining an appropriate unit, the board shall be governed by the criteria in subdivision (b) . . . .

(b) In determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements;

It is clear that employees in this unit perform related tasks, such as curriculum planning and evaluation of educational services and that they share concern on issues such as class size, safety conditions and professional development. Furthermore, education and library unit employees only work day shifts and enjoy eligibility for educational leave.

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and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

. . . . .

(Id, at p. 22.) As is evident from the record in the present case, the members of Unit 3 do not necessarily "share concern" on issues of class size, safety conditions and professional development. The record reflects that, particularly in the areas of class size and safety conditions, the members of the unit have significant differences. Although, as the ALJ pointed out, there is some community of interest among the members of Unit 3, i.e., levels of education and credentials, they have marked differences. The consultants and institutional teachers do not perform "functionally related services." Nor do they "work toward common goals." Indeed, the tasks performed by the consultants and institutional employees do not require common skills, working conditions or job duties. The job duties performed by the two groups of employees are vastly different and dictate that these groups be placed in different bargaining units. The institutional employees teach both academic and vocational classes directly to students, who have emotional handicaps, mental problems, or require special supervision. The consultants monitor school districts for compliance with state and federal requirements. Consultants spend significant amounts of time traveling to outlying school districts and spend none of their time teaching. Furthermore, since these two groups of employees do not share similar job duties or working conditions, they do not have "common supervision."

Thus, on the record currently before the Board,<sup>5</sup> the only

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<sup>5</sup>When making its determination in Unit Determination for the State of California, supra, PERB Decision No. 110-S, the Board may not have had a record which reflected the marked differences

similarity between the consultants and the institutional employees is their level of education. This similarity alone is insufficient to find that these two groups have the requisite internal and occupational community of interest to warrant placing them in the same unit.

My dissenting colleague, while recognizing that the "institutional employees have different working conditions, work exclusively in the institutional setting, lack any work-related contact with the noninstitutional employees, and work in a separate administrative and organizational structure . . ." (Dissenting opinion at p. 20), nevertheless, contends that the unit which the Board is establishing today is not more appropriate than the current configuration of Unit 3. The dissent focuses primarily on the placement of the CMA instructors and the teachers at the schools for the deaf and blind or at the Department of Education diagnostic school. (Id.)

I agree that the placement of these classifications in the units described in Appendices A and B is not perfect. However, section 3521 does not require the Board to ascertain the most appropriate unit. (Antioch Unified School District (1977) EERB<sup>6</sup> Decision No. 37, at p. 5-6 (interpreting similar language in the Educational Employment Relations Act, section 3545, subdivision (a), the Board held that it was not required by the statute to determine the most appropriate unit); Regents of the University

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before us today.

<sup>6</sup>Prior to January 1, 1978, PERB was known as the Educational Employment Relations Board (EERB).

of California (1986) PERB Decision No. 586-H, at p. 12

(interpreting similar language in the Higher Education Employer-Employee Relations Act, section 3579, subdivision (a), the Board held that a unit need not be "the ultimate, best or only appropriate configuration," only that it be an appropriate unit).)

In order to rebut the presumptive validity of the original state unit determination, the petitioning party must show that its proposed modification is more appropriate. I believe that the units petitioned for are more appropriate than the existing Unit 3. While it may not be the "ultimate" unit configuration, it more closely reflects the community of interest of the two main groups of employees currently in Unit 3. Although the teachers at the diagnostic school and the schools for the blind and deaf may not share all of the concerns of the institutional employees, their job duties and working conditions are more akin to those of the institutional employees. The placement of CMA instructors is slightly more problematic because they do engage in teaching, unlike the consultants. However, I am convinced that CMA instructors are more appropriately placed in new Unit 21 than they were in old Unit 3 because they definitely do not share the predominant concerns of the institutional employees for personal safety and safety retirement.

Unlike my dissenting colleague, I also believe that the ALJ appropriately considered the parties' bargaining history, including the internal strife, to determine whether a more appropriate unit existed. While I recognize that large,

comprehensive units with a diversity of interests will often have internal disagreements over negotiating priorities, I do not believe that a readily identifiable minority of unit members should regularly be required to relinquish its issues for the more powerful majority. The fact that CSEA and the State were able to negotiate five collective bargaining agreements does not end the inquiry into the parties' negotiating history; nor does the fact that the consultants were represented on the Unit 3 Bargaining Council. The evidence suggests that, on issues other than unit-wide salary increases, the issues of most importance to the consultants were regularly dropped from the negotiations in favor of those issues important to the institutional employees. While negotiating history and the internal dissension within an employee organization should not be determinative of the appropriateness of a unit, I believe that it is a proper part of the inquiry.

#### ORDER

For the reasons set forth above and in the attached proposed decision, the unit modification petition is GRANTED. It is hereby ORDERED that Unit 3 will be configured as described in Appendix A to the proposed decision, and new State Unit 21 will be configured as described in Appendix B to the proposed decision.

Member Camilli's concurrence begins on page 9.

Chairperson Hesse's dissent begins on page 12.



Camilli, Member, concurring: I concur with the result reached by the lead opinion in this case, and write separately to outline and emphasize the factors which I believe support such a result.

Section 3521 of the Ralph C. Dills Act (Dills Act)<sup>1</sup> requires the Public Employment Relations Board (PERB or Board) to take the following criteria into consideration when determining an appropriate unit:

. . . The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements; and the extent to which the employees have common supervision.

The employees in Unit 3 do have similar educational or training requirements, as they have all acquired a high level of education. However, this is the only factor that supports a finding of a community of interest amongst all members of the unit.

The educational consultants and the institutional employees (teachers and librarians) do not have common skills, working conditions, or job duties. The job duties performed by the two groups of employees do not dictate that they have the same types and levels of skills. The institutional employees teach

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<sup>1</sup>The Dills Act is codified at Government Code section 3512 et seq.

both academic and vocational classes directly to students, some of whom have emotional problems or mental handicaps or require special education. The educational consultants and field representatives monitor school districts for compliance with state and federal requirements. Because their job duties are so different, each group of employees utilizes a different set and level of skills.

Similarly, the working conditions of the two groups of employees are different. While the institutional employees remain in the classroom and teach students directly, the educational consultants travel from a school or district to another school or district to monitor state-mandated programs. ....

That the two groups do not share common interests is exemplified by the troublesome negotiating history of this unit. While the institutional employees are most concerned with security issues because they deal directly with their students, the educational consultants are not concerned with such issues. In fact, the State of California has recognized the divergence of interests between the two groups by placing the institutional employees in the safety retirement category<sup>2</sup> while placing the educational consultants in the miscellaneous retirement system.

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<sup>2</sup>The safety retirement system provides a higher level of retirement at an earlier age for those whose jobs have placed them under a continuous high level of stress. Some of those jobs in the safety category include correctional officers and institutional workers.

For the above reasons, I agree that the two groups of employees do not share a community of interest, and the unit modification petition should, therefore, be granted.

Hesse, Chairperson, dissenting: The parties are in agreement that the two proposed units of employees have different working conditions, training, skills, job duties, salaries and fringe benefits. The dispute, however, is whether the differences are sufficient to overcome the rebuttable presumption that the Public Employment Relations Board's (PERB or Board) unit determination in Unit Determination for the State of California (1979) PERB Decision No. 110-S is correct. In the absence of evidence that the proposed new units are more appropriate, the existing Board-created unit must be maintained. While I find that a more appropriate unit may exist, I cannot agree that the two proposed units are more appropriate than the present Unit 3. I also disagree with the majority's reliance on the bargaining history, to the exclusion of other community of interest factors, in determining the appropriateness of the proposed units.

In initial unit determinations under section 3545(a) of the Educational Employment Relations Act (EERA),<sup>1</sup> the Board has refused to apply a rigid test in determining whether a community

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<sup>1</sup>EERA is codified at Government Code section 3540 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. EERA section 3545 states, in pertinent part:

(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.

of interest exists among employees, but instead weighs and balances the factors. (Antioch Unified School District (1977) EERB<sup>2</sup> Decision No. 37; Marin Community College District (1978) PERB Decision No. 55; Monterey Peninsula Community College District (1978) PERB Decision No. 76.) In Monterey Peninsula Community College District, supra, at page 14, the Board stated:

The following criteria are considered by the Board in determining whether a community of interest exists between and among employees: supervision, work functions, wages, method of compensation, hours, employment benefits, qualifications, training and skills, contact with other employees, integration with work functions of other employees, and interchange with other employees. But community of interest is not determined by going down a check list of these factors. The point of the comparison is to reveal the interests of employees and ascertain whether they share substantial mutual interests in matters subject to meeting and negotiating. The

- interests of included employees must be mutual not distinct, and substantial not tenuous. Thus, employees may be excluded from a particular unit either because their interests are separate and apart from those of the employees in that particular unit, or because their interest in negotiable matters subject to the control of the employer is so insubstantial that they do not share mutual interests with other unit employees.

