STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

REGENTS OF THE UNIVERSITY OF CALIFORNIA, Employer, and COALITION OF UNIVERSITY EMPLOYEES, Exclusive Representative.	Case Nos. SF-UM-620-H SF-UM-621-H PERB Decision No. 2185-H June 9, 2011

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

Before McKeag, Dowdin Calvillo and Huguenin, Members.

DECISION

McKEAG, Member: This case comes before the Public Employment Relations Board (PERB or Board) on appeal by the Coalition of University Employees (CUE) to a proposed decision (attached) by an administrative law judge (ALJ) regarding a petition for unit modification filed by the Regents of the University of California (University) and a subsequent petition for unit modification filed by CUE in response to the University's petition.

The University's petition alleges that CUE opposes the University's proposal to remove certain positions from the systemwide clerical and allied services bargaining unit (CX Unit) through the process of reclassification and requests the dispute be resolved under PERB Regulation 32781(b)(3).[1] The petition asserts that the duties performed by the incumbents in

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

the disputed positions have evolved over time such that the majority of the work in each position no longer constitutes bargaining unit work.

CUE's petition, on the other hand, concerns the same positions addressed in the University's petition, but requests the dispute be resolved under PERB Regulation 32781(b)(2). CUE asserts the CX Unit should be clarified or modified to establish that the duties performed by the incumbents in the disputed positions is appropriately assigned to a classification within the unit, namely, the "__ Assistant IV" position.[2]

The ALJ concluded all fourteen positions at issue were properly reclassified to positions outside of the CX Unit. Consequently, the ALJ granted the University's petition and denied CUE's petition. CUE argues on appeal that the ALJ erred by failing to apply the proper presumptions and appropriate community of interest factors in his analysis.

We have reviewed the entire record and find the proposed decision was well-reasoned, adequately supported by the record and in accordance with applicable law. Accordingly, we hereby adopt the proposed decision as a decision of the Board itself, subject to the following discussion addressing several issues raised on appeal.[3]

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[2] The classification known as the "__ Assistant" (spoken as "blank assistant") was used by the University for miscellaneous clerical positions. The "blank" signifies a placeholder into which the campuses insert an adjective denoting a more specialized function (e.g., payroll assistant, purchasing assistant, business assistant, human resources assistant).

[3] CUE requested oral argument in this matter. Historically, the Board has denied requests for oral argument when an adequate record has been prepared, the parties had ample opportunity to present briefs and have availed themselves of that opportunity, and the issues before the Board are sufficiently clear to make oral argument unnecessary. (*United Teachers of Los Angeles (Valadez, et al.)* (2001) PERB Decision No. 1453; *Monterey County Office of Education* (1991) PERB Decision No. 913.) Based on our review of the record, all of the above criteria are met in this case. Accordingly, CUE's request for oral argument is denied.

DISCUSSION

A. This Case Is Properly Resolved Under PERB Regulation 32781(b)(3)

In light of the petitions filed by the University and CUE, the threshold issue in this case is whether the parties' unit modification petitions were properly resolved under PERB Regulation 32781(b)(2) (clarification of unit description) or PERB Regulation 32781(b)(3) (resolution of dispute regarding unit placement). The ALJ found the issue in this case was whether the positions, as revised, justify the University's attempt to exclude them from the CX Unit. According to the ALJ, this case, unlike a case in which the employer merely retitles a position without any presumed change in job duties, implicates reclassifications based on changes in duties or the composition of duties. Consequently, the ALJ concluded the case was properly resolved under PERB Regulation 32781(b)(3).

Based on this finding, the ALJ rejected CUE's assertion that the current unit assignment of the positions in question is presumptively valid because they are currently in the CX unit. Consequently, rather than applying the presumption, the ALJ focused on whether the positions were subject to exclusion from the CX unit based on the relevant community of interest factors.

In its appeal, CUE argues the ALJ erred by failing to apply its requested presumption. In support of its claim, CUE cites *State of California (Department of Personnel Administration)* (1990) PERB Decision No. 794-S (*State of California*) for the proposition that the existing unit placement is appropriate. However, the *State of California* case, unlike the current case, involved a situation in which there was no change in the job duties of the positions. Consequently, we find the *State of California* case of limited probative value. Here, since the duties performed by the individual employees have changed over time, it is

appropriate to consider whether these changed duties support the proposed reclassification. Accordingly, we agree with the ALJ that this case is properly governed by PERB Regulation 32781(b)(3) and find the ALJ's analysis of the community of interest factors appropriate under the facts of this case.

B. The Record Does Not Support A Finding Of Retaliation Against The University

It should be noted that CUE, in its appeal, argues that "the heart of this dispute is the University's inappropriate use of the reclassification process and related mechanisms to reduce the numbers and strength" of the CX Unit. We disagree with this assessment. There is nothing in the record to suggest that the University proposed the reclassifications for the purpose of weakening or otherwise compromising CUE or for the purpose of retaliating or discriminating against CUE. Instead, the University's actions reflect an adjustment to the classifications at issue in recognition of the additional duties and responsibilities assumed over time by the incumbents in those positions. The fact that those incumbents are offered promotional opportunities outside the CX Unit does not, under the facts of this case, constitute unlawful discrimination.

C. The Professional Employee Presumption Was Adequately Rebutted

CUE also argues on appeal that since the positions in question are "not professional", the ALJ erred by failing to apply a rebuttable presumption that the employees should not be placed in the administrative professionals unit. Section 3579(b) of the Higher Education Employer-Employee Relations Act (HEERA)[4] provides that:

> There shall be a presumption that professional employees and nonprofessional employees shall not be included in the same representation unit. However, the presumption shall be

[4] HEERA is codified at Government Code section 3560 et seq.

> rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (a) establishes.

Based on the plain language of this section, the presumption can be rebutted by examining the community of interest factors set forth in HEERA section 3579(a). Here, the ALJ conducted a thorough community of interest analysis for each of the positions in question and correctly found the positions were properly reclassified as non-CX Unit positions. Consequently, even if the presumption was warranted, we find the University presented sufficient evidence to rebut the presumption. Thus, this exception lacks merit and does not warrant reversal of the proposed decision.

D. The University's Utilization Of __ Assistant IV Positions At One Campus Was Not Determinative In This Case

Last, CUE argues that the ALJ erred by failing to take into consideration the breadth of duties performed by the __ Assistant IV position currently utilized at UC Davis. The __ Assistant IV position, however, is not incorporated within the systemwide series concept and is not in use at campuses where the proposed reclassifications exist. In essence, CUE is arguing that UC should have performed a systemwide addition of the __ Assistant IV position to the CX Unit and reclassified the positions in question to __ Assistant IV positions.

We find, however, the ALJ correctly concluded that the decision as to whether the __ Assistant IV position is a more appropriate classification for the work of the incumbent described was beyond the scope of this hearing. Instead, the proper inquiry is simply whether the majority of the work in each position is clerical bargaining unit work or not, as determined by the parties' memorandum of understanding language establishing PERB as the dispute arbiter. Thus, CUE's attempt to compel the University to create a new systemwide position is

not warranted under the facts of this case. Since each of the positions qualifies to serve in a position outside the CX Unit, we find this exception lacks merit and does not warrant reversal of the proposed decision.

E. All 14 Positions Are Properly Reclassified In Positions Outside The CX Unit

The proposed decision consists of a detailed analysis of the duties performed by the incumbents in each position, followed by a thorough community of interest analysis. The Board has reviewed the ALJ's analysis of the community of interest factors with respect to each position and finds the analysis well-reasoned and adequately supported by the record. Accordingly, we agree with the ALJ that all 14 positions at issue are properly reclassified in positions outside the CX Unit.

ORDER

The petition of the Regents of the University of California in Case No. SF-UM-620-H is GRANTED with respect to the positions at issue and the petition of Coalition of University Employees in Case No. SF-UM-621-H is DENIED.

Members Dowdin Calvillo and Huguenin joined in this Decision.

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

REGENTS OF THE UNIVERSITY OF CALIFORNIA, Employer, and COALITION OF UNIVERSITY EMPLOYEES, Exclusive Representative.	REPRESENTATION CASE NOS. SF-UM-620-H and SF-UM-621-H PROPOSED DECISION (March 19, 2009)

Appearances: Hanson Bridgett LLP, by M. D. Moye and Molly A. Lee, Attorneys, for Regents of the University of California; Beeson, Tayer & Bodine, APC, by Jason Rabinowitz and Peter McEntee, Attorneys, for Coalition of University Employees.

Before Donn Ginoza, Administrative Law Judge.

PROCEDURAL HISTORY

On December 6, 2004, the Regents of the University of California (University) filed a unit modification petition under the Higher Education Employer-Employee Relations Act (HEERA or Act) (Gov. Code, § 3560 et seq.).[1] The petition alleges that a dispute with Coalition of University Employees (CUE) exists over the University's proposals to remove positions from the clerical and allied services bargaining unit through the process of reclassification and requests the dispute be resolved under California Code of Regulations, title 8, section 32781(b)(3).[2] The petition asserts that the incumbents' positions have evolved

[1] Hereafter all statutory references are to the Government Code unless otherwise indicated.

[2] Unit modification petitions are governed by article 5 of the PERB Regulations. (Cal. Code of Regs., tit. 8, § 32781 et seq.) Hereafter all references to PERB Regulations within title 8 of the California Code of Regulations will be cited as "Regulation."

over time as a result of the assignment of new duties, such that the majority of the work in each position no longer constitutes bargaining unit work.

On January 31, 2005, CUE filed a unit modification petition concerning the same positions addressed in the University's petition, and others similarly situated. CUE's petition requests the dispute be resolved under Regulation 32781(b)(2). CUE asserts that its unit should be clarified or modified to establish that the work of the disputed positions is appropriately assigned to a classification within the unit, namely, the "__ assistant IV" position.

On July 25, 2005, an informal settlement conference was held, but the matter was not resolved.

Informal discussions between the parties led to an agreement whereby the University would litigate 5 of 21 positions identified in its unit modification petition as well as additional positions, without requirement for an amended petition.

Beginning on June 18, 2007 and continuing for 28 non-consecutive days through February 28, 2008, a formal hearing was held before the undersigned. During the course of the hearing, 14 positions were presented for determination.[3]

On July 14, 2008, the matter was submitted for decision following receipt of post-hearing briefs.

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[3] The University withdrew the proposed reclassification of Elvis Aragundi at the University of California (UC), Irvine after the hearing but prior to submission of the case. As explained below, all the reclassifications arrive before PERB through contractual language designating it as the arbiter of disputes of this kind in which the University replaces a "major portion" of a bargaining unit position with a position in a classification outside the unit, typically as a result of the reclassification of the incumbent. Similar disputed reclassifications continue to occur, explaining the University's continuing need to amend its petition. Although this proposed decision does not address all the disputed reclassifications at the time of hearing, the parties have agreed to consider it with a view toward informal resolution of other positions in dispute. Barring a global resolution, the proceedings will be reopened for litigation of additional positions in dispute.

FINDINGS OF FACT

CUE is an employee organization within the meaning of section 3562(f)(1) and is the exclusive representative of an appropriate unit of University employees within the meaning of section 3562(i). The University is a higher education employer within the meaning of section 3562(g).

The Clerical Unit

CUE represents the systemwide clerical and allied services unit defined in earlier PERB unit determination hearings. (See *Unit Determination for Clerical Employees of the University of California* (1982) PERB Decision No. 244-H.) Similar to the determination of other University bargaining units, unions filed representation petitions along with their proposals for appropriate units. These petitions were consolidated, and an omnibus-type hearing was held in which all parties were permitted to assert their positions with regard to appropriate units. Hearing officers were assigned portions of the case and each prepared a recommended decision for presentation to the Board. The Board either adopted the recommended decision or adopted it with changes. In the case of the systemwide clerical and allied services unit—which the parties have come to reference as the "CX" unit—the Board adopted the hearing officer's decision with one minor revision not pertinent here.[4] At the time of the hearing, the CX unit included classifications such as secretary, clerk, cashier, typist, administrative assistant, key entry operator, graphic compositor, bibliographer, library assistant, messenger, dispatcher, communication attendant (switchboard operator), biller, rater, survey worker, computing coordinator and admitting worker. American Federation of State, County and Municipal

[4] The Board adopted the hearing officer's recommended decision but did not republish it. Reference to both the clerical unit and professional unit recommended decisions (entered in the record as exhibits) is made nevertheless to illuminate the Board's decision in terms of how the clerical unit is defined, especially vis-à-vis other units into which the University seeks to reclassify the positions here.

Employees (AFSCME) became the first exclusive representative of the CX unit. It was replaced by CUE following a decertification election in 1997.

In the recommended decision proposing the clerical unit, the hearing officer found the following:

> Clerical employees either work with several other employees of the same classification series under supervision of another employee in their class series, or individually, under the supervision of a professional employee. They are distinguished from service employees by their lack of frequent physical labor and by their office work environment. They are distinguished from technical employees by the routine nature of their work and the lack of specialized technical training.
>
> These employees generally work in an office environment utilizing common office equipment, no matter what their department. [Footnote omitted.]
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> All clerical employees are required to have a 12th grade education. [Footnote omitted.] Some classifications additionally require prior experience in clerical work, and occasionally specialized knowledge of advanced clerical, analytical or technical skills. Legal secretaries . . . for example, are required to have some knowledge of legal terminology. [Footnote omitted.] (However, unlike technical employees, clerical employees exercise little or no independent judgment in applying this specialized knowledge.)