(Fns. omitted.)

In determining an appropriate unit under the Ralph C. Dills Act (Dills Act), the Board must take into consideration the criteria established in section 3521:

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<sup>2</sup>PERB was formerly known as the Educational Employment Relations Board.

(b) In determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements; and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

(6) Notwithstanding the foregoing provisions of this section, or any other provision of

law, an appropriate group of skilled crafts employees shall have the right to be a separate unit of representation based upon occupation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers.

Like EERA section 3545, section 3521 of the Dills Act does not require a rigid test. Rather, the factors must be considered, weighed and balanced by the Board in determining an appropriate unit. In the present case, the amended unit modification petition creates two bargaining units.<sup>3</sup> One unit includes all institutional teachers and other institutional employees at Corrections, CYA, DDS, DMH and the special and diagnostic schools operated by DOE; the second unit includes consultants, field representatives, specialists, noninstitutional librarians, instructors at CMA and related noninstitutional classes.<sup>4</sup> Consistent with the Board's original unit determination in Unit Determination for the State of California, supra, PERB Decision No. 110-S, the Department of Personnel Administration (DPA) contends that the present bargaining unit employees all possess a high level of education and share a community of interest in

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<sup>3</sup>The original unit modification petition created the following two bargaining units: (1) teachers and librarians at California Department of Corrections (Corrections), California Youth Authority (CYA), Department of Developmental Services (DDS) and Department of Mental Health (DMH); and (2) all other noninstitutional employees, including teachers and employees at the special and diagnostic schools operated by the Department of Education (DOE) and instructors at the California Maritime Academy (CMA).

<sup>4</sup>For convenience, these two units will be referred to as the institutional and noninstitutional units.

education. While these employees share a common interest in education and possess high-level educational degrees, I find that there are distinct differences between the teachers and employees at Corrections, CYA, DDS and DMH and the consultants, field representatives, specialists, archivists and noninstitutional librarians. However, I am troubled by the placement of the teachers and employees at DOE and instructors at CMA. Specifically, CMA instructors are grouped with the consultants, field representatives, archivists and noninstitutional librarians. Unlike these employees, CMA instructors perform teaching duties and have different working conditions, training, skills, job duties, supervision and salaries.<sup>5</sup>

Similarly, the inclusion of DOE teachers and employees in the institutional unit is not appropriate. Unlike the teachers and employees in the institutions, there is no evidence that the DOE teachers and employees share a common concern over personal safety, class size and safety retirement. The testimony of John Paul, an exempt teacher at the California School for the Blind in Fremont, describes the working conditions of the blind, deaf and diagnostic schools and shows that there is no interest in class size and safety retirement. (Vol. IV, pp. 27, 34:35, 45.) Additionally, John Paul's testimony describes the work

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<sup>5</sup>As the record is devoid of any testimony from CMA instructors, it is difficult to determine whether these instructors should be placed in the noninstitutional unit. However, the record does establish that the teaching duties are indeed different from the duties performed by consultants, field representatives, archivists and noninstitutional librarians.



environment as similar to an "ordinary local school district" (Vol. IV, p. 21), and "regular classroom campus setting" (Vol. IV, p. 26). While the evidence demonstrates that a unit modification of some nature would be appropriate, I am unpersuaded that the two proposed units are more appropriate. In my opinion, the original unit modification petition filed by CSEA is more appropriate than the amended unit modification petition.

In determining the appropriateness of the proposed units, the administrative law judge (ALJ) examined the bargaining history. However, in his discussion of bargaining history, the ALJ focuses on the internal strife within the bargaining unit which manifested itself during negotiations in the Unit 3 Bargaining Council. While bargaining priorities can be a symptom of a lack of community of interest and common goals among the employees, any large, comprehensive bargaining unit will have some diversity of interest. No one group can realistically expect to achieve all of its bargaining goals. The ALJ's reliance on the bargaining history in his analysis determining the appropriateness of the proposed units is misplaced. As the state bargaining units created by the Board in Unit Determination for the State of California, supra; PERB Decision No. 110-S are large, comprehensive units which include some diversity of interest, such an analysis would result in the fragmentation of state employees and proliferation of state bargaining units.

Here, the evidence of the bargaining relationship between DPA and California State Employees Association (CSEA) shows a

stable relationship, as evidenced by its five collective bargaining agreements.<sup>6</sup> By creating the Unit 3 Bargaining Council, CSEA attempted to ensure that the concerns of each , employee group would be represented at the bargaining table. In fact, the evidence shows that issues of primary concern of the institutional and noninstitutional employee group were addressed in the Unit 3 Bargaining Council.

The question is whether the interests of one group of employees have been trampled upon or ignored to the point that their representational rights have been abrogated because of the existing unit structure. In the present case, the institutional and noninstitutional groups have representatives on the Unit 3 Bargaining Council. Further, there is no evidence that any group has been denied the right or opportunity to be an active member of CSEA (i.e., job steward, officer or Unit 3 Bargaining Council representative). CSEA argues that the institutional issues such as safety and class size dominate the noninstitutional issues such as salary, office space and travel reimbursement. However, there is testimony that the salary offers in Unit 3 are consistent with other bargaining units, and that the Unit 3 collective bargaining agreement was substantially the same as other CSEA unit collective bargaining agreements. Both the institutional and noninstitutional groups have achieved favorable

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<sup>6</sup>Specifically, the five collective bargaining agreements had the following effective dates: (1) July 1, 1982 through June 30, 1984; (2) July 1, 1984 through June 30, 1985; (3) July 1, 1985 through June 30, 1987; (4) January 1, 1988 through June 30, 1988; and (5) July 1, 1988, through June 30, 1991.

provisions in the collective bargaining agreements. The institutional employees have received safety retirement, alarm system language, enhanced disability leave pay and meet and confer provisions over the impact of class size. The noninstitutional employees (primarily the consultants and field representatives) have achieved provisions relating to educational leave, 10-12 leave, performance appraisals, recognition of authorship, video display terminals and pay increases. Finally, any argument that the institutional and noninstitutional employees would achieve more favorable collective bargaining agreements if there were two separate bargaining units is •speculative and irrelevant.

While the Board is reluctant to disturb a stable bargaining relationship (Livermore Valley Joint Unified School District (1981) PERB Decision No. 165), the Board must consider all the factors in section 3521(b) in determining an appropriate unit. Although there is evidence of a stable bargaining relationship between DPA and CSEA, there are also distinct differences between the institutional and noninstitutional employees.

This case is similar to Unit Determination for Technical Employees of the University of California (1982) PERB Decision 241-H, where the Board was faced with a systemwide unit of technical employees which included a group of technical employees who worked exclusively at the health care facilities. The Board established a separate unit of technical employees who provided health services at the university's health care facilities. This

unit was not included in the systemwide unit of technical employees due to: (1) the different working conditions; (2) the fact that patient care employees work exclusively in hospitals or clinics; (3) the administrative autonomy of the medical facilities; (4) the lack of any work-related contact between employees at patient and nonpatient work sites; and (5) the separate organizational structure for hospital classifications and other technical classification. Like PERB Decision No. 241-H, the present case involves a comprehensive education and library unit where there exists a group of unit employees who work in an institutional setting. Like the patient care employees in PERB Decision No. 241-H, these institutional employees have different working conditions, work exclusively in the institutional setting, lack any work-related contact with the noninstitutional employees, and work in a separate administrative and organizational structure from the noninstitutional employees. The evidence of the separate and unique environment in the California correctional institutions and mental health facilities demonstrate that these education and library unit employees share a community of interest, and support the establishment of a separate unit under section 3521(b) of the Dills Act. However, in the present case, the division between the institutional and noninstitutional employees fails to account for the differences between: (1) CMA instructors and consultants, field representatives, specialists, archivists and noninstitutional

librarians; and (2) DOE teachers and employees and Corrections, CYA, DDS and DMH teachers and employees.

Due to the fundamental differences between the institutional and noninstitutional employees in goals, skills, working conditions, job duties and training requirements, a more appropriate unit may exist for both the institutional and noninstitutional teachers and employees. However, as I am unpersuaded that the two proposed units are more appropriate, I would dismiss the unit modification petition.

State OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD



STATE OF CALIFORNIA (DEPARTMENT )  
OF PERSONNEL ADMINISTRATION), )  
 )  
Employer, ) Representation  
 ) Case No. S-UM-416-S  
and )  
 ) PROPOSED DECISION  
CALIFORNIA STATE EMPLOYEES' ) (6/12/89)  
ASSOCIATION, )  
 )  
Exclusive Representative: )  
\_\_\_\_\_ )

Appearances: Howard Schwartz, Attorney, for the California State Employees' Association; Kenneth R. Hulse, Attorney, for the State of California, Department of Personnel Administration.