The hearing officer noted that employees in the CX unit performed similar work to that of a clerical unit found appropriate for a community college district under the Educational Employment Relations Act (§ 3540 et seq.). He described the work of that unit as follows:

> Positions in this negotiating unit primarily involve the performance of clerical tasks of a relatively routine and less complex nature and which do not require the frequent exercise of independent judgment or entail major administrative responsibility. Incumbents in the office-clerical classifications do not regularly or primarily interact with students in connection with the educational program of the college.

The nature of clerical work has changed since the time of the original unit determination due in large part to technological advances which allow the University to

achieve economies in labor, particularly in areas where information is processed on paper. The record in this case, as well as common knowledge, indicate that the advent of computer networks and desktop computers, voice-mail, automated spreadsheets, and the like has permitted a reduction in the number—or at least variety—of employees tasked with clerical functions. In response to both the technological change and a series of recent general fund reductions, the University has undergone departmental restructuring, resulting in downsizing and consolidation of positions as well as decentralization of certain business functions heavily dependent on clerical work. At the same time, existing clerical positions have themselves become broader in scope.[5] It would be fair to say that technology has had a hand in facilitating this "multi-tasking." When CUE became the unit's exclusive representative in 1997 there were over 18,000 employees in the unit, rising to 18,484 in 2000, based on "jurisdictional" database information provided to CUE by the University. As of 2007, the number had fallen to 14,766.

The parties draw divergent conclusions from this trend however. CUE cites these developments as the basis for a higher level of responsibility being assigned to clerical employees today, which in turn informs the current view of clerical work and sustains the unit's hold on it. The University believes these changes ultimately have little bearing on the original unit definitions and that the technological changes are irrelevant to whether the work of the incumbents satisfies the requirements for placement outside the unit, except insofar as they explain the University's ability to reorganize work and reduce labor costs.

The Administrative Staff Professionals Unit

At the time of the original unit determination hearings, professional employees were examined in a hearing separate from those for clerical employees. The resulting recommended

[5] In the 1990's, the University notified AFSCME of a proposal to phase out a number of job classifications and consolidate 45 clerical-related titles into a total of 8. Some of the eliminated job titles included senior clerk, clerk typist, cashier, secretary I, and messenger.

units included all professional classifications, not just those formally petitioned for by employee organizations. Professional employees under consideration included academic professionals, staff professionals, and health care professionals. After recommending that health care professionals, librarians, and Lawrence Livermore National Laboratory professionals be assigned separate units, PERB's hearing officer examined non-Senate academic and administrative staff professionals as a group. Based in part on the University's separate treatment of these two groups under its personnel policies, budgets, and grievance procedures, the hearing officer recommended that administrative staff professionals be assigned their own unit. Pertinent to this case, the hearing officer noted that the petitions for professional and nonprofessional employees were separated following the general hearing that provided an overview of the structure and operations of the University. Issues involving whether classifications are professional or nonprofessional were not addressed in the hearing officer's decision, except for the cryptic statement that "those classes found to be professional have been placed in appropriate units."[6] Though the parties did not present testimony at the time regarding the qualifications and duties of each job description in terms of education, training, qualifications and duties, such specifications were presented through the University's existing staff personnel policy. Among the positions placed in the administrative staff professionals unit were analysts, student affairs officers, program representatives, publications coordinators, and public information representatives. No employee organization has ever obtained exclusive representative status for this unit.

[6] The hearing officer noted that "[a]pparently all staff professionals have been petitioned for." He also acknowledged a procedural decision not to incorporate the records of both the nonprofessional and professional hearings—making it potentially difficult for a party to substantiate a proposal for a mixed unit on appeal to the Board.

The Technical Employees Unit

PERB's unit determination establishing the systemwide unit of technical employees describes the positions as: "nonprofessional employees whose work involves the use of independent judgment and the exercise of specialized skills, often gained through advanced education or training. Technical employees are very often licensed, certified, or registered as a requirement of employment." (*Unit Determination for Technical Employees of the University of California* (1982) PERB Decision No. 241-H, p. 7.) Citing *Marin Community College District* (1978) PERB Decision No. 55, at p. 8, PERB also noted:

> Performance in [technical] positions entails considerable responsibility and involves the performance of relatively complex assignments, . . . as contrasted to performance of more routine paperwork and bookkeeping tasks performed by clerical employees.

Contractual Provisions for Reclassification Dispute Resolution

Around 2001, CUE filed an unfair practice charge challenging what it believed to be the University's unilateral removal of a group of University of California, Los Angeles (UCLA) employees from the bargaining unit through the reclassification process. A couple of years later, CUE concluded there had been an erosion of the bargaining unit based on its review of proposed reclassifications and comparisons of the old and new job descriptions, which appeared in many cases to be identical.[7] The unfair practice charge was settled through language in the parties' memorandum of understanding (MOU) requiring notice to CUE, a right of review of reclassification actions, and submission of unresolved disputes to PERB. Notice is triggered when the University intends to replace a "major portion" of the bargaining unit position with a position in a classification outside of the unit. More or less consistent with

[7] Between 1997 and 2006, the number of administrative specialists, a position created in the early 1990's systemwide, increased from 351 to 1,076. This raised suspicions within CUE.

this terminology, University compensation and classification managers agree that reclassification of a bargaining unit position to a non-bargaining position is justified when the "preponderance of the duties" is no longer in the unit.[8]

CUE established a statewide committee to review the noticed reclassification proposals. Its practice is to compare the old and new job descriptions, conduct additional fact gathering when necessary, and then indicate to the University whether it approves or rejects the reclassification. All of the positions in this case arrive in this posture, namely, where CUE has notified the University that it does not agree with the reclassification because it believes the retitled position remains within the unit.

The University's Classification and Compensation System

The University's classification and compensation system is coordinated by the human resources staff in the Office of the President (UCOP) and implemented through the human resources staff at each of the campuses. The University has established practices by which reclassifications are proposed, analyzed and determined. The University has a bottom-up/top-down approach, whereby classification authority has been delegated to the campus level. Within the recent past, campuses have also been delegated the authority to develop job standards. Under the latter authority, campuses may propose new titles to address functions needed at their respective institutions. New titles and their job specifications are reviewed by the UCOP staff for approval as new classifications. UCOP shares a proposal with other campuses to determine if there is consensus to establish a classification for systemwide use. If only the requesting campus has need for the classification, authority for its use will only be granted to that campus. UCOP also from time to time reviews the work of a particular

[8] A University witness asserted that the controlling duties may constitute less than 50 percent of the work (in terms of time) if they are higher level and represent essential expertise. Though not agreeing specifically with that point, a CUE witness conceded there is some case-by-case judgment involved in the determination as well.

classification, determines if is no longer needed, or needed at a particular level, and freezes and/or abolishes it.

When a particular type of work lends itself to different levels of skill and competency, the University has promulgated multiple classifications within a "series concept." The classifications in the series are listed in sequential order from lowest to highest grade and constitute a promotional ladder for employees within the series. Each level is determined by such factors as the nature and extent of authority delegated, variety and complexity of functions performed or supervised, application of knowledge of intradepartmental or interdepartmental functions and University policies and procedures, nature and level of intramural and extramural public contacts, and consequence of error.

When a campus department seeks to reclassify a position (either within a series or to a different classification), documentation in support of the request is prepared, the substance of which is the employee's revised (i.e., current) job description. As a starting point, the campus human resources analyst compares the current job description with the previous job description to highlight differences in responsibility. An investigation usually occurs to confirm with the manager of the department that the described changes have occurred. In some cases, particularly if there are doubts or questions, the analyst will investigate more thoroughly, consulting more extensively or directly auditing the work of the incumbent in a process described as a "desk audit." The analyst will then determine which classification (and level if a series is involved) best describes the work being performed. If a classification is not in use at one campus, but has been approved for use at another campus, there is no need to create a new title, and the campus simply requests extension of the classification to that campus. If the question concerns the appropriate level within a series, the analyst will examine the written series-concept guidelines to determine if the placement is at the appropriate level. Since

campuses tailor the series concepts to suit their own needs, particularly with respect to differentiating similar positions, the campuses have developed "supplemental guidelines" for application in addition to the more general systemwide guidelines. There are occasions when the proposed reclassification is not well described by an existing classification but a new classification is not proposed, in which case the classification assigned becomes something of a "forced fit."

The Administrative Assistant and "Blank" Assistant Series

The title of administrative assistant at the time of the original unit determination was a systemwide classification within a series. It was a position performing general clerical and administrative duties. The classification known as the "__ assistant" (spoken as "blank assistant") was used by the University for miscellaneous clerical positions. The "blank" signifies a placeholder into which the campuses insert an adjective denoting a more specialized function (e.g., payroll assistant, purchasing assistant, business assistant, human resources assistant). Over time, the __ assistant series became more heavily populated as the University reduced the number of titles in use through a process of consolidation.[9] Currently, the majority of bargaining unit positions fall within this series. Most of the __ assistants systemwide are at the II level. There are five levels in the series, beginning with the entry level position of clerk, followed by senior clerk, __ assistant I, __ assistant II, and __ assistant III. Clerks and senior clerks are being used less often by the departments. The __ assistant II position is considered the journey level position where the incumbent is fully trained and works with some level of independence.

[9] The University explained this restructuring to AFSCME representatives in 1995 and specifically noted that the __ assistant positions would replace certain miscellaneous assistant positions. AFSCME saw the plan as benefiting the unit as a whole by broadening the classifications in a manner that enhanced seniority protection. Clerk, secretary and several administrative assistant classifications were among those eliminated.

The University's generic description of the work of the __ assistant series includes the following:

> Incumbents may participate in budget, grant, or contract preparation; administer and control department expenditures; maintain department personnel records and provide departmental personnel services; prepare reports and maintain pertinent files and other required records; provide non-laboratory business services such as purchasing, inventory and stores, facilities and space utilization; and provide general clerical as well as secretarial assistance to department staff.

The series concept also describes as covered functions such activities as preparing bulletins and teaching materials, scheduling classes, operating recharge services, processing admissions, advising students, maintaining specialized files, and coordinating special programs. A University compensation manager explained that for the office administrative positions, which include the __ assistant positions, the unifying principle is that the work is transactional in nature. Transactions involve the operational aspects of the University's work. And while such work primarily involves the repetitive application of established procedures, judgment and discretion is involved—particularly more so in the upper levels of the series—but it is discretion typically limited to selecting which of a number of potentially applicable procedures to invoke. Stated differently, the substance of the work does not change on a day-to-day basis, and the application of judgment does not require changing the nature of the information received. Conversely, when the incumbent is asked to analyze information or apply critical thinking skills to that information, the University deems such work professional as opposed to clerical.

In the fall of 2002, the UC Davis campus requested UCOP approval of a new position identified as a __ assistant IV. UCOP reviewed the position and consulted with other campuses to determine if they had need for such a classification. They did not. Accordingly, UCOP established the __ assistant IV position as a stand-alone classification (i.e., not one

incorporated within the systemwide series concept). For UC Davis, the need for the new classification was a result of what the campus viewed as a new level of multi-functional administrative work in the business office-setting. This began with the implementation of a new financial system, allowing payroll functions to be decentralized. Now, the __ assistant IV fills the role of the single point of contact externally while managing purchasing, payroll, personnel transactions, and grants administration, reporting directly to the manager of the department or a principal investigator. The campus currently employs approximately 125 to 150 __ assistant IV's. The position also facilitated the restructuring and downsizing of offices, as the Davis campus navigated a series of general budget reductions. The other campuses either did not have a similar position or believed it could be described within an existing classification. In early bargaining between CUE and the University, CUE proposed that the __ assistant IV classification be added as a systemwide position, but the University rejected those proposals.

At the time of the unit determination hearings, an administrative assistant IV position was assigned to the unit. That position, as originally conceived, was subsequently frozen and phased out of use. The early series concept suggests a position which is difficult to distinguish from the entry level positions in the administrative staff professionals unit.[10]

Administrative Staff Professional Classifications and Their Attributes

Aside from the brief comment about clerical employees not exercising significant independent judgment or having major administrative responsibility, PERB's original unit determination decisions of the hearing officers and the Board are admittedly opaque as to

[10] The __ assistant IV position description retains the administrative assistant IV's reference to "administrative responsibility for a total program, service or unit" and independent decisionmaking responsibility, but eliminates reference to such descriptions as analysis "equivalent to full professional staff analysis" and performance of assignments for which "administrative guides are frequently inadequate" or which "involve program or policy development."

specific factors differentiating positions designated as professional from those in the clerical bargaining unit, particularly those at the lower levels. Nonetheless, PERB has determined that several classifications which the University uses to describe positions at issue here belong in the administrative staff professionals unit. As noted above, these include analysts, student affairs officers, program representatives, publications coordinators, and public information representatives. And over the years, the University's classification experts have identified general factors by which to differentiate professional and clerical positions. These are the factors upon which the University claims to have relied as to positions at issue here. They have been applied both as to positions for which a PERB unit determination has been made explicitly and those for which there has not, but which have the attributes, the University contends, are necessary for them to qualify as professional.

As noted by one of the University's human resources managers in describing the linkage between its compensation and classification schemes, the same factors which determine compensation levels in fulfillment of the goal of uniform pay for comparable level work are the factors differentiating professional from non-professional work. They include independence of judgment, nature of decisionmaking and analysis, consequence of error, complexity and intensity of work, level of knowledge and skills, and degree of interaction with the public. In regard to both independent judgment and decisionmaking, the extent of reliance on professional knowledge and independent research as well as the absence of existing prescriptive administrative guidelines are factors indicative of professional level work. Independence of judgment is reflected in the necessity for influencing, explaining or engaging in training, and thinking critically in terms of the department's or unit's programmatic goals. Professional work is associated with the authority to make certain decisions without need of approval, as opposed to merely making recommendations for such. Professional employees

typically have direct contact with management level personnel. Their communication exists at a high level, as reflected in effort to influence, explain, or train. Clerical employees do have discretion and make judgments in the application of policy, though such occurs within the confines of the particular job functions and policies as to which they have already been trained. In reviewing reclassification requests, and particularly in fulfilling the requirements of CUE's MOU notice provisions, the University examines at what level the majority of the work lies.

Analysts were originally conceived as being assigned work on a project basis (i.e., discrete assignments requiring application of judgment and some level of analysis), and hence the substance of the work changed with each new project. That theme generally holds true today, though it now applies to work of an ongoing nature as well. The area of contracts and grants administration, a major activity of senior level faculty seeking extramural support for research activities, reflects how the University envisions the reclassification of an employee from a __ assistant III position to an analyst position within the same department even as the employee continues to perform some of the same general duties. At the vice-chancellor's level, contracts and grants administration analysts negotiate with funding sources like the National Institutes of Health and the National Science Foundation, helping establish the parameters by which a campus receives its research funding and how principal investigators use that funding. This work focuses on the "pre-award" phase of the funding process, as opposed to the "post-award" phase. The latter work entails authorizing purchase orders and payments to vendors and payment of salaries to staff supporting the research, as well as cost accounting for the grant funds. Increasingly that work has devolved to the departmental level, where a principal investigator with significant extramural funding may require an analyst level position to whom he can delegate much of the pre-award work. That work involves a higher level of independence, creativity, resourcefulness, and analytical ability. The analyst will be

asked to identify potential sources and determine whether the principal investigator (PI) can successfully compete for funding and fulfill the compliance terms of the funding source. Given a broad directive or general guidelines, the analyst will create a budget for the grant application, which will include a determination of staffing levels, as well as space and equipment requirements needed to complete the research project.

Illustrative of this position is the University's series concept for the administrative analyst position adopted at the Irvine campus as a generic classification.[11] The administrative analyst and assistant administrative analysts are the lowest level positions in the series. Theses assignments are usually given on a project basis and may involve day–to-day administration or decisionmaking for the unit.[12] The principal and senior analysts are the highest levels, where the responsibility relates to the University's overall management function and encompasses decisions and recommendations regarding new programs or affecting campus level policies and procedures. Analysts are viewed as having more of a consultative role as opposed to maintaining compliance with existing guidelines. The analyst positions require a baccalaureate degree in business or education administration, or similar field, or an equivalent combination of education and experience.

A similar distinction is drawn for professional level work in the classification of student affairs officer (SAO). The systemwide series concept states that the SAO's plan, direct and/or

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[11] The campuses received authority from UCOP to revise the series concept for the analyst positions to conform to their particular needs. In response, the Davis campus, as contrasted with the Irvine campus, consolidated three specific classification series (public administration analyst, administrative analyst, and budget analysts) into one series, while maintaining a separate series for human resource analysts (due to labor market requirements for differentiation).

[12] Not all campuses currently utilize the assistant analyst position as the entry level position. However, where that is the case, the analyst I position is considered the journey-level position. Where the analyst I is the entry-level position, the analyst III is the journey-level position.

implement campus student affairs programs and perform related duties; that they typically have programmatic responsibility in one or more function areas such as academic progression, admissions, outreach, financial aid, student life (residence halls or the student band), or career development. They are distinguished from administrative analysts and management services officers (MSO) (department managers on the administrative as opposed to academic side) by "the work requiring judgment based on professional/and/or academic expertise, beyond the implementation of administratively prescribed rules, policies or guidelines." The position exercises professional judgment in developing, interpreting and monitoring University policies and procedures (e.g., assessing a student's record to determine how it relates to degree requirements), as opposed to the more prescriptive work of providing readily available information, such as that contained in course catalogs (e.g., progress toward fulfilling undergraduate or graduate degree requirements), or assisting students with forms and petitions. SAO's typically possess a four-year degree, and often have a professional counseling background. Regardless, they are required to draw on a wider breadth of knowledge than a clerical employee who provides advice or counseling to students. SAO's are distinguished from __ assistant III's advising undergraduate and graduate students—even those performing work that is complex or detailed in nature—because they function within a support capacity to the primary student services coordinator positions.

Program representatives perform a full range of implementation duties for classes and programs offered to the general public through such programs as the University's Extension Program, museums, and other organizations with an educational component. Incumbents are required to fully understand the professional goals of the department; they may be required to plan and develop individual classes and programs, but without responsibility for the long range education policy and course content review; they may recruit and screen instructors and

speakers for the classes and programs. While some clerical duties may be performed, the majority of the time is spent in class or program implementation, and the position exercises a requisite level of judgment in the role.

Publications coordinators plan, schedule, and coordinate the production schedules for books, publications, and other printed material; they confer with editors, designers, and project directors, and related personnel in the preparation of proposed publications; they work to effect content and design changes on behalf of the customers and verify that the copy conforms to printing specifications.

Notwithstanding the expectation that professional classifications understand principles and theories of a particular professional field, or have an advanced degree, the record demonstrates anecdotally and affirmatively that it is not uncommon for clerical employees without such formal credentials to promote into the lower level professional classifications, such as those available in the analyst, specialist, and program representative series. To some extent this depends on how departments structure or assign work. For example, at the Davis campus, where upper level clericals have traditionally been assigned a full complement of transactional responsibility, movement into an entry level analyst position results in specialization in one particular aspect of administration. The critical difference between a professional employee and a clerical employee is that the former exercises professional judgment in both determining the application of the University's policies to the issues at hand and analyzing information gathered related to such determinations, whereas the latter is limited to gathering the raw information or being the first point of contact in explaining to the outside (i.e., students, staff, and the public) the policies and procedures that apply. A lower level analyst, for example, might fill in for an upper level clerical assistant, but not vice versa.

In the University's view, the general framework for differentiation as applied to the analyst, student affairs officer, program representative, and publications coordinator positions has similar application with respect to other professional classifications such as administrative specialists and public events managers, positions not specifically identified by PERB as falling within the administrative staff professionals unit.

The administrative specialist is typically the business officer supervisor for a department or small business unit, in charge of the entire range of administrative and student functions. That person is the resident expert for all the transactional processing. These individuals perform some of the transactional work itself, but their essential role is as the final authority for all the administrative processes. This is similar in function to the earlier administrative assistant IV position. The position was created in 1993 as a point-of-entry for the MSO series. The administrative specialist position was conceived as a first-line supervisory and business office position. The administrative specialist I, a non-supervisory position, is limited at some campuses to use in offices of the deans and vice chancellors. A portion of the work in such a position is clerical, as in the case of an executive assistant, but the predominant role of the position is as an extension of the executive, providing research and analysis. At other campuses, the administrative specialist I is used in an academic or business office to perform a variety of professional and administrative duties in support of day-to-day operations, assist in program planning and development, administer budgets, coordinate academic and/or staff personnel matters, and interpret, monitor and analyze information regarding operation policies and procedures. Analysts, though working independently, conducting analysis and exercising decisionmaking like specialists, are distinguished by their responsibility for a particular program within a department or business unit, whereas specialists are responsible for applying a range of policies.

A public events manager typically has responsibility for the use, booking, promotion, and planning of music or speaking events at large venues like halls, auditoriums and theaters. At the lowest level position, the manager coordinates the production of established events or those which are part of a series of productions not differing significantly during the season.

The computer resource specialist position is currently assigned to the non-patient care technical unit represented by the University Professional and Technical Employees. Computer resource specialists function in an administrative support capacity, providing a wide range of technical and consultative services related to the acquisition, installation, use, and maintenance of computer and/or network software and hardware. They are required to be knowledgeable about new enhancements, developments, and diagnostic tools in personal computer software. They install and maintain both hardware and software systems, primarily in desktop applications. Situated below the professional programmer analyst, they provide technical support in a variety of ways.

A number of the above-described positions are non-exempt for purposes of the Fair Labor Standards Act, including administrative specialists, SAO's, computer resource specialists, program representatives, and publications coordinators. Of these, only MSO's and analysts are deemed exempt.

CUE's Presentation of Expert Witness Hurley

CUE's case for why the positions at issue remain within the clerical unit was presented in two ways. First, CUE presented positions from its bargaining unit which it claims are similar to—and indeed indistinguishable from—those at issue, in order to show that the reclassifications are based on erroneous judgments about the level and nature of work involved. Second, CUE presented an expert witness, Kathleen Hurley, who has held various human resources positions with responsibility over classification analysis. Hurley attempted to

cast doubt on the proposed reclassifications by reviewing the University witness testimony and the job descriptions, through the lens of the University's own guidelines on clerical positions, principal among them being the __ assistant series. With respect to each of the positions in question, she testified that the work of the revised position fell "well within" the scope of clerical work as defined by the University's own guidelines.

The University takes vigorous exception to the admissibility of the entire body of Hurley's testimony on grounds that she lacks competent knowledge of the University's classification practices under HEERA (she has only worked in MMBA jurisdictions), and exhibited bias because she concluded every disputed position was clerical while ignoring evidence presented contradicting her position (the University's evidence that the proposed reclassifications describe positions comparable to positions currently classified outside of the unit).

During the hearing, I overruled the University's objection to receipt of Hurley's testimony, and I stand by that ruling despite my prerogative to rule it inadmissible after having heard it. As to the question of bias or interest, I note that the University's classification analysts, by approving all the proposals in question, believe that in every case the position is properly classified outside of the unit. Thus the bias argument cuts both ways, and the unanimity of Hurley's opinion is not entirely unexpected. The classifications at issue here—and likely those yet to be litigated—present close questions in many instances because they include some portion of work which is clerical in nature. Closeness is also reflected in the fact that the positions at issue arrive after review by CUE and omit those positions as to which no objection was raised, notwithstanding the University's contention that CUE has recently opposed proposed reclassifications more aggressively. Therefore I do not reject Hurley's testimony on the ground of bias or interest.

Further, Hurley's relevant background in classification procedures is substantial and her testimony on those practices plausible. I found reasonable her testimony that upward promotion through reclassification to a higher paid position may occur for the sake of employee retention at the expense of rigorous analysis of the proposal. I note that desk audits, which were not done in the cases at issue here—and, as an analyst for one of the campuses admitted, are rarely done—are undoubtedly a better practice for verifying the nature of the work performed in the position proposed for reclassification as argued by Hurley. I accept that when a department manager or employee includes words like "manage" to describe particular functions in a job description proposed for reclassification there is potential for obfuscation. Also, I do not believe Hurley's lack of experience in HEERA jurisdictions to be a disqualifier in terms of some of the points she made. Though Hurley did not have background in the compensation and classification practices of the University, the University never articulated why higher education employers are compelled to be organized differently from other public sector employers.

That said, I agree with the University that Hurley's testimony is one-sided because it only presented a rationale for why each position could still be described as predominantly clerical in nature and did not rebut the University's case for comparability to similarly situated administrative staff professional unit positions. More significantly, Hurley's primary function was to present an opinion on the ultimate issue I am required to make in each case. For that reason, I give no weight to that portion of her testimony. To the extent Hurley's testimony presented an overarching argument for why I should avoid uncritical acceptance of the University's justifications for the reclassifications, in the nature of a challenge to the

credibility of the University's review processes as a whole, I have factored those concerns into my analysis even where not explicitly stated.[13]

Peter Padilla

The division of infectious diseases at the University of California, San Francisco (UCSF) campus provides patient care, research and teaching. The division is one of 16 units within the school of medicine at the campus's San Francisco General Hospital site. Dr. Philip Rosenthal is a well-funded researcher at the school of medicine, specializing in malaria and HIV. Much of his work involves long range clinical trials in Uganda and Burkina Faso. Rosenthal currently receives funding through multiple extramural grants, from such sources as the National Institutes of Health, federal government and foundations. With this funding, Rosenthal supports 11 employees at the hospital and 15 to 25 employees in the African countries.

The University proposed to reclassify Peter Padilla from his administrative assistant III position to that of a research services analyst II. Rosenthal hired Padilla in 2001. Padilla began performing data entry and secretarial work in preparing grant applications. The latter work was under close direction by Rosenthal, who provided Padilla with the information required. Padilla prepared the funding proposal, submitted it for review by Rosenthal, made the requested corrections, and finalized it for submission. Over time Padilla was assigned greater responsibility in the area of grants administration. He attended four courses on grant management for a total of approximately 90 hours.

[13] Apart from limited testimony from University witnesses knowledgeable about the University's classification practices in general and two specifically who had reviewed the proposed reclassifications with a view to spotting any obvious irregularities (but finding none), the University did not present the classification analyst in each case to explain the rationale for the reclassification, as did CUE with Hurley for the opposite purpose.