Before Ronald E. Blubaugh, Administrative Law Judge.

PROCEDURAL HISTORY

The California State Employees' Association (CSEA) here requests that State employee bargaining unit No. 3 be separated into two units. CSEA, incumbent exclusive representative for unit 3, contends that the unit in its present configuration is rife with internal divisions. These divisions, CSEA contends, demonstrate that some employees in the unit have no community of interest with other employees and should be placed in their own separate unit.

The State of California (State), employer of the unit 3 work force, opposes the division of the unit. The State argues that the grounds set out in the original Public Employment Relations Board (PERB or Board) decision creating unit 3 are as valid today

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This proposed decision has been appealed to the Board itself and may not be cited as precedent unless the decision and its rationale have been adopted by the Board.  
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as when originally stated in 1979.<sup>1</sup> The State argues that it has successfully negotiated five contracts with unit 3 as now configured, evidence that the unit structure works as it is. The State urges that the petition for unit modification be denied and the unit configuration be left unchanged.

CSEA filed the petition to modify unit 3 on July 15, 1988.<sup>2</sup> As originally filed, the petition would have created two units: one unit for teachers and librarians who work in the Department of Corrections and California Youth Authority, and a second unit for all remaining unit 3 members. CSEA filed an amended petition on March 2, 1989, following four days of hearing. The amended petition would divide the unit as follows: one unit for all teachers, school psychologists and librarians who work in the Departments of Corrections, Youth Authority, Developmental Services, Mental Health and the special schools operated by the Department of Education, and a second unit for all remaining unit 3 members. The State did not oppose the filing of an amendment and the motion to amend was granted.

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<sup>1</sup>The unit was first described in Unit Determination for the State of California (1979) PERB Decision No. 110-S. In that decision, the PERB divided the State work force into 20 units for collective bargaining.

<sup>2</sup>The petition was filed under PERB regulation 32781 (a) (3) which as then written permitted a recognized or certified exclusive representative to file a petition for unit modification

To divide an existing unit into two or more appropriate units.

This provision was subsequently renumbered as section 32 781 (a) (2).

The effect of the amendment was to place all institutional teachers and other institutional employees into the same unit. The second unit would be for consultants, field representatives, specialists, noninstitutional librarians, instructors at the California Maritime Academy and related noninstitutional classes.

The State filed its opposition to the original petition on August 3, 1988, and orally opposed the modified petition at the hearing on March 2, 1989. The hearing was conducted over seven nonconsecutive days in February and March of 1989, concluding on March 8, 1989. With the filing of written briefs, the matter was submitted for decision on May 31, 1989.

#### FINDINGS OF FACT

There are 2,560 employees working in unit 3 as it is now composed. Although these employees range across some 210 job classifications in 27 State departments, the vast majority of them can be grouped in three broad categories: teachers, consultants and related classes, and librarians.

The largest congregations of unit 3 employees are found in the Departments of Education, Corrections, Youth Authority, Developmental Services, and Mental Health. The Department of Education employs 709 unit 3 members, 348 of them as consultants or members of related classes. The Department also has 35 teachers in its two diagnostic schools, 51 teachers in the school for the blind and 256 teachers in the two schools for the deaf.

There are 675 unit 3 employees in the Department of Corrections, 683 in the Youth Authority, 282 in Developmental



Services, and 67 in the Department of Mental Health. The vast majority of these employees are teachers. The remaining unit 3 employees are spread throughout a number of State departments, 12 of which have only a single unit 3 member, most of them librarians. There also are 43 unit 3 members employed at the California Maritime Academy. The Maritime Academy employs college professors to teach various academic classes and vocational instructors to teach plumbing, engine repair, and other mechanical operations of a ship.<sup>3</sup>

#### Community of Interest

As a group, unit 3 members have a high level of education. Virtually all unit members are required to have a bachelor's degree or equivalent and many must hold a master's degree or equivalent. The majority of unit 3 members also are required to possess elementary, high school, vocational or administrative credentials.

Teachers in the Correctional and Youth Authority institutions possess elementary, high school or vocational credentials. They teach classes ranging from kindergarten through high school. Some students are at such a low level of education that they do not yet know the alphabet. Teachers in the academic classes teach the "three-R's" in addition to the

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<sup>3</sup>This statistical breakdown is drawn from Joint Exhibit No. 1. Slightly different numbers are shown in CSEA Exhibit No. 1. The differences apparently are due to different preparation dates. It is not significant for purposes of this decision to know the exact numbers of employees in each job class on any particular date.

courses needed for a high school diploma. Vocational teachers teach painting, dry cleaning, small engine repair, welding, electronics, upholstering, carpentry, printing trades and other job skills. Similar classes are offered at institutions operated by the Youth Authority.

Teachers in the schools for the blind, deaf and the diagnostic schools, all have high school, elementary or vocational credentials. They teach both academic and vocational classes. The vocational program attempts to give students a saleable skill. Teachers in the diagnostic schools test and work with students with emotional disturbances and other problems which local school districts have been unable to treat.

Teachers in the schools run by the Departments of Developmental Services and Mental Health have state teaching credentials with an emphasis in special education where appropriate. Students in institutions operated by the Department of Developmental Services have severe learning disabilities and suffer from some mental handicaps. Teachers attempt to train them in academic subjects and try to help them develop socially acceptable skills and interests. Students in institutions operated by the Department of Mental Health have various mental, psychological and emotional disorders. Teachers attempt to train them in physical, social, intellectual and vocational skills so they can function in society.

The college level instructors at the California Maritime Academy are not required to have any type of credential. Their job is to educate students for careers in commercial shipping.

Consultants and specialists employed by the Department of Education, specialists in the California Community College Chancellor's Office and at the Commission on Teacher Preparation have either teaching or administrative credentials. Most have masters degrees and about a third have doctorates. Consultants and field representatives employed by the State Department of Education perform duties comparable to those of local school district administrators.

Consultants focus on academic programs in local school districts which they monitor for compliance with a myriad of state and federal requirements. Field representatives focus on business, accounting, transportation and facilities programs at local school districts. Like consultants, they monitor these operations for compliance with state and federal laws and regulations.

Specialists employed by the office of the Chancellor of California Community Colleges perform tasks similar to those of consultants and field representatives in the Department of Education. Their focus, however, is on the 107 community colleges. Specialists who work for the California Post-Secondary Education Commission and consultants who work at the Commission on Teacher Credentialing all perform duties comparable to those of consultants at the State Department of Education.

Librarians work at the State library, at correctional institutions, and in numerous State departments. They maintain libraries and assist patrons. Librarians in the correctional institutions maintain a number of legal research materials for inmates working on criminal appeals. Although the State has a number of librarians at the State library in Sacramento, many of the other librarians employed by the State work alone in individual departments or correctional facilities.

The wide variance in duties among unit 3 members is mirrored by a wide variance in working conditions. The academic teachers in the unit all work in classrooms similar to those in a public school. There are chalkboards and cabinets and desks for the students. Vocational teachers work in shops with various types of mechanical equipment. Some vocational teachers in the Youth Authority take students out of the shop to work on construction projects away from the institution.

But unlike an ordinary school, teaching in correctional institutions is subordinate to security concerns. One witness testified that his first duty is to be able to account for every prisoner, then to complete all the paperwork required for security purposes, and then to teach. This distinction is reflected in the job description for correctional teachers. Among other duties, it requires teachers to "maintain order and supervise the conduct of inmates." It also requires teachers to control "all materials and equipment which may be used as potential weapons," to prevent against escapes and to search

students for contraband such as weapons and drugs. All teachers who work for the Department of Corrections and the Youth Authority pass through metal detectors and a series of security gates on their way to their classrooms.

Because of security concerns, correctional teachers must adhere to rules restricting what they can bring into the institutions and with whom they can associate. Teachers in correctional and Youth Authority institutions, for example, are prohibited from fraternizing with inmates or their families. Correctional teachers also face the prospect of regular drug testing. The State has indicated that it intends to subject all custodial employees, including teachers, to drug tests. In a lockdown, teachers at the Department of Corrections must abandon their teaching jobs to engage in such noneducational duties as making lunches and supplying food service. In times of emergency, they can be required to carry weapons.

By contrast, consultants, field representatives and specialists all work in offices with desks, telephones and personal computers. While they are free from worry about personal safety, consultants have other concerns about work environment. For some, like employees in the headquarters building of the State Department of Education, the work area is quite cramped. Employees have small work spaces, separated from each other by screens and modular furniture. One witness described the work environment as being like "a rabbit warren." She said the atmosphere is noisy and completely without privacy.