Padilla is responsible for all of Rosenthal's laboratory needs. This function includes purchasing equipment and arranging for payment of all research staff salaries. Padilla makes travel, housing and academic course arrangements for visiting fellows arriving to participate in Rosenthal's research projects. He manages inventories and makes recommendations on new purchases. Many of the grants have subcontracts, whose invoices must be reviewed and approved in compliance with multiple funding-source authorization guidelines. Padilla serves as the primary contact for human resource information requests of Rosenthal's research staff. He does this by consulting the human resources department. He refers the employee directly to the department on more difficult issues. He arranges housing stipends and academic courses for visiting researchers. Padilla oversees the expenditures on all of Rosenthal's grant sources, monitoring the draw-downs so as to avoid overpayments, preparing interim reports and forecasts, reallocating costs to other funding sources when available funds are exhausted, ensuring that sufficient staff time is allocated to the budgeted grant allowances, and preparing reports to funding sources justifying incurred expenditures. Post-award work comprises 35 percent of his time. Complexity in these activities results from issues related to the researchers, shipments and purchases arising from the activities in the African countries. Padilla must research issues concerning foreign employment taxes, visa requirements, bank wire transfers for advances of funding, and customs regulations.[14] Aspects of his work in this regard are like those of a project manager, and he spends more time on the Uganda project than on administrative matters for the San Francisco research. Padilla recommends to Rosenthal how to make purchases of equipment and services, and from which grants, in order to maintain the Uganda project. Padilla is responsible for review and close-outs of grants, and when he

[14] Padilla was required to independently research Ugandan income taxes when they were levied for the first time, determine the percentage of withholdings, and arrange for payment to the government. Similar investigation is required around visa procedures.

identifies discrepancies he must bring the matter to the attention of Rosenthal and negotiate with funders to make adjustments where there are overages or shortages on staff time commitments. He is expected to monitor grant expenditures proactively so as to avoid these events whenever possible.[15]

In a departure from his early years, Padilla is now provided greater responsibility for preparing grant proposals. Pre-grant activities comprise 25 percent of his time. Padilla is expected to prepare a complete template for a grant application following Rosenthal's identification of a funding source. Padilla is also expected to prospect for new funding opportunities. Padilla now plans and prepares all administrative aspects of the proposal, including the budget, budget justifications, and supporting documentation. He must review the grantor's requirements and determine if they can be fulfilled under the University's policies and procedures for research activity (e.g., authorized portion of faculty salaries assigned, fringe benefit rates) and the availability of staff time based on staffing already committed to existing grants. Padilla is also expected to monitor merit review cycles in order to predict pay increases so as to match the grant budget with the appropriate pay scales. There is added complexity for the Uganda work in terms of subcontracting with foreign entities, involving the same issues noted above regarding post-grant administration. Padilla composes all written portions of the proposal except for Rosenthal's scientific discussion of goals and outcomes. He is responsible for independently knowing all compliance and submission requirements. Once the grant is approved, he must review all of the salaries with Rosenthal to confirm the availability of the

[15] Although post-award work in many of the University's departments is considered less complex, it is the opinion of the San Francisco General Hospital grants manager that post-award work for this medical research is more complex because of the financial monitoring aspects and the requirement for thorough knowledge of the budgets as proposed and approved.

proposed staffing. Padilla is responsible for 23 grant sources and $2.3 million in funding annually. Rosenthal's grants are typically in the $500,000 range.

Nine other department of medicine research services analysts, ranging from analyst Is to analyst IV's, are responsible for a range of one to 19 PI's, 10 to 46 budgets, and $1.5 to $8.5 million in funds. The particular level of analyst is a function of the number of grant sources and total dollar amount. Analyst II's are responsible for $1 to $2.5 million and 5 to 30 budgets. Within the recent past, one other __ assistant in the San Francisco General Hospital research services division was reclassified to an analyst position. Otherwise all others performing this level of work were hired into their positions at the analyst level.

Marie Lim

The anesthesia and preoperative care department at the UCSF campus provides services and training programs at four hospital sites. It is one of the largest clinical departments at the campus, with approximately 100 full time anesthesiologists, 75 residents, and 25 clinical fellows on staff. Marie Lim is responsible for one of two training programs that deal with medical students. The other, a residency program for medical school graduates enrolled in the department's three-year training program, is managed by a program manager, to whom one analyst II and one administrative assistant III report.

The medical student program offers clerkships, lasting between two and four weeks, that include a set of core courses and electives (a total of six advanced courses) as well as clinical rotations. Core course clerkships fulfill graduation requirements for the medical students. Lim reports to one of the department's two physicians in charge of medical education—specifically the director in charge of medical student education—who in turn reports directly to the department chair. Both she and the chair work at the department's main Parnassus office. The medical student program is administered principally through the hospital

site directors and the course directors. On the operations side, Lim reports to the department's operations manager, who in turn reports to the department's director.

The department has proposed moving Lim to an analyst position from her current administrative assistant III position. Lim was initially hired as a temporary employee performing generic administrative support. After six months she was assigned to coordinate the core course clerkship where she reported to one faculty member. In this position, the site director would typically solicit the lecturers for the course. Later Lim dropped the core courses and assumed responsibility for the electives.

Prior to Lim taking the position, responsibilities were assigned to an administrative assistant III who spent the other half of his time providing administrative support to the faculty. At that time, the clerkship program had between 10 and 12 students enrolled. Abandonment of the program was considered because of its limited value. The goal of the program is to retain current medical students and attract outside students for their residency program at the University by permitting them to observe the specialty in practice. During Lim's tenure, the program has expanded to approximately 35 medical students, and the number of courses has increased.[16]

Lim screens all applicants for clerkships coming from outside the University system. She checks for documentation, including academic preparation (analysis of course equivalency), letters of recommendation, the health test, and visas. She reviews the curriculum vitae and the applicant's letter of interest. For early applicants, the review process is summary because admissions are on a first-come-first-serve basis. But Lim can and does exercise discretion in awarding the last remaining slots when applicants begin competing for the last openings.

[16] When Lim went on maternity leave, her duties were assigned to an administrative assistant III, though the substitute required assistance.

Lim schedules all of the medical student activities during the clerkships, attempting to fill their schedule with a combination of classes and practical exercises. Lectures, conferences, seminars, orientations, and wrap-up sessions amount to approximately 168 activities spread across the group. Lim is required to know the goals of each student, their preparation, and the content of the courses in order to appropriately schedule activities. After surveying the students' goals, as well as the sequence of clerkships, lectures, and practice activities, Lim coordinates with the schedules of the attending physicians and lecturers who teach the courses with those of the students. When she schedules a student to rotate through a particular clinical site, she attempts to match the student with the specialists at that site. In conjunction with the site directors, Lim schedules the faculty to conduct new-student orientations, a portion of which she presents as it relates to her scheduling. Lim acts in a student advisor role to provide more in-depth advice on an individual basis to students seeking to maximize the benefit of their clerkship. In the residency program, the responsibility for preparing the master schedule for residents—of one year duration as opposed to the maximum of four weeks for clerkships—is assigned to an analyst II.[17]

If there are last-minute cancellations of a lecture, Lim must notify all of the students. She has discretion whether to reschedule it, depending on its importance to the series, and the availability in the schedules of all for a make-up session. Lim will contact other faculty members to substitute if the regular lecturer gives notice of unavailability. Lim will also advise a student missing a lecture or rotation how and whether to schedule a make-up. The site directors have delegated Lim the authority to require a student to reschedule a missed session. Lim prepares a yearly report using Excel to tally the number and variety of procedures the students have performed for quality assurances purposes.

[17] The pediatrics department presently assigns the medical student coordination work to an analyst II.

Lim is also responsible for securing timely submission of evaluative letters from the faculty at the completion of the clerkship. She reviews these letters to ensure that the content is appropriate for submission to the dean's office. Lim submits the students' letter grades to the dean's office as well. She also evaluates student evaluations of the faculty, which are submitted on-line. She looks for comments suggesting a problem on the part of a faculty member. Lim made a decision on her own to hold grades until the student evaluations were completed, in order to improve the feedback mechanism for improving the quality of the program. Based on other student feedback, she persuaded a director to change the schedule to have more consecutive training at one site before rotating to others. Lim is responsible for updating the department's web-based course postings, for which she uses Dreamweaver software.

Lim's job description states that she is responsible for funds budgeted for administration of the program. It describes an example of the consequence of error as a result of the lack of continuity in scheduling, and therefore quality of training, with a resulting loss of reputation to the department.

Regina Hazlinger

Regina Hazlinger was hired in 2004 to join UC Riverside's new environmental research institute. Hazlinger has been working as a __ assistant III, and the University proposed to reclassify her to an administrative analyst, retaining her working title of assistant to the director. She has a degree in journalism and psychology. The institute's director is Dr. Joseph Norbeck, a professor of chemical and environmental engineering. Hazlinger reports directly to Norbeck. Hazlinger and Norbeck were the only two employees of the institute at its founding. The institute coordinates and promotes on-campus research activities—conducted through five research centers (air pollution, conservation biology, environmental research, sustainable

suburban development, and water resource management)—with outside agencies, such as environmental regulatory agencies and private industry. These collaborative efforts take the form of contracts and grant-supported research. The institute also promotes off-campus environmental initiatives, primarily through education and other forms of organizational support.

As the institute has grown, a new focus of Hazlinger's position is to support Norbeck's external activities designed to promote the work of the institute nationally and abroad. This promotional work has taken the form of major national and international conferences. Hazlinger develops the agenda for the event (establishing the topical headings based on previous conferences and creating new and more timely topics as dictated by changes in content of the presenters), arranges the speakers and referees, and obtains visa clearance for the foreign travelers. In arranging for speakers and creating the agenda, she prepares the announcement soliciting abstracts for technical papers. She reviews the papers submitted and assigns them to appropriate categories. Hazlinger reviews the abstracts and makes a recommendation to Norbeck as to whether to make an invitation for a full paper. Norbeck reviews the abstracts and approves or rejects Hazlinger's recommendations. Hazlinger is also responsible for all logistical support, including renting the conference facilities, arranging meals, and setting up needed equipment. She is responsible for sending out the conference invitations. In the course of that work she researches potential invitees. The institute currently sponsors two to three conferences annually. Due to her resourcefulness and self-initiative, Hazlinger has grown beyond the scope of the position originally advertised. Norbeck treats her both as an executive assistant and "assistant director" of the institute.

Another component of Hazlinger's work is prospecting for research funding opportunities, forwarding request-for-proposal announcements to the campus's research center

directors, outlining the proposals (including the budget justification), and archiving surveys and studies to support proposals. On more routine proposals, she completes the application herself. In the remainder, she obtains descriptions of the technical aspects of the research from the centers' directors to enter into the proposal.

Post-award administrative responsibilities are also handled by Hazlinger. She monitors the budgets of the grants. She monitors progress toward the deliverables and draw-downs on grants, and resolves compliance issues on the funders' side. She is included in monthly conference calls with the researchers and the funders to discuss these issues, which requires fluency on many of the technical aspects of the research. Hazlinger monitors the compliance demands that are added or amended during the course of the research to ensure they are communicated to the responsible parties and fulfilled during the term of the grant. She attends technical meetings and prepares minutes for circulation.

Recently a vice chancellor tasked Hazlinger with producing a video to promote the activities of the research centers. She responded by independently producing a video, including production of the video's interviews, after training herself to use a video software program. Hazlinger is also the author and creator of other informational materials, like brochures and information for conference participants. She is responsible for arranging the copying and printing of these materials. She negotiates the contracts with vendors needed for the conferences.

Work of a secretarial nature carried over from her original position includes maintaining Norbeck's calendar and making travel arrangements for his considerable out-of-town schedule.

Martha Thomas

Martha Thomas is employed by the UC Irvine police department. The principal function of both the previous and current position is one of custodian of records. The position is tasked with maintaining records of criminal offenses occurring on the campus and ensuring compliance with the reporting requirements mandated by the Jeanne Clery Disclosure Act. This federal statute requires an annual report containing crime statistics as well as descriptions of campus policies regarding incident reporting, campus access and security, scope of campus security force authority, relationships with governmental law enforcement agencies, and public information programs. Thomas reviews the crime reports which are submitted by the department's sergeants. She reviews the reported crimes against the provisions of the California Penal Code, Civil Code, and Vehicle Code. If she believes the crime is not properly classified, she has the authority to instruct the sergeant to change it or conduct additional research or investigation to support the initial determination. Thomas works independently of her supervisor and makes the final determination on the accuracy of the crime reports. Thomas must understand and apply procedures contained in the Federal Bureau of Investigation's Uniform Crime Reporting Handbook, which explain how criminal offenses must be classified and scored. Scoring is determining the number of offenses per incident; it requires the exercise of discretion in eliminating offenses of lesser degree if occurring on the same occasion. Thomas aggregates the data from the individual reports for monthly and annual reports submitted to the Department of Justice and ultimately made available to the public, including prospective students and their families. Thomas prepares another University report which is forwarded to the federal Department of Education.

Thomas's old job description summarizes the position as maintaining criminal records, providing training and work direction to the campus security staff, and creating and updating

procedures for maintaining department records in order to comply with University policies and procedures, as well as federal and state laws. Her new job description states that, in addition to her previous duties, the position oversees all aspects of the department's records division, managing records projects, providing statistical analysis and reporting systems, determining avenues for report resolution, assessing potential liability, and advising management and officers on appropriate action.

After reviewing the crime reports for accuracy, Thomas finalizes them and routes them to local law enforcement agencies and the campus judicial affairs office. Additional responsibility under the category of liaison duties includes responding to California Public Records Act requests from the public. No single manual guides this work, but she refers to the Uniform Crime Reporting Handbook, California Penal Code, and the Public Records Act. Thomas must be careful not to release a report where a criminal investigation is ongoing, so as not to jeopardize the success of that investigation. Thomas is the sole person responsible for responding to "Pitchess"[18] motion requests. The liaison duties have increased from 5 percent to 20 percent in the new position. A new "special projects" function, consisting of 5 percent of her time involves researching and reviewing methods for special projects and information gathering at campus police departments and governmental law enforcement agencies.

Thomas has received specialized training to enable her to handle the responsibilities of her position, including a five-day "records clerk" course session at a regional training center for a Peace Officers Standards Training, a one-day training on Pitchess motions, and a two-day training on the California Public Records Act, both presented by the California Peace Officers' Association.

[18] The motion is a criminal defendant's process for obtaining an officer's personnel records to determine if the arresting officer has been the subject of previous complaints regarding incidents or acts similar to those involved in the defendant's case. Confidentiality and scope determinations are involved in this release.