She said she can hear everything within ten feet of her desk and every conversation in which she engages can be overheard by others.

There is a variance in hours of work between teachers and unit members in consultant and related classes. Teachers are in work week subgroup 4A. They are required to work 40 hours a week and are compensated for overtime by either cash payment or compensating time off. They have fixed working hours which do not vary from day to day. Consultants, field representatives and specialists are in work week subgroup 4C. They are required to work the number of hours needed to carry out their duties. They are not entitled to overtime or compensatory time off, although compensatory time off may be arranged on an informal basis with their supervisors.

One of the marked differences between consultants and institutional teachers is in the amount of job-required travel. Depending on their assignments, consultants, field representatives or specialists could be on the road between 25 percent and 80 percent of the time. Consultants visit local schools to examine educational programs, interview administrators and teachers, and insure compliance with state requirements. Field representatives travel to local school districts to assist in school facilities planning, financial management and coordination with funding agencies. Specialists travel to individual community colleges to audit the use of funds.. Institutional teachers, by contrast, travel rarely if ever.

Concern over personal safety is another area of significant difference among unit 3 members. Safety is of great concern to unit 3 members who work in correctional and Youth Authority institutions. Teachers and librarians in the correctional institutions are alone with prison inmates and Youth Authority wards for substantial portions of each workday. They work in isolated areas where they face a danger from inmate attack. Teachers are threatened and, occasionally, physically attacked by inmates.<sup>4</sup> Librarians are frequently alone with large numbers of inmates doing legal research.<sup>5</sup> Many of them work in libraries that are obscured from outside view.

Teachers in the Department of Developmental Services and Department of Mental Health also have safety concerns. Patients in the hospitals operated by the Department of Developmental Services are often violent.<sup>6</sup> Indeed, the Department of Developmental Services uses a job description for teachers

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<sup>4</sup>Dangerous incidents involving teachers were described at the hearing. In one situation, a female teacher was unable to get to her security alarm because an inmate had pinned her arms to her side. She was freed only when a correctional officer happened to chance upon the attack. In another instance, a teacher was required to use a baton to chase inmates in a 1977 riot when inmates attempted to take over a prison.

<sup>5</sup>According to testimony at the hearing, the librarian at Soledad prison at times has as many as 50 inmates to supervise. The librarian, who is female, requested that a correctional officer be provided to assist her with large groups of inmates. However, the institution did not have sufficient staffing to accommodate the request.

<sup>6</sup>According to one witness a maxim among teachers in Department of Developmental Services institutions is, "Don't turn your back because you will be attacked."

applicable also for the Departments of Corrections and Youth Authority. It lists, among other duties, a requirement that teachers control "all materials and equipment which may be used as potential weapons." Teachers in DDS institutions are bitten, hit, pounded on and jumped on.

Some teachers in institutions of the Department of Mental Health work with patients who have committed crimes and been committed under provisions of the Penal Code. Teachers also work with patients who have mental, psychological or emotional disorders causing them to be violent at times.

Teachers in the schools for the blind and deaf have occasional safety concerns. Some students have multiple handicaps and are occasionally assaultive. Students who are losing their vision occasionally have become emotionally distraught and attacked a teacher. While still infrequent, attacks on teachers in the special schools have occurred more often in recent years than previously.

Consultants, field representatives and specialists do not encounter the threat of physical violence against them in their daily work.

Another marked difference between consultants and related classes and institutional teachers is a significant salary and benefit gap. Consultants and related classes have much higher salaries. Institutional teachers have much better pension and disability leave benefits.



Consultants and related classes can earn up to \$55,200 a year. Teachers in the Department of Corrections or Youth Authority can earn a maximum of \$44,400 a year. The consultants have historically been more highly paid because their salaries were once linked to the salaries of assistant superintendents of local school districts. Assistant superintendents in local districts traditionally earn more than teachers working for the same employer. The salary gap is indicative also of an attitudinal relationship. Many State consultants at one time were public school administrators and they continue to identify with administrators rather than teachers.

Reflecting the danger inherent in their jobs, teachers and librarians in correctional and Youth Authority institutions participate in the safety retirement system. There are 1,066 members of unit 3 eligible for safety retirement. Safety retirement entitles an employee to retire at an earlier age for a higher benefit than the employee otherwise would be eligible.

Unit 3 employees in the Department of Corrections, Youth Authority, Mental Health and Developmental Services also receive enhanced industrial disability leave. The effect of this benefit is to permit employees on disability leave to receive a larger portion of their pay than employees on regular disability leave.

Consultants and related classes are not eligible for either safety retirement or enhanced industrial disability leave.

### Bargaining History.

The California State Employees' Association, exclusive representative of unit 3 since July 13, 1981, is the only union ever to represent the unit. The State and CSEA have entered five collective bargaining agreements since CSEA became the exclusive representative of unit 3. The most recent is a three-year agreement extending from July 1, 1988, to June 30, 1991.

CSEA coordinates its negotiating strategy for unit 3 through the unit 3 bargaining council. The council, which serves as the main policy-making body for the unit, is composed of unit 3 rank and file members who are elected by specific constituencies within the unit. Throughout the relevant period, there were seven seats on the unit 3 council.<sup>7</sup>

Institutional teachers and their allies consistently have held voting control of the unit 3 council. Although teachers in

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<sup>7</sup>The seats were distributed as follows: One seat representing teachers and instructors in the Department of Corrections; one seat representing teachers and instructors in the California Youth Authority; one seat representing teachers in the special schools operated by the Department of Education; one seat representing consultants, field representatives and specialists working in the Department of Education, the Commission on Teacher Credentialing, the Chancellor's Office for the community colleges, and the Commission on Post-Secondary Education; one seat representing librarians, instructors at the California Maritime Academy, and archivists; one seat representing teachers at the Department of Developmental Services and Department of Mental Health; and one seat representing a special group known as Chapter 760.

Chapter 760 was a group that existed independently of CSEA prior to the commencement of collective bargaining. It was a statewide organization known as the California State Educators Teachers Association. As a result of an affiliation agreement with CSEA, these teachers also were given a seat on the unit 3 council.

the special schools and in the Department of Developmental Services and Department of Mental Health do not have exactly the same concerns as those in the correctional facilities, their interests traditionally have been more closely aligned with their fellow teachers than with consultants. In addition, the Department of Corrections employs more than 20 librarians in its various prisons. These librarians have interests similar to those of teachers in the correctional institutions. Therefore, the person representing librarians on the unit 3 council often votes with the institutional representatives.

From the beginning, the bargaining unit has evidenced a lack of internal cohesion. During the first round of negotiations, bargaining team members from the Department of Corrections and the Youth Authority along with some teachers in the Department of Education had concerns about physical safety, safety alarms, class size and other issues that were of no interest to the consultants employed in the Department of Education. A unit 3 negotiator during that first round testified that it required "a great deal of discussion, a great deal of arm-twisting . . . among ourselves" to reach a consensus on a first agreement.

The problems that surfaced during the first round of negotiations have remained unabated. A series of witnesses presented a picture of constant internal strife among members of the unit 3 bargaining council. Perry Kenny, the current chairman of the unit 3 council and a teacher in a state prison, testified

that he was surprised when he joined the council in 1987 to discover the internal division. He explained:

I thought that everyone had the same concerns, and I realized that we had these institutional people on one side, these people that weren't institutional people on the other side, and they were squabbling over what issues that were going to end up on the bargaining table.

Following the pattern set in the first round of negotiations, each subgroup within the unit has maintained its own set of issues which typically are of very little interest to other groups. For consultants, the primary issues over the years have been office space, travel reimbursement, salaries, involuntary transfers and maintenance of minimum qualifications. For institutional teachers, the primary issues have been personal safety, class size and enhanced safety retirement. A review of these issues reveals the depth of disagreement among the various factions within unit 3.

Because of their cramped and noisy working conditions, consultants are deeply interested in office space. In 1985, they proposed a contractual provision that each consultant be given 100 square feet for work location. The issue was dropped during negotiations because the unit 3 bargaining team concluded it was not as high a priority as the safety concerns of other unit members. Consultants raised the issue again during the 1988 negotiations, but once more it was dropped because of more pressing concerns of institutional teachers. Unit 3 negotiator Barbara Wilson, a consultant, described the problem as follows:

. . . when you prioritize, a hundred square feet of office space is just not as sexy an item as whether or not you're liable to get stabbed in the classroom.

Because of their heavy travel requirements, consultants have a keen interest in travel reimbursement. One issue consultants have sought is reimbursement for traveling employees who make family telephone calls while away from home. Although consultants have believed this necessary to maintain a proper family relationship, the proposal has never made it out of the unit 3 bargaining committee.