The title of custodian of records duties was previously held by the chief of police, with Thomas providing much of the support work. The title has been passed on to Thomas. The difference in her work is the full accountability she now has in the position.

Jeanine Leary

The University's Cooperative Extension includes a consumer economics program operating out of the UC Riverside campus. Consistent with the University's public service mission, the program develops and promotes educational and life skills programs for families with limited income (e.g., financial literacy, home buying, and transitioning off public assistance). The unit has a staff of between 8 and 15 employees, reporting to Karen Varcoe. Varcoe's two principal assistants are program representatives, who help manage the program and develop curriculum. Leary began employment in the unit performing basic secretarial and __ assistant duties—answering telephones, mailing, copying, conference registrations, travel vouchers, purchase orders, and basic cost accounting for the department's grant funding.

As a result of her aptitude for computer systems and training she acquired outside of work, Leary assumed responsibility for the department's computer operations. The system is a network with a free-standing server, 11 printers, and 10 desktop computers. She assesses needs for new equipment, researches options, and recommends purchases. Leary then installs the network systems (printers, file sharing, anti-virus, and website software), updates the software, develops the department's webpage applications, and troubleshoots problems in the network. She is the liaison to the campus computer department. After joining the department, Leary attended a number of classes in computer systems, including those toward a community college associate's degree. These skills distinguished Leary from the __ assistant III she replaced. Varcoe proposed Leary for reclassification to the position of programmer analyst.

The consumer electronics department relies on extramural support in the range of $500,000 to $2 million annually, separated into eight accounts. Leary is responsible for cost accounting with respect to these grants, ensuring that expenditures are allocated to the proper grant sources and determining how questionable expenses can be charged. She is responsible for recharge activity (obtaining authorization to reallocate overages and shortages), handling the more complex issues. Leary provides Varcoe with policy analysis in order to solve problems in expense allocation. The financial accounting work has become more complex in the past four years due to an increase in the number of grants administered by the department and the evolution of University and external regulations. Varcoe sent Leary to a number of classes for training in this area.

As Leary's duties increased over time, Varcoe hired a __ assistant to perform Leary's previous work. Leary supervises this employee.

Gloria Medina

The department of physiology at the UCSF school of medicine coordinates a "block" course for medical students covering organs. The course, which lasts 13 weeks and is the longest block at the school, is taught by a team of faculty members. The department assigns the work of developing the three-course syllabus to the position of curriculum coordinator. That position is presently held by Gloria Medina. Development of the syllabus, the primary function of the position, involves obtaining the "raw material" for the courses from 160 faculty members and preparing the final, 2000-page document for distribution to approximately 140 medical students. Medina's revised job description describes "course administration" (i.e., provision of "administrative and teaching coordination for program courses across all participating departments") and the function of "primary liaison to students and faculty" as the most significant responsibility at 65 percent of time. The editing function requires

coordination with program coordinators to achieve consistency in font, columns, figure legends, medical symbols, and general syllabus procedures. Medina oversees the layout of the final document. Coordination of the syllabus preparation involves setting deadlines with faculty for submission of their course materials. The liaison function covers such issues as resolving issues students have with a class or instructor. Medina works at the Parnassus campus, but is supervised by an MSO at the Mission Bay campus. She typically speaks to her supervisor only one day each week.

Medina began employment as a senior clerk typist in 1992, serving three years in that position, followed by three years as a __ assistant I, and three years as a __ assistant II. She was elevated to a __ assistant III when her course syllabus duties changed as a result of the incorporation of courses from departments other than physiology. This change involved a change in scope and volume of the work, with the number of faculty interactions increasing from 12 to over 100. After three years in that position, the department requested the disputed reclassification to a program representative III. The reclassification proposal was revised to reflect that Medina has three __ assistants reporting to her. She is responsible for hiring the positions, conducting their performance evaluations, recommending merit increases, and authorizing overtime. Supervision, the second largest function, accounts for 20 percent of Medina's time. Technical skills added to the position (in addition to Word and Excel formerly) include Adobe Photoshop, Adobe Acrobat, Dreamweaver, and Pagemaker, which are necessary for coordination of web-based course materials, an activity comprising 5 percent of Medina's time.

Medina's course coordinator job description parallels two curriculum coordinators classified as analyst Is in the cellular and molecular pharmacology department. It has similarities to a program representative III position in the family and community medicine

department, though that position emphasizes administrative coordination, planning of courses, and recruitment of instructors (50-percent time) over syllabus development. On the organizational chart, it falls under programs and academic support and is paired with a program coordinator (analyst) for the neuroscience graduate program.

Tesla Parrales

UCLA's undergraduate admissions and relations department evaluates applications of prospective undergraduate students, including both high school graduates and transferring undergraduates. The department has an evaluation unit and a public response unit. The evaluation unit, staffed by 12 SAO's, focuses on reviewing the applications for admission by high school graduates and transferring college students. This unit develops the policies by which freshman applicants are evaluated and upholds the University's policies on transfer of credits. The public response unit is responsible for all of the external communication with applicants, their parents, and the general public regarding the admissions process. This includes the receipt and processing of applications and transcripts, as well as the dissemination of information necessary for applicants to obtain and complete the forms required for admission and the transfer of academic credits from other institutions. The public response unit, which is housed in the admissions office, may be accessed on a walk-in basis, by telephone, written correspondence, or e-mail.

The University proposed to reclassify Parrales from a __ assistant III to an SAO I position in the public response unit. Parrales works primarily for the public response unit (65-percent time), but has responsibilities in the evaluation unit (35-percent time). She is both responsible for overall supervision of the public response unit and is a member of the unit providing direct services to the public. Parrales directs the work of three __ assistant II's, a student assistant III, and six students, who are the first-line responders. These employees

provide general and routine types of information, such as GPA, test score minimums, and course requirements for admission. She schedules the staff, evaluates the staffing needs, designs and conducts staff training, and engages in personnel functions. Coordination of responses to e-mail inquiries (40,000 annually) is a significant responsibility. Parrales delegates the work so as to ensure timely responses. There is a significant training component to the work because of frequent turnover in the student workers. Parrales designs and leads this training. She is credited with elevating the formality of that training during her tenure. The front-line staff also logs in transcripts submitted for awarding of credits for analysis by others.

As distinguished from her staff, who handle routine requests and provide explanation for points already contained in publications, Parrales handles specialized requests. These include questions concerning international student applications or transfers, re-entry students, college credit transfers, employment recruiters, and other matters which must be referred by the front-line staff. The international student inquiries involve research and more in-depth correspondence with students and the institutions. As an assistant to one of the office's international specialists, Parrales over time received specialized training in review of international transcripts. The admissions office distinguishes between clerical counseling and SAO counseling as involving the ability to interpret potentially more involved inquiries such as those involving a current student needing advice on course selection at another institution which he or she will seek to transfer back to the campus. Parrales will access more specialized resources like the Western Association of Schools and Colleges' guide for course requirements for various majors to advise transferring students. Parrales spends approximately four hours each day responding to public inquiries, blended with supervision and advising her staff. After an SAO I vacated a similar position in the public response unit, but without the supervision

component, Parrales, who was a __ assistant II at that time, was assigned to assume all the responsibilities of the departing SAO with the added component of supervision.[19]

In her evaluation unit capacity, Parrales evaluates high school and college transcripts for course equivalencies and weights transcripts submitted for purposes of awarding academic credit, specializing in review of equivalencies of community college courses. She will determine if a transfer of lower division courses can be awarded upper division credit. She also troubleshoots problems in student record evaluation, serves as a departmental liaison for the summer session office, registrar's office, financial aid, college of letters and sciences, and the engineering departments, and participates in the review of applications for admission. In reviewing applications and transcripts, Parrales and other SAO's in the office must adhere to specific University guidelines and policies. Parrales is responsible for overseeing the movement of admissions files through the application review process, as well as operational control of the transfer student records submitted for academic credit. As opposed to the administrative assistant level work, which involves the actual review and coding of a file or the verification of transfer credits, Parrales is the resource where a judgment call is required on the proper file code or a troublesome transcript. Parrales's progression within the department mirrors that of the early years of a current SAO III, who is a lead SAO in the evaluation unit and writes guidelines for the transfer admission process. Parrales left graduate school, returning to the office where she had worked as a student to resume duties in admissions counseling.

[19] The office traditionally has not filled at the administrative assistant III level. Parrales was placed there after CUE opposed the reclassification from administrative assistant II directly to SAO I.

Walter Douglas

The UC Riverside campus operates a federally licensed radio station in pursuit of its public service mission as well as to offer practical education and training to its students. KUCR, broadcasting on the FM dial for over 25 years, is staffed in the main by student volunteers—over 100 in total and an average of 20 to 30 on a daily basis. The majority of programming is generated by students. The station is also a rebroadcaster of content produced by outside sources. The bulk of programming falls in the public affairs category, but there is a considerable amount of air-time devoted to music. The station's director and general manager is Louis Vandenberg, who reports to a campus vice-chancellor. Formerly responsible for day-to-day operations, Vandenberg has delegated that responsibility to the assistant director, Walter Douglas. Vandenberg hired Douglas into a __ assistant I position in 2003 and has been grooming him to take over the operational responsibilities. The University proposes a reclassification of Douglas to an SAO position. Douglas had nine additional years of experience at the station beginning as a student. Vandenberg has turned to long-term planning responsibilities and development of the radio station within the larger community, though he remains involved in programming decisions.

Douglas is currently responsible for operation of the station on a 24-7 basis, training and overseeing the work of the student volunteers, handling custody and acquisitions for the musical library, and ensuring compliance with Federal Communications Commission (FCC), University, and station regulations, policies and procedures. Significant fines from the FCC—maximums in the range of $300,000 to $3 million per day—can be imposed for on-air incidents such as those involving indecency and obscenity. The station provides comprehensive training to student radio hosts, covering technical aspects of equipment operation as well as programming elements, in six-to-eight one-hour training sessions led by

Vandenberg and Douglas. Douglas and Vandenberg, along with some student participants, interview and select students interested in host positions.

Douglas is responsible for continuity of programming and is the point of contact for producers outside the University offering program material. He reviews a large volume of produced program material of the public affairs and music variety, making selections consistent with the mission of the station. Douglas has overall responsibility for selection of new content for public affairs broadcasts, through the station's affiliate source, the Associated Press, and local news media sources, as well as pre-produced music programming. He hosts one music show on his own and produces a public affairs program on educational issues. He prepares and reviews public service announcements prepared by others, and trains students to do the same. Douglas continuously monitors the broadcast as an on-site censor. Douglas books studio time for outside productions, oversees FCC inspections, coordinates the campus emergency response function (e.g., announcements in connection with an on-campus bomb threat). Douglas makes artistic judgments about the station's overall musical programming, provided mainly through student hosts, ensuring variety of genre and quality of content. Vandenberg initiates external public relations events to promote the station and delegates production of the resulting remote-broadcasting events to Douglas.

Douglas performed all of this work under close supervision in his early years at the station. After coming to believe that Douglas was competent to handle the responsibilities of the director position independently, Vandenberg allowed Douglas to oversee operations of the station. Vandenberg entrusted Douglas with the position in part because of Douglas' strong background in music, particularly his ability to follow and assess contemporary forms. Vandenberg and his superior concluded that Douglas' responsibility was comparable to the work of other SAO's, particularly as it relates to supervision of students.

Leah Tamayo-Brion

UC San Diego's history department is one of six departments in the arts and humanities division. Alejandra Ruiz is the MSO for the department, reporting to the chair. Ruiz's four direct reports include a financial manger, network administrator, academic affairs specialist, and student affairs manager. The student affairs manager is classified as an SAO II. The department has four areas of specialization: Chinese Studies, Judaic Studies, Science Studies, and Japanese Studies. Each of these subdivisions is directed by a program representative II. Many of the language classes are taught by lecturers. The department has a total of approximately 37 tenure-track faculty.

Tamayo-Brion was hired in 2003 as an administrative assistant III to replace a departing administrative specialist. She was charged with handling the academic affairs matters of the department, though she was not fully functional in that area until after she received training from Ruiz. Within a year the reclassification proposal was drafted. Academic affairs is a form of personnel management, focusing on tenure-track faculty promotions and merit raises as well as hiring and retention of non-Academic-Senate lecturers, who are represented in a bargaining unit. The merit increases/promotion-in-rank work involves review and analysis of the University's systemwide Policy Procedure Manual (PPM). Tamayo-Brion is the department's contact person for interchange with the dean's office on merit/promotional advancement. She is responsible for notifying faculty of their advancement opportunities and explaining their rights (e.g., salary increases upon promotion and merit awards). Although it has not occurred yet, Ruiz intends to delegate full management of the merit advancement process to Tamayo-Brion.

Presently, Tamayo-Brion is responsible for preparing the faculty files for review and performing the initial evaluation of student and other-faculty evaluations (peer reviews)

contained in the file, with a view to advising the chair. While the student evaluations have numerical ratings which are presented in summative form, Tamayo-Brion is required to verify the summative data and analyze individual rating sheets in cases where a faculty member receives negative ratings.

Ruiz described academic affairs as having evolved into a "sensitive and complex" specialty, due in large measure to the requirements of the lecturers' MOU. These provisions contain increasing levels of obligation to long-term lecturers. Tamayo-Brion is responsible as well for disseminating information department-wide regarding updates to the PPM. The other departments in the arts and humanities division, as well as economics and sociology, staff this position at the administrative specialist level.

The academic affairs specialist also devotes significant time to analysis of the staffing of the department, including the four studies areas, to ensure maintenance of the appropriate complement of lecturers and appointment-times to cover the needs of the department. The proposal describes this as "short- and long-range planning to meet changing department goals and objectives." Tamayo-Brion is the primary advisor to Ruiz and the department chair on such matters as the implementation of salary increases and its effect on the availability of department funds. As part of implementation, Tamayo-Brion manually makes changes in the database system to adjust faculty members' salaries. She is also advisor to the studies' program representatives, including their initial-hire orientation on personnel matters, including the terms of the MOU for lecturers.[20] She advises program representatives and the department chair on what is permitted under the MOU, including assisting in responding to grievances

[20] In this department, program representatives schedule classes, assemble the personnel files of the lecturers for advancement purposes, recruit for openings, handle undergraduate petitions (declaring a minor in one of the studies programs), and manage the teaching assistant workforce.

(factual investigation and recommended courses of action).[21] Tamayo-Brion oversees procurement of visas for visiting lecturers and is required to be knowledgeable about immigration laws.

In terms of planning, Tamayo-Brion is required to gather all relevant information necessary for the department to chart out the courses and staffing needs over a three-year period. This includes available financial resources, projections on student enrollment based on historical information, and projected sabbatical leaves. She calculates sabbatical leave credits but directs another employee in the preparation of department leave forms. Tamayo-Brion currently directs the work of two others in the department, the main office coordinator and an assistant responsible for lecturer recruitment, though she does not evaluate them.

Karen Stephens

UC Irvine established a department of biomedical engineering in 2002, evolving out of first an interdisciplinary majors program and later a center. With departmental status comes the right to confer undergraduate degrees. The first undergraduates were admitted in 2002. Karen Stephens joined the department in 2004. She is currently employed as an administrative assistant III. She has been responsible for coordination of both the undergraduate and graduate programs, reporting to the department's MSO. The department has proposed she be reclassified to an administrative specialist position. The department has grown in size since its inception and with the increase in enrolled students, both undergraduate and graduate, there is a greater need for program coordination and student advising. Growth has leveled at around 80 students in the graduate degree program. The higher level of responsibility expected of

[21] After receiving the in-house advice, the department chair or MSO must begin consulting with the specialist at the campus labor relations office responsible for processing the grievance. When the chair or MSO attends a grievance meeting, Tamayo-Brion is debriefed following it.

Stephens is primarily in the areas of graduate student advising and support of the graduate program in general, which now constitute the bulk of her current responsibilities.

Stephens is a continuous point of contact for graduate students beginning with their recruitment and admission continuing through the completion of their doctorate four or five years later. Because of the newness of the field and the diversity of its applicants, graduate degree candidates come from a range of academic backgrounds—less than half have a biomedical engineering baccalaureate degree—and require advice as to their academic preparation for the program. This is particularly so in the areas of course equivalency for subjects like biology and mathematics, the need to repeat a required course taken at the undergraduate or graduate level, and interpreting their competitiveness based on graduate entrance examinations. While routine questions can be answered by reference to the department's graduate student handbook (which she writes and edits) and website (which she updates with new content), Stephens responds directly to candidates on the more shaded questions. With the acquisition of this base of knowledge, the department has been able to streamline its graduate program admissions process by assigning Stephens the task of screening applications. She begins by scanning the application and supporting documentation into a database, ensuring their completeness on an ongoing basis. The applications are then brought before the faculty committee that determines which candidates will be offered admission. Stephens is a voting member of that committee. Since she is more familiar with the written application and is apt to have had some additional communication with the candidate, Stephens is helpful in explaining questions about a student's qualifications and alerting the committee to candidates with less than sincere intentions. Stephens advises students once admitted on course deficiencies, recommends appropriate classes, explains the rotations within the laboratory classes, and assists in matching students with a faculty advisor.

When the program was in its initial stages, a faculty member handled many of these responsibilities.

Stephens ensures the enrolled students are continuously registered with the graduate division of the campus and that the division is notified of progress toward the degree. Stephens works closely with the department's graduate faculty advisor, who oversees the graduate program curriculum and establishes degree qualifications, and monitors student progress with use of a self-created Excel spreadsheet, alerting the individual advisor and department chair of graduate students not making adequate progress. She handles both routine questions such as student housing options and the timing of faculty sponsored research grants which may offer subsistence income or opportunities for academic specialization. For joint degree students, Stephens advises outside faculty advisors on the department's requirements for progress toward the degree. She is responsible for coordinating the annual orientation program for newly admitted graduate students. This includes arranging for food and accommodations, arranging laboratory tours, a short 10-to-15 minute presentation, and being available to answer questions.

On the undergraduate side, Stephens works with the faculty member in charge of national accreditation, coordinating compilation of documentation—the history of course offerings and samples of graded student work from graduate teaching assistants in the program—and training teaching assistants on the type of samples required. She completed the questionnaire submitted to the accrediting agency in advance of its recent site visit. Other duties related to the undergraduate program have diminished over time as she now focuses the majority of her time on graduate student affairs.

Nancy Keys

UC San Diego's recreation department is a part of the student affairs division, providing recreational programs to students, staff, faculty and the local community. It is part of a cluster of departments within the student affairs division that also includes the intercollegiate athletics department and sports facilities department. The recreation department operates aquatic programs, sports clubs, instructional programs, and intramural athletics. It retains 34 full-time employees, 500 student staff, 300 class instructors, and 400 volunteers. The regular staff serve across five bargaining units.

Nancy Keys is the department's in-house human resources staff person serving recreation and sports facilities employees, reporting directly to the department director, Dave Koch. She has been employed by the University since 1967. Keys creates the job description for all new positions, reviews existing job descriptions, initiates and conducts classification reviews,[22] oversees the hiring process—monitoring compliance with applicable hiring policies—and is the departmental liaison to the campus human resources department. She conducts training of staff, covering supervisory responsibilities and policy changes. In terms of salary administration, Keys reviews staff salaries and compares them with the labor force for purposes of comparability. Koch relies on Keys to provide guidance on all human resources issues that arise within the department and to consult with the campus human resources department as necessary to comply with University and campus policies. Keys advises managers and supervisors regarding hiring, separation, transfers, layoffs and reductions in time. She also enters transactional information into the payroll personnel system, with the exception of timekeeping matters.

[22] UC San Diego differs from the other campuses in maintaining a central human resources department. It delegates some functions, such as classification analysis, to the vice-chancellor level.

Approximately three years ago, an administrative support office within the vice chancellor of student affairs office serviced the human resources needs of the athletics, sports facilities, and recreation departments. Keys worked in that office, before a reorganization assigned these staff directly to the departments. Prior to the reorganization, Keys performed similar duties in the student affairs office, covering all three sports divisions. In 2005, the University proposed to reclassify Keys from a __ assistant III to an administrative specialist—the pending request—though prior to her assignment to Koch. The University presented job descriptions of two other human resource specialists in the student affairs division with duties similar to those of Keys. A UC San Diego compensation analyst testified that the specialist is conceived as a professional level position with a focus on independent decisionmaking.

Ramon Smith

The University of California Press, a division of the UCOP, is the publishing arm of the University. It is revenue-generating and self-supporting, relying on income from the publication of books and journals, the bulk of which are intended for the academic or scholarly audience. The marketing section of the Press is divided by function: direct marketing, advertising, publicity, and academic exhibits. Each division is headed by a coordinator. Ramon Smith, currently a __ assistant III, is the academic exhibits coordinator.

The academic exhibits coordinator position was recently held by Erich Metting-Van Rijn at an MSO I level. Prior to that Metting-Van Rijn was an exhibits assistant in a __ assistant II position. When Metting-Van Rijn was given the additional responsibility for textbook promotions, he hired Smith to assist him with the exhibits work, which Metting-Van Rijn continued to direct. The academic exhibits section focuses on promotion of the Press's publications at meetings and conventions of academics and professionals in the relevant field. Typically these are annual meetings where up to 100 publishers, including other university

presses and commercial houses, exhibit their publications. The promotion strategy is two-fold, aimed both at attracting purchases and competitive positioning vis-à-vis other presses for the best authors in the future.

The Press has two publishing cycles each year, presenting a revised set of 70 to 80 offerings each cycle, approximately 80 percent of which are new books, for a total of 150 books promoted each year. The academic conventions have booth space which they rent to publishers. These spaces are limited in size, restricting each publisher to displaying no more than 50 to 100 books. The focus is on identifying those books of most interest to the particular audience of meeting attendees. Selection of books for display and promotion at meetings must be coordinated within the product life cycle in conjunction with the acquisitions and production arms of the Press, as well as the related functions of the marketing division (advertising, direct marketing, web marketing, trade sales, and library sales). This takes place at the new title launch meeting—essentially a project management meeting—run by the managing editor and attended by the chief financial officer, marketing director, productions editor, and acquisitions editor, where production plans are formulated for between one and six titles. The exhibits coordinator attends this meeting and advises the team about the exhibit opportunities and their timing in relation to the publication release dates. For books accepted for production, Smith begins to formulate an exhibits plan, which he then coordinates with other marketing staff as a campaign plan for the title is developed.

Smith is responsible for all staffing decisions regarding a booth. The yearly calendar presently has 28 to 30 academic conventions, reserved for meetings where the publications list contains sufficient titles to mandate a direct presence. Smith determines the appropriateness of sending additional marketing staff or an acquisitions editor. In a large number of cases, the Press subcontracts out the presentation to a third party when the Press is jointly exhibiting with

other publishers at major conventions. Combining the Press exhibits and the joint exhibits, the Press participates in between 100 and 200 events per year. A critical decision for Smith would include whether to send acquisitions staff based on the potential to identify new authors, and whether such staff attending can conduct marketing activities in lieu of sending marketing staff. In response to a request from either an acquisitions editor or author, Smith will also assess the past record at a joint exhibit convention to determine the potential for an actual presence going forward.

Smith is allocated an annual budget of $150,000, $20,000 of which is reserved for travel expenses. He makes all decisions on releasing funds for the booth activity, typically amounting to $5,000 per exhibit, as well as determining the adequacy of the budget on an annual basis. He coordinates the decisions on which books to promote, whether to display the book or arrange for production of a poster for it, whether to send copies for direct sale, or limit sales to orders, and prepares the list ordering books for display. Smith personally staffs about five to six booths each year.

Smith is also responsible for working with the authors and their requests for exhibition opportunities. This requires him to have a fairly in-depth knowledge of the content of all the publications (the position requires a baccalaureate degree), the basis for decisions on which books to exhibit, and explaining alternative methods of promoting a book to authors whose work cannot be displayed.

Burke Anderson

UCLA's alumni association is a membership organization for graduates of the university. The alumni relations staff serves the alumni and the campus through the exchange of information between the two. The alumni relations staff is housed in the James West Alumni Center. The 30,000-square-foot center serves as a site of a large number of alumni

events, as well as non-affiliated events generated by campus departments, the administration, and, more recently, outside entities. Opening the center to outside entities (charitable, public service, scientific organizations, and private businesses) resulted from a strategic planning process, which identified the benefit to the campus of cultivating more extensive relations with the community outside. The three rooms of the center accommodate up to 12 events each day, including Saturdays. Some meetings, like symposiums, lectures, and business meetings, are small and of short duration. The center can also host large events of up to 1,500 attendees, with blocks of several days reserved.

Burke Anderson is the center's reservation coordinator. He schedules these events, currently amounting to 2,500 annually. Ten percent of these events are for outside users. The scheduling of events constitutes 30 percent of his position. Anderson is the primary contact for all prospective users. He explains the terms of use, the nature of the facility, its limitations and policies for use, and then vets the user's proposal for compliance with the center's policies. His booking duties include providing consulting services to clients regarding room set-up, catering, entertainment, and special accommodations. Should policy changes be appropriate, such as insurance requirements, event booking, or egress and ingress, Anderson is responsible for recommending such changes to the director of the center. Anderson enters all scheduled events into an event database, produces the schedule for distribution to the campus, and recommends and implements upgrades to the system (e.g., the recent on-line reservation system).

Anderson is responsible for staffing the events, providing security, and training staff on emergency safety procedures. He is informally on-call for emergencies, including those on weekends, though he has been compensated when additional time was required. Anderson spends time in setting up lecterns, audiovisual equipment and the like, though in most cases the

building services coordinator or his student workers handle these tasks. Building and operations management comprises 25 percent of his time.

Basic policies exist for qualifying users and priority for overlapping reservation requests. Anderson is responsible for compliance with these policies, in conjunction with the campus Events Office. Anderson explained that there is no existing manual compiling all of the policies that apply and that the more sensitive cases involve the application of judgment. For example, he must be careful to avoid booking an event with a controversial speaker that might provoke a disturbance or protest; at the same time he must avoid being discriminatory in his approach. Anderson is responsible for resolving all but the most sensitive scheduling conflict issues. He must ascertain that the user is capable and willing to pay all hard costs incurred by use of the facility, an issue that arises when campus departments intend to charge such costs to grants or non-discretionary funds. He must determine whether fire safety regulations may come into play with large events and ensure that the user's event is compatible with the physical and staffing constraints of the facility.

Anderson began employment as a 50-percent time employee. He was involved in scheduling but his role was limited. Many of the bookings were routine—involving campus entities and repeat users. His role managing reservations expanded with the targeting of the wider customer base. In order to achieve this goal effectively, the center's facilities needed to be upgraded with, among other improvements, a better audio-visual system. Anderson coordinated installation of these improvements. He is expected to provide guidance and counsel to the director on building care and maintenance issues.