The most serious rift ever to occur among unit 3 members concerned a travel-related issue during the 1987 negotiations. By late August, the State had reached agreement with most other bargaining units. Those agreements established new, higher rates for travel reimbursement. The consultants were ready to accept the same deal with the State and sign the contract. However, correctional and Youth Authority employees wanted to hold out. A tentative agreement for unit 3 was rejected by the members, largely on the votes of institutional teachers.

When bargaining resumed, the State unyieldingly maintained that it would not retroactively reimburse unit 3 members for travel expenses at the newly negotiated rates. The State adhered to its position and travel reimbursement was not made retroactive when the parties ultimately reached agreement the following January.

From August until January, consultants traveled with a lower rate of reimbursement than all other State employees. This

financial loss deeply angered consultants and employees in related classes. However, the State's refusal to make retroactive payments for travel had virtually no effect on the institutional teachers who had scuttled the August tentative agreement. Because institutional teachers travel only rarely, changes in State travel reimbursement rates are of little interest to them.

Consultants also have been at odds with other unit 3 members over salaries. Prior to collective bargaining, the State Personnel Board established a relationship between consultant salaries and the salaries of certain school administrators in bench mark school districts. The relationship has not been maintained since the commencement of collective bargaining. However, consultants have been unable to secure support within the unit 3 bargaining council for an adjustment to restore this relationship. Barbara Wilson testified that she did not even bring up the issue in 1987 because the council would not have supported it:

[The unit] was so badly divided that to ask for more money for what is in effect the highest paid group of professionals in the bargaining unit, there wouldn't have been any way that I could have convinced them to go along with that.

Ms. Wilson testified that over the years there have been expressions of antagonism toward the consultants "because of the salaries" and because others in the unit see the consultants as having the "nicer job."

Two other issues of concern to consultants have been maintenance of minimum qualifications and involuntary transfers. Consultants have been concerned that Department of Education hiring practices are eroding professional standards for their jobs. They are opposed to any attempt by the department to relax minimum job qualifications. Ms. Wilson testified that job qualifications have been on her agenda during every round of negotiations but she has always dropped the issue because of more pressing concerns from the institutional teachers.

Consultants also have desired limits on the State's ability to involuntarily transfer them on one day's notice to any position within their job class. A proposal to limit the State's discretion stayed on the table "down to the crunch period" during the last round of negotiations. But it did not survive, Ms. Wilson testified, because there was no support from the institutional teachers.

Personal safety has been one of the major concerns of teachers in correctional and Youth Authority institutions. As a result of their pressure, the last three contracts between the State and CSEA have provided for the issuance of personal alarms to institutional teachers, where funding permits. This was a major issue in the 1985 negotiations and the Department of Corrections has made a commitment, outside the contract, to provide each employee with a personal safety alarm. However, not all unit 3 members have alarms at all institutions. This

deficiency continues to be a cause of concern to institutional teachers and a subject which they raise during negotiations.

Another safety issue of concern to institutional teachers is class size. Because of their wide range of ability levels, students in correctional institutions often require a high level of personal attention. Yet in a large class, where many students need heavy amounts of personal attention, it is difficult for teachers to maintain the required, high level of vigilance. For this reason, correctional and Youth Authority teachers see class size as a safety issue and consistently press during negotiations for lowered class sizes.

Class size was a major issue in 1985, and in 1987 it was the most important issue to institutional employees. Class size remained on the table as an issue until the very end of the 1987 negotiations. A settlement occurred only after away-from-the-table discussions about class size resulted in a side agreement between CSEA and officials from the Department of Corrections and the Youth Authority.

The other issue of continuing concern to teachers in the Department of Corrections and Youth Authority is enhanced safety retirement. Although the unit 3 members who work for Corrections and the Youth Authority already participate in a safety retirement program, the level of their benefits remains lower than those of correctional officers with whom they work. This difference in retirement plans is a continuing source of irritation for the affected unit 3 employees.



There has been a proposal in every round of negotiations since CSEA became exclusive representative to rectify this situation. CSEA consistently has attempted to secure the same retirement benefits for unit 3 members employed in the correctional agencies as are enjoyed by the peace officers who work there. During the last two negotiations CSEA also has sought regular safety retirement for unit 3 members employed in the Department of Developmental Services and the Department of Mental Health. Although this issue is of no interest to consultants and related classes, unit 3 institutional members have been sufficiently strong to ensure that the issue remains on the table throughout negotiations.

The loss of travel pay which the consultants suffered as a result of the 1987 contract rejection brought about a deep if not irreparable division among the members of unit 3. By late 1987 the division among unit 3 council members was so pervasive that they found it impossible to work together. Members were considering filing internal charges within CSEA because of events resulting from their broad division. One member of the council became so discouraged over the bickering among team members that she quit the council.<sup>8</sup>

The CSEA staff employee assigned to assist the unit 3 council got caught up in the strife. When he sided with the noninstitutional members of the council on a key issue, the

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<sup>8</sup>After she left, the institutional members of the council controlled four votes. There was one vote representing the consultants and there was one vote that shifted back and forth.

institutional members had him dismissed from his position as council representative. Ultimately the two groups agreed to seek a division of the unit. It was only after they agreed to the separation that they were able to work together with sufficient harmony to enter an agreement with the State in January of 1988.

#### LEGAL ISSUE

Should State unit 3 be divided into two separate bargaining units?

#### CONCLUSIONS OF LAW

Unit determination criteria under the Ralph C. Dills Act<sup>9</sup> are set out at section 3521.<sup>10</sup> The statute directs that the PERB in determining an appropriate unit shall take into consideration:

(b)(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements; and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the

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<sup>9</sup>The Dills Act, which formerly was known as the State Employer-Employee Relations Act, is found in Government Code section 3512 et seq.

<sup>10</sup>All references are to the Government Code unless otherwise indicated.

unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

In Unit Determination for the State of California (1979)

PERB Decision No. 110-S, the Board created 20 units for meeting and conferring between the State and its civil service work force. Among these was unit 3, the Education and Library Unit. The Board was brief in its discussion of the factors justifying the creation of unit 3. It found, first, that since all employees in the unit are licensed or hold advanced degrees, they are entitled to a separate unit as professionals under section 3521(c). It then concluded that "as employees who deliver related educational services, including teaching, consulting, and library services, they clearly share common interests and goals."

The Board concluded that although education and library employees work in a variety of State institutions, they are

"distinct" from other staff. The Board found that members of the unit "do not participate on a daily basis" in the care provided by the institutions where they are employed. For this reason the Board concluded that education and library employees do not belong in the same units as the institutional employees. The Board found, further, that librarians and institutional teachers share a community of interest with consultants because all perform tasks related to education. The Board concluded that all members of the unit "share concern on issues such as class size, safety conditions and professional development."

The parties have no significant disagreement about the applicable rules of law. They agree that a change in PERB regulations eliminated a one-time requirement that a party seeking a unit modification demonstrate a "change in circumstances."<sup>11</sup> They also are in basic agreement about the burden of proof which must be met by the party seeking to modify an existing unit.

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<sup>11</sup>The requirement was found in a resolution adopted by the Educational Employment Relations Board, predecessor to the PERB, on July 7, 1976. The resolution provided that petitions for changes in unit determinations under Educational Employment Relations Act section 3541.3(e) would be entertained by the Board only:

1. Where both parties jointly file the petition; or
2. Where there has been a change in the circumstances which existed at the time of the initial unit determination.

The resolution ceased to have effect when the Board later adopted rules providing for unit modification.

The State argues that a party seeking to modify one of the 20 existing State bargaining units must overcome the presumptive correctness of the Board-created units. Prior unit determinations are binding, the State argues, "to the extent that circumstances are the same and the Board's precedent is the same," citing Regents of the University of California (1986) PERB Decision No. 586-H.

CSEA makes no comment on the presumptive correctness of the prior decision. However, CSEA argues, conclusions reached by the Board in its original decision "do not comport" with the present situation. CSEA points to evidence introduced at the hearing which it finds conclusive proof that the unit, as now constituted, is not marked by a community of interest. In effect, CSEA sets out evidence which it believes would overcome any presumption in favor of the existing unit.

I believe that the rule proposed by the State, and implicitly accepted by CSEA, is correct. There is a rebuttable presumption in favor of the 20 bargaining units created by the Board in Unit Determination for the State of California, supra, PERB Decision No. 110-S. The presumption is akin to that set out for public school classified employee units in Livermore Valley Joint Unified School District (1981) PERB Decision No. 165. In the absence of evidence the proposed new units are "a more appropriate grouping," the existing Board-created unit must be maintained. Id. I conclude that CSEA has produced evidence sufficient to overcome the presumption.

Without doubt, there is some commonality among the members of unit 3. As noted by the Board in its original unit determination, unit members uniformly possess a high level of education and the vast majority hold state teaching or administrative credentials. They share a common interest in education at either the administrative or teaching level.