Anderson is also charged with oversight of marketing and promotions—components of the strategic plan. The two most important added responsibilities prompting the reclassification proposal were independence in resolving conflicts and implementation of the

strategic plan. Anderson came to the position with prior experience in marketing and managing high profile clients, skills that are well suited to his expanded role. Marketing activities comprise 10 percent of his time. Anderson wrote the copy for promotional materials and has cultivated relationships with attractive outside users.

Financial duties constitute 20 percent of Anderson's time. He has delegated the data-entry work of invoicing expenses and now simply reviews the invoices for completeness and signs off. He is responsible for resolving billing disputes with the users, with independent authority to compromise charges that are within the discretion of the center.

Christopher Hall

The AIDS Health Project is a non-profit entity associated with the UCSF department of psychiatry at the San Francisco General Hospital site. The project has approximately 105 employees, half of whom work at a clinical site and the other half at an administrative site. Each site has an employee responsible for information technology (IT). The project has over 100 desktop computer stations, with four dedicated servers, operating on a network applications software.

Christopher Hall was employed as a __ assistant III in 2006, responsible for administrative support at the clinical site. The primary IT staff person located at the clinical site was classified as a program analyst IV, specializing in Windows applications. Hall began providing IT support at the administrative site after on-the-job training under the analyst. He attended IT classes outside of work as well. When the program analyst IV retired, the office proposed reclassification of Hall from a __ assistant III to a computer resource specialist II, designed to assume the analyst's role at 70-percent time, with the remainder devoted to continuing Hall's facilities management duties. In the process, some of Hall's administrative duties in the area of scheduling staff were shifted away from his position. At the time of

hearing, Hall had vacated the position and the project was advertising the vacancy. The posted vacancy requires ability to support desktop users, their computers, monitors, printers, and other peripheral devices, as well as all software applications. The incumbent instructs users on software products, trains administrative assistants in computer support, sets up new systems and is responsible for maintenance of database systems. The incumbent must be able to address and resolve issues related to desktop and enterprise computing, network access, and security. An associate degree in computer science or information systems is a preferred qualification.

"Blank" Assistant III and "Blank" Assistant IV Work

CUE witnesses established that pre-award grant work has historically been assigned to __ assistant III's in terms of gathering cost information for budgets, assembling parts of a grant proposal, and routing the proposal for the needed signatures within the required deadlines. The __ assistant III's gather and annually update information on staff salary rates for the participating researchers and increases in materials costs. Under direction of a director or PI, a __ assistant might be directed to pursue a particular grant, study its guidelines and determine what documentation is required, and report back whether the grant is obtainable. Drafts of the budget are edited under supervision of the director or PI.

Post-award work has included collecting receipts documenting expenses, maintaining the monthly ledgers on expenses, monitoring them to ensure that the grant work is within budget, and projecting sufficiency of funds in the fund balance. The __ assistant III's have worked with accounting staff to ensure all expenses are posted in order to close out the grant, handled recharge duties, and alerted the department director or the PI of staff shortages.[23]

[23] Complexity in grant close-out increases with the size of the grant. Multi-year grants may include expenditures in the millions of dollars.

The __ assistants review grant-close-out requirements, and under those guidelines determine what forms and documentation to include. The __ assistant III's have had responsibility for processing timesheets for the researchers' payroll and for processing equipment orders with vendors.[24] Recently however, the purchasing and payroll function (including vacation and leave accrual calculations) has been automated at some campuses, eliminating the processing of paper. Purchasing and ledger checking has been also assigned at the senior typist clerk level in the past.

Coordination of medical student programs is assigned to __ assistants. Beverly Kelly was a __ assistant II at the UC Davis medical center until her retirement in 2001. Under her working title of OB/GYN housestaff coordinator, she was the primary contact for 24 fourth-year medical students. She scheduled the residents through their clerkship rotations, monitored their certifications for the medical license, and ensured that evaluations of both students and faculty were completed. She processed all of the applications, verified them for completeness, and prioritized them based on a point-system. The department chair and faculty members would interview the applicants and make the final determinations on admission. Kelly provided advice to residents on the requirements for licensure. She gathered faculty evaluations, tallied the scores, summarized them, and presented them to the department chair for review, before they were placed in the resident's personnel file. Similarly, she summarized resident evaluations and presented them to the department chair for review. Kelly scheduled faculty for the lecture series, contacting the faculty member's secretary to determine calendar availability. Based on names provided to her, Kelly also contacted distinguished visiting

[24] This profile was described in a number of different settings, including a UCSF medical research department, a small department with large extramural funding, UC Riverside's bibliographic studies research center (which digitizes rare books). The __ assistants attend MSO meetings, where policies and guidelines are explained. In some cases, __ assistants must research a question, though they often contact a director of accounting for guidance.

lecturers and booked them to speak. Kelly was also given responsibility for the clerkship program, a four-week internship serving four, fourth-year medical students at a time. Kelly verified that the applications were complete and notified them of acceptance. Clerkships were awarded on a first-come-first-served basis, contingent upon completion of the necessary preparatory coursework. Kelly's responsibilities were transferred to an upgraded __ assistant IV position and posted for hiring in 2006. The posted job description lists day-to-day administration as the primary duty, though elevates it by adding the provision of "leadership for the development and implementation of strategic plans" and recommending short- and long-range goals to the department chair.[25]

An administrative assistant II position, titled curriculum coordinator, existed at the UCSF's San Francisco General Hospital site. Through the year 1997, that person scheduled the rotations for fourth-year medical students who had elected family practice as their specialty. There were up to 14 students in each eight-week rotation. The general assignment was similar to Lim's position, though it was smaller in scale. The clerical unit coordinator had significant contact with the directors of the various participating outpatient and primary care clinics in the rotation and speakers for the lecture series. The coordinator was delegated discretion in fitting the students into available clinical assignments and lectures. The students were assigned to their sites based on decisions of the department's chief coordinator, located at the main office of the family and community medicine department.

Similar to administrative specialist positions, some portion of human resources work has been delegated to __ assistants, including informal disciplinary counseling, gathering

[25] A __ assistant III in the UCSF radiology and nuclear medicine department had authority to make recommendations on implementation of administrative procedures, though this was limited to identifying documentation necessary to fulfill the accounting requirements for post-award transactions or reporting a problem with a participant's documentation practices.

background information, and investigating employee records in order to advise management on possible courses of action. These positions have worked with the department director or assistant director to prepare paperwork for merit reviews, including keeping track of eligibility periods, and gathering documentation for the review process. The __ assistant III's are the first point of contact for staff seeking to effect personnel transaction record changes. The __ assistants also schedule travel and book reservations for administrators and staff.

Similar to SAO's, student advising responsibilities are assigned to __ assistants. Delores D'Amico is employed in the UC Davis sociology department as a __ assistant IV under the working title of undergraduate advisor. D'Amico provides individual counseling to prospective, continuing, and transfer students. Over 800 students have declared sociology as their major. D'Amico helps new and transfer students make course selections and students in academic difficulty determine if they are equipped to complete the major. She assists transitioning students with determining whether their previous course work satisfies the department's degree requirements. Students come to her either as a result of a referral based on academic difficulties, or voluntarily, often on a drop-in basis. D'Amico determines course equivalencies for incoming transfers and students studying abroad who seek to have those credits apply toward the major.[26] She makes this determination (not just a recommendation) on the basis of comparing the course catalogs. She also reviews internship proposals to determine if the projects are legitimate and relevant to the major, though the department does not officially approve them. She maintains student files with academic information regarding

[26] D'Amico indicated that the equivalencies for community college students is contained in a prescriptive document, suggesting that these decisions do not involve significant discretion. If there is a question, D'Amico can request a copy of the course syllabus. She is not officially permitted to advise on University degree requirements, but the dean's office allows the department to make all determinations on major requirements. For out-of-state students, the equivalencies are determined at the admissions office in terms of credits toward the degree, while the department determines equivalency toward fulfilling the major.

all the majoring students. D'Amico is a source of information on the honors program, scholarships, post-graduate programs, and potential career paths. She maintains a database showing the courses scheduled, enrollment, teaching assistant assignments, and other pertinent information for use by the chair, manager, and graduate program coordinator.

Similar to some analyst positions, conference organizing and budgeting matters are assigned to __ assistants. Elinore Levine is employed 50-percent time as a visiting scholars coordinator and 30-percent time as a research assistant in support of a faculty member in the East Asian studies institute at UC Berkeley. The coordinator position is situated within the Center of Chinese Studies, a subdivision of the institute. The work of the center is to present seminars, colloquia, and conferences, and to host visiting scholars who wish to engage in study using the facilities of the Berkeley campus (e.g., its libraries and collections). Levine reviews the incoming applications, ensures the supporting materials are complete, and makes a recommendation for approval for each of the applicants to the chair of the center. She has received training in campus and federal policies (e.g., Department of Homeland Security regulations) that apply to international students. If the chair approves the application, Levine forwards the scholar a second packet of material to complete covering health insurance and visa requirements. She is in regular contact with the scholars once the application is approved. Levine uses information provided by the scholar to fill in the document issued by the campus needed to obtain a visa, and forwards that to the appropriate contact person. She may follow up with a letter of explanation to a foreign consulate's office if the scholar is having difficulty with the visa. Levine advises faculty members seeking to host a visiting scholar on these requirements as well. She provides advice to scholars on temporary housing arrangements. Levine provides a one-on-one orientation to each incoming scholar, covering what classes they might wish to audit, using the library's database, and the like. As a liaison with other related

campus organizations, she is a conduit of information to the scholars on campus activities of interest, as well as parking and transportation. Levine organizes a once-each-semester social event (a lunch or coffee) where scholars can meet each other. She provides text for a website, which is uploaded by a computer resource person.

In her 25-percent time seminars coordinator position, Levine coordinates the support and logistics necessary for several fully funded multi-day conferences sponsored yearly by Chinese Studies center professors and typically attended by international speakers. This includes travel arrangements, visa documentation, lodging, airport connections, meeting room reservations, catering, registration, entertainment, and publicity for between 35 and 80 participants. Levine develops a budget and makes the various arrangements in consultation with the sponsoring faculty member. Wrap-up of the conference includes reimbursement of expenses, production of a summary report of expenses, and assistance in compiling the papers for publication. Levine does similar work for an assigned professor who hosts a conference at Berkeley or abroad approximately once each year. Under guidance from the professor, Levine prepares grant requests for these conferences. She prepares grant progress reports, typically creating the initial draft of the narrative. Levine assists her professor in formatting manuscripts for publication under the publisher's guidelines and arranges travel for her.[27]

Writing copy, website maintenance, and computer maintenance work is assigned to __ assistants. Sandra Oberlies, a library assistant III at UC Riverside, works in the ordering and receiving unit of the library's acquisitions department. She processes orders for specific book titles (as opposed to a regular series). Under work described as technical support, Oberlies supports a department web team of 20 staff members, which determines when to

[27] Similarly, a radiology and nuclear medicine __ assistant word-processes a faculty member's manuscript in conformity with the publisher's guidelines, edits the document, and presents it back for review.

redesign the site in response to direction from the library or the campus. She is one of a number of staff who revise a portion of the website once decisions are made to update it. Oberlies wrote portions of the library's website that explains ordering procedures, and she is responsible for updating it. She updates passwords for vendor databases, revises modules for ordering and status reports, loads them on the website, and tests them for the vendors. She is responsible for setting up electronic accounts for new vendors and determining what access features to include. Updating text for the website requires that the content be recoded from a word-processing format to HTML format, a skill which Oberlies taught herself. In terms of procedures, Oberlies writes original copy or works from a template provided to her. Oberlies also troubleshoots problems with computers and fax machines. As the "first line of defense," she identifies problems, fixing those she can, and contacting the systems department for more difficult ones. She represented her department on a committee that determined the equipment and technology needs of the library. Oberlies is responsible for training new employees on use of the automated ordering procedures. Much of Oberlies's computer knowledge was self-taught.[28]

The __ assistant III positions were shown to be consistent with the notion of administrative support for a departmental or unit manager in the sense that the grant preparation, financial, payroll, human resources, and other staff support work was bundled, making the incumbent responsible for a range of tasks. In a small science department at UC Santa Barbara, a __ assistant III in the capacity of the primary support staff for a department chair combined aspects of many of the positions at issue, ranging from gathering statistics for reports, such as year-end expenditures and instructional workload, preparing the reports

[28] After five years of responsibility in the area, Oberlies took ROP classes and obtained a state vocational education teaching credential in computer repair and website design, enabling her to obtain outside employment at a continuation high school.

themselves, purchasing (within a prescribed dollar-limit), post-award grant administration, liaison with other administrative offices, recruitment and outreach activities, student advising, course change transactions, and monitoring merit promotion opportunities. This is consistent with the series concept statement itself, distinguishing III-level work ("incumbents have independent responsibility within overall goals of the organizational unit for a comprehensive function, service, or unit frequently requiring the determination of procedures, methods and policy applications; prepare reports and policy recommendations; and participate in long-range planning for clerical/administrative needs within overall goals of the organizational unit"). In connection with these tasks, the series concepts recognize that some analysis is performed (i.e., "[i]ncumbents have responsibility for one or more functions or services involving analysis of problems equivalent to an entry-level analyst, which requires knowledge of basic principles of the specific profession or technical field").

Similarly, the __ assistant IV position at the Davis campus has been used to cover a range of administrative support activities in the electrical and computer engineering department, including complex post-grant work (over 250 grants and contracts), assisting in the development of budgets for grant applications, assisting in long range budgetary planning for the department, being the contact person for audit information, managing office space utilization, and advising international students on visa regulations.