Despite these similarities, unit 3 members have pronounced differences. Although all unit members have a common interest in education, it cannot be said that consultants and institutional teachers perform "functionally related services." There is very little, if any, coordination between the tasks of consultants in the Department of Education and teachers in the Department of Corrections. Department of Education consultants doubtlessly have a closer functional relationship with teachers in California's public school districts than with teachers in state institutions. The functional relationship for institutional teachers is with the administrators of the institutions where they teach, not with Department of Education consultants.

While consultants and institutional teachers may share similar educational backgrounds, the skill levels required for the two jobs are quite different. The ability to teach a functionally illiterate adult prison inmate to read is a quite different skill than what is required to analyze a school district's records to see if it is in compliance with state fiscal requirements.

Consultants and institutional teachers also labor in strikingly different working conditions. The teachers work in classrooms or vocational shops. The consultants work in cramped, noisy office cubicles. Distressed about their working conditions, consultants have pressed for minimal square footage around their work stations. Institutional teachers have no interest in this problem.

The different work environment is seen also in the degree of danger in which the two groups work. Correctional and Youth Authority teachers experience danger to their personal safety by close contact with persons convicted of crimes. They want improved safety alarms and equipment for self-protection. They are joined in this concern by teachers in the Department of Mental Health which has an increasing number of Penal Code commitments. Teachers of the developmentally disabled, who are often assaulted by their charges, also are concerned about safety. Even teachers in the schools for the blind and deaf and the special schools have occasional safety concerns. Consultants have no safety concerns greater than those of any office worker in an increasingly violent society.

Contrary to what the Board concluded in 1979, experience has shown that institutional teachers have a high level of interaction with employees in the institutions where they work. They are involved in the correctional and treatment functions of their institutions. Teachers in correctional institutions perceive their custodial duties as their primary function with

teaching secondary. They identify themselves closely with the Department of Corrections and its mission.<sup>12</sup> In this identity with the mission of their agencies, institutional teachers have more in common with other teachers than they do with consultants working in offices in Sacramento.

The custodial function of correctional teachers and their association with correctional officers also gives rise to their desire for enhanced safety retirement. They associate with and share the risks of correctional officers. Yet, they do not share their retirement benefits. Since the beginning of collective bargaining, teachers in correctional institutions have pressed for enhanced safety retirement. This is an issue of no interest to consultants and related classes.

Safety concerns, in the guise of class size, give rise to another example of the lack of commonality between the institutional teachers and the consultants and related groups. Institutional teachers do not see class size in its traditional public school context as a workload issue. Rather, they see it as a safety issue. The more inmates they have to deal with, the greater the risk to their personal safety. They press, therefore, for class size limits and exemptions as another safety issue. This is an issue of no interest to the consultants and related classes.

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<sup>12</sup>This close identity was seen with CSEA witness Perry Kenny, a Department of Corrections teacher. Mr. Kenny wore a Department of Corrections tie pin at various times during the hearing. R.T. Vol. 2, p. 144.



Consultants, by contrast, have a substantial interest in travel reimbursement. A primary working condition of their jobs is a heavy travel requirement. It is their regular goal to ensure that they are fully compensated for their expenses. Institutional teachers, who never travel, have no interest in this issue.

Salary rates constitute another striking difference between consultants and institutional teachers. The education and credential requirements for consultants historically have been tied to school administrators. As a result, they have enjoyed higher rates of compensation fixed in a loose relationship with administrators in public school districts. Since the advent of collective bargaining, however, this relationship has slipped. It is an issue of considerable importance to consultants but of no interest at all to institutional teachers. Indeed, the evidence indicates that institutional teachers have some antipathy toward the consultants for the high salaries they already enjoy.

Perhaps no factor more clearly shows the lack of community of interest among the members of unit 3 as now constituted than the history of representation. The differing working conditions among the various unit members have led to differing goals in negotiations. The differing goals in negotiations have led to differing strategies for achieving those goals. As the smaller group, the consultants and related classes repeatedly have found issues of importance to them pushed aside by the institutional

teachers. The institutional teachers, on the other hand, have held out to advocate their issues even when the effect has been actual financial losses for the consultants.

The failure to agree on common goals and strategy has led to great divisiveness among the various constituencies within the unit. Bargaining council members have argued at length with each other over negotiating goals. Council members have become so tired of the in-fighting that they have quit the council. Members have threatened to file charges against each other under CSEA's internal disciplinary policy. A CSEA staff member was fired from his job with the council when he got caught up in the internecine struggle.<sup>13</sup>

This continuing internal turmoil clearly affects the bargaining relationship between CSEA and the State. It affects the positions taken at the negotiating table, the vote on tentative agreements and the prospects for a harmonious relationship.

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<sup>13</sup>In an effort to demonstrate that CSEA has been able to bridge the internal divisions, the State points to a message to unit members in the CSEA-printed copy of the most recent contract. The message was written by Perry Kenny, chairperson of the unit 3 council. In his message, Mr. Kenny describes the willingness of union team members to engage in an internal give-and-take, to learn "to appreciate one another for our differences" and to "work for the common good."

Rather than evidence of the union's success in closing differences, I find the message to be an attempt to put the best face on well-known internal divisions. The protestations of solidarity were obviously designed to address what the author believed were widely perceived beliefs about the negotiating team. I find the testimony at the hearing to be far more persuasive than the post-negotiations puffery.

The State points to the various agreements which have been reached between the parties and finds unit-wide application in a number of contractual clauses. The State also argues that the "overwhelming majority" of all CSEA bargaining proposals for unit 3 pertain to all bargaining unit members. The State finds a commonality of interests in the wide applicability of numerous clauses and the commonality of bargaining proposals.

As CSEA argues, and the evidence shows, there is far less commonality in the proposals and contract provisions than the State suggests. Although many proposals and contract provisions on their face apply to all members of the unit, the actual effect may be much narrower. The travel reimbursement provisions, for example, apply literally to all within the unit. But they affect only those who travel. In addition, many of the provisions in the unit 3 contract are common to all contracts CSEA has with the State. This commonality does not establish that all employees in the CSEA units could properly be placed in one unit.

Finally, the State argues that the division of unit 3 would have adverse effects upon the meet and confer relationship and lead to the fragmentation of State bargaining units. The State contends that the new group would be composed of approximately 500 employees, diminishing the relative bargaining strength of its members. The State argues that division of the unit along departmental lines would lead to "over-proliferation of bargaining units with varying contractual rights," a prospect the State describes as "an unmanageable nightmarish reality."

CSEA observes that the State produced no evidence regarding "[t]he effect that the projected unit will have on the [employer's] meet and confer relationships . . . ,"<sup>14</sup> "[t]he effect of the proposed unit on efficient operations of the employer . . . ,"<sup>15</sup> and "[t]he number of employees and classifications in a proposed unit and its effect on the operations of the employer . . . ."<sup>16</sup> In addition, I would note, the State also presented no evidence on "[t]he impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer."<sup>17</sup>

In the absence of evidence, it is not immediately apparent how the creation of an additional unit would adversely affect meet-and-confer relationships. Given the history of the relationship between the State and unit 3, one could just as easily infer that creation of a new unit would make the bargaining relationship smoother.

It likewise is not apparent how the creation of a new unit would adversely affect the State in its efforts to serve the public. Nor is there any inherent problem which stems from the relatively small size of the unit. At roughly 500 members, a

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<sup>14</sup>Section 3521(b) (2) .

<sup>15</sup>Section 3521(b) (3) .

<sup>16</sup>Section 3521 (b) (4) .

<sup>17</sup>Section 3521(b) (5) .

unit of educational consultants and related classes would not be the smallest state employee bargaining unit.<sup>18</sup>

Finally, the State's worries of an "over-proliferation of bargaining units" becoming "an unmanageable nightmarish reality" seem highly exaggerated. One additional unit is not a proliferation. Proposals to create other new bargaining units will all be required to overcome the presumption in favor of the Board-created bargaining units. In any event, there is no basis in this record for concluding that granting CSEA's petition will lead to a proliferation of bargaining units.

#### CONCLUSION

Accordingly, I conclude that CSEA's petition to divide unit 3 into two units should be granted. The new units shall be a newly constituted unit 3, Institutional Education, and a newly created unit 21, Educational Consultant, Library and Maritime.

These groupings separate the employees according to community of interest criteria. Unit 3, as newly constituted, will allow institutional teachers and related classes to pursue their common concerns about safety and retirement parity with correctional employees. The new unit 21 will allow consultants and related classes to seek restoration of their historic salary linkage with public school administrators and seek improvements in their working conditions. Because of their higher salaries

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<sup>18</sup>Unit 13, Stationary Engineer, has 472 members. Only slightly larger are Unit 14, Printing Trades, with 793 members and Unit 16, Physician/Dentist/Podiatrist, with 977 members. See PERB document, "Units in Place," 2/27/89.

and the absence of safety concerns, faculty members at the California Maritime Academy share a greater common interest with consultants than with institutional teachers. Accordingly, they should be placed in the new unit 21.

PROPOSED ORDER

For these reasons and based upon the entire record in this case, it hereby is ORDERED that:

1. Unit 3 shall be modified to include teachers and related staff, including librarians, in the institutions under the auspices of the Departments of Corrections, Youth Authority, Developmental Services, Mental Health and Education. Included in this group shall be all teaching and related staff in the special and diagnostic schools. Job classifications to be included in the newly modified unit 3 are listed in Appendix A, attached to this proposed decision.

2. A new unit 21 shall be established to include educational consultants, field representatives, specialists, librarians, archivists and related staff who work in the Departments of Education, the Office of the Chancellor of the California Community Colleges, the California Post-secondary Education Commission, the Commission on Teacher Credentialing together with the faculty and staff at the California Maritime Academy. Job classifications to be included in the newly created unit 21 are listed in Appendix B, attached to this proposed decision.

Pursuant to California Administrative Code, title 8, part III, section 32305, this Proposed Decision and Order shall become final unless a party files a statement of exceptions with the Board itself at the headquarters office in Sacramento within 20 days of service of this Decision. 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. See California Administrative Code, title 8, part III, section 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 sent by telegraph or certified or Express United States mail, postmarked not later than the last day set for filing . . . ." See California Administrative Code, title 8, part III, section 32135. Code of Civil Procedure section 1013 shall apply. 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 California Administrative Code, title 8, part III, sections 32300, 32305 and 32140.

Dated: June 12, 1989

Ronald E. Blubaugh  
Administrative Law Judge

## APPENDIX A

## INSTITUTIONAL EDUCATION UNIT 3

<u>Schematic Code</u>	<u>Class Code</u>	<u>Job Description</u>
FF35	2727	Language, Speech and Hearing Specialist
FM55	2952	Librarian - Correctional Facility
EA22	2283	Reading Specialist, Remedial and Development Education Programs, Youth Authority
FF30	2734	Resource Specialist, Special Education
XM50	9854	School Psychologist
FM45	2945	Senior Librarian - Correctional Facility
EB10	2351	Substitute Teacher Intermittent
NE00	2327	Substitute Teacher, Department of Education - VII 4(1)
NE15	6077	Supervising Teacher Specialist/Diagnostic School/Department of Education - VII 4(1)
NE05	7894	Supervising Teacher Specialist/School for Blind/Department of Education - VII 4(1)
NE10	6075	Supervising Teacher Specialist/School for Deaf/Department of Education - VII 4(I)
EC32	2288	Teacher (Emotionally/Learning Handicapped) (Correctional Facility)
EC12	2373	Teacher (Hearing Impaired) (Correctional Facility)
EB63	2859	Teacher (Industrial Arts) (Correctional Facility)
EB91	2371	Teacher (Speech Development and Correction) (Correctional Facility)
EB22	2284	Teacher - Arts and Crafts - Correctional Facility
EB30	2340	Teacher - Business Education
EB32	2285	Teacher - Business Education - Correctional Facility



EB40	2323	Teacher - Elementary Education
EB42	2287	Teacher - Elementary Education - Correctional Facility
EC30	2335	Teacher - Emotionally Handicapped
EB50	2312	Teacher - High School Education
EB51	2290	Teacher - High School Education - Correctional Facility
EB60	2376	Teacher - Home Economics
EB62	2291	Teacher - Home Economics - Correctional Facility
EB65	2354	Teacher - Librarian
EB67	2298	Teacher - Librarian - Correctional Facility
EC20	2338	Teacher - Mentally Retarded Children
EC10	2326	Teacher - Mentally Retarded Deaf Children
EB80	2332	Teacher - Music
EB82	2294	Teacher - Music - Correctional Facility
EB70	2496	Teacher - Recreation and Physical Education
EB72	2295	Teacher - Recreation and Physical Education - Correctional Facility
EB90	2318	Teacher - Speech Development and Correction
EC40	2329	Teacher Orientation and Mobility for the Blind
EC50	2328	Teacher Orientation Center for the Blind - Typing and Braille
NE00	2321	Teacher, Department of Education - VII 4(I)
EC35	2377	Teacher, Department of Health - Emotionally Handicapped
EC25	2316	Teacher, Department of Health - Mentally Retarded Children
EC36	2275	Teacher, State Hospital (Adult Education)
EB25	2317	Teacher, State Hospital (Arts and Crafts)

EC15	2337	Teacher, State Hospital (Communication Handicapped)
EB45	2319	Teacher, State Hospital (Elementary-Education)
EB48	2325	Teacher, State Hospital (High School Education)
EB52	2330	Teacher, State Hospital (Home Economics)
EB85	2335	Teacher, State Hospital (Music)
EB97	2336	Teacher, State Hospital (Physically Handicapped)
EB75	2333	Teacher, State Hospital (Recreation and Physical Education)
EB93	2334	Teacher, State Hospital (Speech Development and Correction)
EC59	2271	Teacher, State Hospital (Learning Handicapped, Developmentally Disabled)
EC28	2273	Teacher, State Hospital (Learning Handicapped, Mentally Disabled)
EC28	2273	Teacher, State Hospital (Learning Handicapped, Mentally Disabled)
EC29	2274	Teacher, State Hospital (Severely Handicapped, Mentally)
EC27	2272	Teacher, State Hospital (Severely Handicapped, Developmentally Disabled)
ED46	2853	Vocational Instructor (Animal Husbandry) (Correctional Facility)
ED77	2441	Vocational Instructor (Barbershop Practices) (Correctional Facility)
ED79	2874	Vocational Instructor (Book Binders) (Correctional Facility)
ED82	2854	Vocational Instructor (Building Maintenance) (Correctional Facility)
EF02	2855	Vocational Instructor (Computer Related Technologies) (Correctional Facility)

EF32	2856	Vocational Instructor (Diesel Mechanic) (Correctional Facility)
EF47	2857	Vocational Instructor (Drywall Installer/Taper) (Correctional Facility)
EF66	2875	Vocational Instructor (Farming, Diversified Crops) (Correctional Facility)
EF68	2876	Vocational Instructor (Fiberglass Technology) (Correctional Facility)
EF72	2858	Vocational Instructor (Floor Cover Layer) (Correctional Facility)
EF74	2877	Vocational Instructor (Furniture Refinishing) (Correctional Facility)
EF80	2397	Vocational Instructor (Garment Making)
EF92	2847	Vocational Instructor (Glazier) (Correctional Facility)
EG14	2846	Vocational Instructor (Horse Trainer) (Correctional Facility)
EG47	2848	Vocational Instructor (Insulation Installer, Building and Pipe) (Correctional Facility)
EG85	2878	Vocational Instructor (Machine Shop - Automotive) (Correctional Facility)
EI72	2674	Vocational Instructor (Office Machine Repair) (Correctional Facility)
EH47	2849	Vocational Instructor (Office Services and Related Technologies) (Correctional Facility)
EH83	2852	Vocational Instructor (Printing Graphic Arts) (Correctional Facility)
EI02	2850	Vocational Instructor (Roofer) (Correctional Facility)
EI47	2851	Vocational Instructor (Small Engine Repair) (Correctional Facility)
EI48	2879	Vocational Instructor (Solar Energy/Alternate Energy) (Correctional Facility)
EI50	2374	Vocational Instructor (Stockkeeping and Warehousing)

ED42	2387	Vocational Instructor - Airframe Mechanics - Correctional Facility
ED50	2383	Vocational Instructor - Auto Body and Fender Repair
ED52	2396	Vocational Instructor - Auto Body and Fender Repair - Correctional Facility
ED62	2398	Vocational Instructor - Auto Mechanics - Correctional Facility
ED72	2399	Vocational Instructor - Baking - Correctional Facility
ED92	2417	Vocational Instructor - Carpentry - Correctional Facility
EI87	2419	Vocational Instructor - Commercial Diver Training - Correctional Facility
EF12	2420	Vocational Instructor - Cosmetology - Correctional Facility
EF22	2422	Vocational Instructor - Culinary Arts - Correctional Facility
ED27	2423	Vocational Instructor - Dog Grooming and Handling - Correctional Facility
EF42	2425	Vocational Instructor - Dry Cleaning Work - Correctional Facility
EF52	2426	Vocational Instructor - Electrical Work - Correctional Facility
EF62	2428	Vocational Instructor - Electronics - Correctional Facility
EF64	2688	Vocational Instructor - Eyewear Manufacturing - Correctional Facility
EF82	2432	Vocational Instructor - Garment Making - Correctional Facility
EG12	2433	Vocational Instructor - Heavy Equipment Repair - Correctional Facility
EG22	2597	Vocational Instructor - Household Appliance Repair - Correctional Facility
EG30	2372	Vocational Instructor - Industrial Arts

EG32	2598	Vocational Instructor - Industrial Arts - Correctional Facility
EG42	2599	Vocational Instructor - Instrument Repair - Correctional Facility
EG52	2600	Vocational Instructor - Janitorial Service - Correctional Facility
EG60	2435	Vocational Instructor - Landscape Gardening
EG62	2601	Vocational Instructor - Landscape Gardening - Correctional Facility
EG82	2614	Vocational Instructor - Machine Shop Practices - Correctional Facility
EG92	2615	Vocational Instructor - Masonry - Correctional Facility
EH12	2619	Vocational Instructor - Meat Cutting - Correctional Facility
EH22	2627	Vocational Instructor - Mechanical Drawing - Correctional Facility
EH32	2630	Vocational Instructor - Mill and Cabinet Work - Correctional Facility
EH52	2644	Vocational Instructor - Painting - Correctional Facility
EH62	2645	Vocational Instructor - Plastering - Correctional Facility
EH72	2661	Vocational Instructor - Plumbing - Correctional Facility
ED32	2665	Vocational Instructor - Power Plant Mechanics - Correctional Facility
EH87	2667	Vocational Instructor - Radiologic Technology - Correctional Facility
EH92	2668	Vocational Instructor - Refrigeration and Air Conditioning Repair - Correctional Facility
E112	2669	Vocational Instructor - Sewing Machine Repair - Correctional Facility
EI22	2670	Vocational Instructor - Sheet Metal Work - Correctional Facility

EI32	2671	Vocational Instructor - Shoemaking - Correctional Facility
EI42	2672	Vocational Instructor - Silk Screen Processes - Correctional Facility
EI52	2673	Vocational Instructor - Stockkeeping and Warehousing - Correctional Facility
EI80	2406	Vocational Instructor - Upholstering
EI82	2675	Vocational Instructor - Upholstering - Correctional Facility
EJ12	2676	Vocational Instructor - Vocational Nursing - Correctional Facility
EI92	2677	Vocational Instructor - Welding - Correctional Facility
EC60	2311	Youth Authority Teacher

## APPENDIX B

## EDUCATIONAL CONSULTANT, LIBRARY AND MARITIME UNIT 21

<u>Schematic Code</u>	<u>Class Code</u>	<u>Job Description</u>
EJ20	2681	Adaptive Driver Evaluation Specialist, Department of Rehabilitation I
FD30	2730	Adult Education Assistant I
FD25	2731	Adult Education Assistant II
FD20	2732	Adult Education Consultant
EN50	2513	Agricultural Education Consultant
FG66	2718	American Indian Education Assistant
FG65	2719	American Indian Education Consultant
BU30	2805	Archivist I
BU40	2804	Archivist II
EU70	2617	Assistant Consultant in Teacher Preparation
ER74	2588	Assistant Field Representative I, School Administration
ER76	2589	Assistant Field Representative II, School Administration (Specialist)
NE20	2488	Assistant Professor, California Maritime Academy-
NE20	2542	Assistant Professor, General Studies, California Maritime Academy
NE20	2543	Assistant Professor, Maritime Studies, California Maritime Academy
NE20	2443	Associate Professor, California Maritime Academy
EX51	2689	Associate Vocational Education Analyst, California Advisory Council for Vocational Education
FJ26	2821	Audio-Visual Technician, California Museum of Science and Industry

FG90	2765	Bilingual-Bicultural Education Assistant I
FG85	2759	Bilingual-Bicultural Education Assistant II
FG83	2750	Bilingual/Migrant Education Assistant
FG80	2758	Bilingual/Migrant Education Consultant
EN90	2517	Business Education Consultant
FB68	2832	Child Development Assistant I
FB66	2833	Child Development Assistant II
FB64	2834	Child Development Consultant
EM25	2549	Community College Program Assistant I
EM30	2550	Community College Program Assistant II
FH86	2770	Compensatory Education Assistant I
FH88	2776	Compensatory Education Assistant II
FH90	2782	Compensatory Education Consultant
FC20	2717	Consultant in Audio-Visual Education
FA60	2701	Consultant in Gifted and Talented Education
EW20	2634	Consultant in Intergroup Relations
EU20	2616	Consultant in Mathematics Education
FG30	2769	Consultant in Physical Education
FG60	2774	Consultant in Pupil Personnel Services
FB15	2705	Consultant in Reading
FG35	2767	Consultant in School Nursing and Health Services
EV20	2621	Consultant in Teacher Preparation
EU75	2618	Consultant in Teacher Preparation (Examinations and Research)
EU80	2635	Consultant in Teacher Preparation (Program Evaluation and Research)
EU60	2622	Consultant in Traffic Safety Education



FB50	2608	Early Childhood Education Assistant I
FB40	2610	Early Childhood Education Assistant II
FB30	2607	Early Childhood Education Consultant
ER95	2655	Education Programs Assistant
ER90	2656	Education Programs Consultant
EY30	2654	Education Project Assistant I - Various Projects
EY20	2653	Education Project Assistant II - Various Projects
EY10	2652	Education Project Specialist I - Various Projects
EX10	2642	Education Research and Evaluation Assistant
EX20	2643	Education Research and Evaluation Consultant
ER80	2573	Field Representative, School Administration (Specialist)
E050	2520	Homemaking Education Consultant
E090	2524	Industrial Education Consultant
FN10	2922	Information Program Specialist I (Various Programs)
FN22	1600	Information Program Specialist II (Microsystems)
FN20	2923	Information Program Specialist II (Various Programs)
ET20	2682	Instructor of Farm Labor Camp Bus Driver Trainers
ET10	2683	Instructor of School Bus Driver Trainers
NE20	2444	Instructor, California Maritime Academy
FM50	2951	Librarian
QU10	6976	Maritime Vocational Instructor I
QU20	6978	Maritime Vocational Instructor II

QU30	6979	Maritime Vocational Instructor III
FI17	2793	Migrant Education Assistant I
FI15	2798	Migrant Education Assistant II
FI10	2783	Migrant Education Consultant
FG45	2260	Nutrition Education and Training Assistant
FG50	2261	Nutrition Education and Training Consultant (Nonsupervisory)
EL72	2527	Postsecondary Education Specialist I
EL71	2528	Postsecondary Education Specialist II
EL70	2506	Postsecondary Education Specialist III
NE20	2438	Professor, California Maritime Academy
ES98	2612	School Approvals Assistant I
ES95	2613	School Approvals Assistant II
ES90	2609	School Approvals Consultant
FG38	2747	School Health Education Assistant I
FG39	2748	School Health Education Assistant II
FG40	2772	School Health Education Consultant
EZ30	2694	Secondary Education Administrator I (Nonsupervisory)
EZ35	2695	Secondary Education Administrator II
EZ15	2692	Secondary Education Assistant II
EZ20	2686	Secondary Education Consultant
NE20	2487	Senior Instructor, C.M.A.
FM41	2943	Senior Librarian (Specialist)
FF40	2761	Special Education Assistant I
FF50	2762	Special Education Assistant II
FF60	2764	Special Education Consultant

EM51	2539	Specialist in Academic Planning and Development, California Community Colleges
EM85	2530	Specialist in Agricultural Education, California Community Colleges
EM87	2531	Specialist in Business Education, California Community Colleges
EM89	2540	Specialist in Criminal Justice Education, California Community Colleges
EM54	2544	Specialist in Employment and Certification, California Community Colleges
EM70	2508	Specialist in Facilities Planning and Utilization, California Community Colleges
EM82	2525	Specialist in Fiscal Planning and Administration, California Community Colleges
EM91	2458	Specialist in General Vocational Education, California Community Colleges
EM93	2535	Specialist in Health Occupations, California Community Colleges
EM95	2465	Specialist in Homemaking Education, California Community Colleges
EM97	2534	Specialist in Industrial Education, California Community Colleges
EM55	2551	Specialist in Information Systems and Analysis, California Community Colleges
EM99	2547	Specialist in Public Service Occupations, California Community Colleges
EM63	2565	Specialist in Student Services Planning and Development, California Community Colleges
NE20	0522	Student Affairs Assistant, California Maritime Academy
NE20	0523	Student Affairs Officer I, California Maritime Academy
NE20	0526	Student Affairs Officer II, California Maritime Academy
ES60	2594	Textbook Consultant

EQ60	2583	Vocational Education Assistant I
EQ59	2721	Vocational Education Assistant II
EQ58	2722	Vocational Education Consultant
EQ70	2620	Vocational Education Gender Equity Consultant