Custodian-of-record duties pertaining to medical records are assigned to __ assistant III's at the UCSF campus. In this capacity, the incumbent compiles records in response to court subpoenas, client-authorized requests from attorneys, and litigation-related requests from third-party insurers for the University. On a weekly basis 60 to 70 requests are processed. Determinations are required as to compliance with the terms of the request. Discretion enters into the matter particularly when confidentiality rights are involved (e.g., HIV, psychiatric,

substance abuse information). In terms of consequence of error, the University may be liable for improper release; however, the incumbent has been trained that he is to consult with a supervisor when in doubt. Periodic training (typically a six-hour session) is required to keep abreast of the changing requirements of the law. Documents are ordered from archive facilities, scanned for confidential information, checked for completeness, and assembled for production. The incumbent is a front-desk and call screener for incoming requests to determine the validity of the patient authorizations. He had reported to an analyst for some period of time prior to the freezing of that position. No Public Records Act request duties are involved.

ISSUE

Is the work performed by the incumbents in the 14 bargaining unit positions proposed for reclassification appropriate for inclusion in CUE's unit or appropriate for exclusion from that unit?

CONCLUSIONS OF LAW

A central issue in this case concerns the distinction between upper level __ assistant work and work assigned to the lowest levels of the administrative staff professional classifications. The University has proposed reclassifications of a number of positions into classifications which it contends are functionally equivalent to positions for which a de facto unit determination already exists (i.e., analyst, specialist, student affairs officer, program representative, computer resource specialists) and others with individual campus titles (e.g., assistant to director, events coordinator, exhibits coordinator) which the University contends are closely analogous to currently unrepresented titles (e.g., public events manager, publications coordinator). Because the incumbents began in positions which involved clerical work and have continued the same departmental or office work, the University builds its case

around the qualitative change in the nature of that work, as opposed to a strictly quantitative change. From CUE's standpoint, there has been no qualitative change and the positions continue in essence to involve bargaining unit work. CUE presented an array of __ assistant positions performing work which it contends is indistinguishable from that performed in the disputed classifications. CUE also contends that the __ assistant IV position, though not in use at campuses where the proposed reclassifications exist, defines the upper limit of clerical work in a manner which supports its claim to the positions.

The University notes that unlike a traditional unit modification case, neither party has requested that existing classifications be moved from one unit to another and hence the community of interest analysis is of more limited scope. The University contends that the relevant inquiry is simply whether the job duties or the nature of the work required of the position is "more similar" to the work performed by bargaining unit employees or those in the administrative staff professionals unit[29] or the technical unit. The University's petition is brought pursuant to Regulation 32781(b)(3), consistent with its view that the dispute involves "new positions" rather than "new classifications."

CUE contends that none of the proposed positions are themselves professional positions because they do not meet the definition under the statute for such.[30] As a result, HEERA's

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[29] The University characterizes the "professional" classifications at issue in this case as residing in its self-named "99-unit," a residual grouping of all unrepresented employees. Although the difference is immaterial to the outcome, I employ the term administrative staff professionals "unit" in the more limited sense as described herein.

[30] Section 3562(o)(1) defines a professional employee, in relevant part, to be:

> Any employee engaged in work: (A) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (B) involving the consistent exercise of discretion and judgment in its performance; (C) of a character so that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

rebuttable presumption that they are not appropriately placed in the professionals unit must be applied. In addition, CUE argues that there is a rebuttable presumption that every position is appropriately assigned to the clerical unit because that it where it is presently located.

CUE's petition is brought pursuant to Regulation 32781(b)(2) to "clarify" the boundaries of the unit. CUE's theory is that the University has "moved" clerical positions by retitling them. (See *Hemet Unified School District* (1990) PERB Decision No. 820.) PERB's approach in the *Hemet* case is useful as an illustration of the issues here. In that case, the employer designated a number of employees as confidential, thereby excluding them from the unit. The hearing officer undertook a position-by-position analysis to determine whether each of the positions met the statutory definition of "confidential." On appeal, the employer argued that the individual analysis of positions was inappropriate and the determination should be made on the basis of analysis of the classification district-wide. In rejecting the employer's appeal, PERB first held that in cases where such matters come into dispute, it retains jurisdiction over the dispute (in that case, in spite of the employer's claim that the issue was determined by contractual language). PERB affirmed the position-by-position analysis and rejected the employer's district-wide approach. (*Id.* at pp. 3-8.) PERB also found that the "appropriateness of the unit" was not at issue, and therefore any purported absence of community of interest evidence was immaterial: the issue was simply whether any of the positions were subject to exclusion from the unit based on their job duties. (*Id.* at p. 10.)

Unlike the *Hemet* case however, this case does not involve simple application of a statutory standard for exclusion (e.g., confidential, supervisory, or managerial status). Here,

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> (D) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

the issue is principally one of determining whether any of the positions is subject to exclusion from the unit based on the relevant community of interest factors. That community of interest analysis must be consistent with PERB's guidance regarding demarcation of the units and the University's historical practices in that regard.

Proceeding under that premise, I reject CUE's assertion that the current unit assignment is presumptively valid because the positions are currently in the CX unit. The position is currently in the CX unit because of the existing job title and a prior work history. As a result of the reclassification proposal, including the revised job description, some change in the duties of the position is presumed, though not necessarily proven. The issue then is whether the position as revised justifies the University's attempt to exclude it from the unit, even despite the fact that some portion of the work remains clerical in nature. This is distinguishable from the case of the employer retitling a position without any presumed change in job duties. (Cf. *Regents of the University of California* (1989) PERB Decision No. 722-H.) These proceedings implicate reclassifications based on changes in duties or the composition of duties. The University's reclassification process does not conflict with PERB's role in unit determination, but neither does it suggest an initial presumption as to proper unit placement to the benefit of either CUE or the University.

Section 3579(a)(1) prescribes the pertinent community of interest factors in unit disputes, 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 with the employer, the extent to which the employees belong to the same employee organization, 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 analysis here emphasizes the nature of the job duties, skills

required, reporting relationships, and primary staff interactions as the operative community of interest factors, while recognizing that the employees in many of the proposed professional classifications continue to perform an administrative function similar to the original positions and pursue goals very similar or even identical to those positions. In many cases, the justification for reclassification rests on the acquisition of on-the-job training in the continuing performance of similar duties, supplemented with outside educational work (but not the acquisition of an advanced degree, the attribute which often provides a bright-line demarcation for professional-level work under the statutory definition). I will now address these factors in connection with the positions at issue.

The Analyst Positions

Peter Padilla, Marie Lim, Regina Hazlinger, Martha Thomas, and Jeanine Leary are candidates for analyst positions.[31] Based on the testimony and documentary evidence, I find that all incumbents are properly reclassified in positions outside of the clerical bargaining unit. To one degree or another the proposed classifications positions reflect the devolution of administrative functions from a manager to a support person imbued with independent decisionmaking authority. They are characterized perhaps less by analytical work assigned on a project-basis and more by ongoing responsibility for analyzing the success of the function assigned and identifying interventions as appropriate.

The UCSF infectious disease department has assigned the work of overseeing the flow of extramural support, ranging from a low of $1.5 to $8.5 million, to staff at the analyst level. At the $2.3 million level, Padilla falls in the middle of this range. Padilla is no longer closely

[31] Thomas's reclassification documentation does not propose a specific classification and the management witness conceded a lack of personal knowledge of the history of the request. Of the classifications considered in this case, the analyst classification most appropriately describes that position. The revised job description characterizes the 60-percent duty as "records management/custodian of records/research and analysis." Liaison and training constitute the next most important duties.

supervised on grant proposals as he once was; to the contrary, he plans all administrative aspects of the proposal—meaning he conceptualizes that side of the proposal, leaving only the scientific goals for his principal investigator to provide. Though it is true that the handling of pre-grant work does not necessarily have to be assigned outside of the clerical unit (relatively simple, small-budget grants adhering in practice to a template model, for example, is properly assigned within the unit), the grant preparation work of Padilla involves high-dollar budgets (23 in total) that must be scrutinized and reconciled so as to fit within Dr. Rosenthal's ongoing research enterprise. And though Padilla is an administrative generalist in terms of the various functions related to support of research—covering equipment needs, staff human resources issues, and post-grant administration—it seems clear that he is expected to discharge these responsibilities without day-to-day consultation with, or approvals from, Dr. Rosenthal. Further, though it may also be true that clerical employees also multi-task in their positions, the level at which such activity occurs in Padilla's position is consistently intense and complex as to warrant placement outside the unit. Intensity of the work is indicated by the fact that Padilla performs functions related only to grant administration and no other office clerical functions. Indicative of significant consequence for error, Padilla makes decisions on purchasing without limitation as to cost.

None of the __ assistants involved in processing grant applications claimed to have significant responsibility for identifying, analyzing and recommending untapped grant sources to their principal investigator. They advised PI's on money available for equipment purchases, though they did not investigate first-time purchases. Two __ assistants acknowledged their decisionmaking was limited to purchases under $2,500 (consistent with the University's supplemental guidelines for the __ assistant III); one of those adding that she received instructions on high-dollar pieces.

Lim is assigned independent responsibility for directing one of the two training programs in a large clinical department at the UCSF campus. Though the residency program consists of 75 housestaff and the rotations are of greater duration, Lim's clerkship program consists of 35 medical students and she does all of the scheduling, unlike the residency program which has an analyst II assigned to handle that function. Both the residency program's program manager and Lim report to director-level faculty members, immediately under the department chair. On the operations side, Lim reports to the department's operations manager, and she has multiple direct contact with course directors and hospital site directors. As the clerkship program grew, the work was removed from an administrative assistant III with 50-percent time responsibilities for administrative support to the faculty. The program has avoided closure by achieving a critical mass, and it was suggested that Lim is responsible for maintaining the viability of the program and thinking critically in terms of the department's programmatic goals. She has student advising responsibilities taking place in the context of promoting the department as a place for residency training. Discretion has been delegated to her in terms of filling out the class of students during the application process, analyzing the student evaluations for the purpose of recommending ways to improve the quality of the program, and rescheduling make-up sessions at the clinical sites based on completeness of the training experience. Though some aspects of work are transactional (scheduling classes and compiling evaluations), Lim is also responsible for making qualitative judgments so as to maximize the benefit of the program to the students and enhance the benefit of the program to the department's long range objectives. In addition, Lim is assigned a budget and expected to meet the program's goals within those financial constraints.

The UC Davis OB/GYN residents coordinator is similar in many respects, though the closeness of the positions is reflected by the assignment of those duties currently to a

__ assistant IV position. Still, there was no evidence the department expected the incumbent to make recommendations on how to improve the quality of the rotations based on analysis of the evaluations, to exercise independent judgment on make-up scheduling, or maintain the quality of the program so as to ensure its viability. The UCSF family practice coordinator's position is distinguishable from Lim's position in that there appears to be no expectation of quality assurance for the program, and therefore it fits within the transactional character of clerical positions.

Hazlinger's position began when the environmental research institute was in its formative period. She was the institute's first employee other than the director position held by her supervisor, Norbeck. A good portion of Hazlinger's work constitutes administrative support, particularly that aspect of the work involving the logistical support for the national and international conferences. Yet the evidence indicates that Norbeck has delegated responsibility to Hazlinger to help determine the content of the conferences by having her review the speaker abstracts and make recommendations as to which speakers to pursue. She interacts with these speakers directly without Norbeck serving as the point of contact. Norbeck relies on Hazlinger to prospect for funding opportunities, again speaking to her non-transactional role in grant administration. Her post-award duties add the aspect of monitoring progress toward the grant deliverables, and she is a party to conference calls between the researchers and the funders in which these issues are discussed. Hazlinger's creativity is applied in terms of promoting the growth and development of the institute and its reputation externally.

Hazlinger, Medina, and Lim's positions are distinguishable from the UC Berkeley Chinese studies assistant. Though Levine does have recommendation authority on approval of visiting scholar proposals, edits manuscripts, serves as a liaison with members of the public

(the visiting scholars), and engages in conference logistics planning activities, the higher level duties do not predominate over the clerical ones. Hazlinger plans conferences but also has influence in shaping the content of conferences.

Thomas's position is notable for the devolution of the Clery Act duties previously performed by the chief of police who previously held the title of custodian of records. While the work is characterized by recording transactions, considerably more is involved than simply processing reports in conformity with established guidelines. For example, the department expects her to determine the proper scoring of offenses by identifying duplicative criminal charges in single incident reports—work that involves analysis of the criminal codes at the level of a paralegal. She not only processes the individual incident reports, but in the nature of project-assigned work, develops the monthly and annual aggregated reports. Thomas has direct contact with public law enforcement agencies outside of the University and exercises independent judgment in responding to sensitive public record and Pitchess motion discovery requests. She has training responsibilities for sergeants in the field and must exercise influence over them to produce reports that conform to the FBI's handbook, as she interprets it.

The UCSF records assistant is not required to exercise the same level of discretion as Thomas. The analysis of subpoena and medical records requests emphasizes accuracy and completeness of the response to the items requested, and though some judgment is required on confidentiality issues, that discretion appears to be closely guided by written procedures.

Similar to Hazlinger's position, Leary works in a small but growing unit. She once performed the typical __ assistant duties of grant cost-accounting, processing of purchase orders, travel arrangements and secretarial duties, but the consumer electronics department has since hired a __ assistant to cover Leary's former duties. Leary's new position is one of resident information technology employee for the department. In its technical work, the

position is more akin to a computer resource specialist, though it is a blended one because of the grant administration duties. The latter duties are at the upper end of the spectrum in terms of complexity. They involve analysis of issues for the purpose of solving problems in expense allocation, and again illustrate the devolution of analyst work away from central administration to the department level.

More so perhaps than with the other classifications, the closeness of the issues surrounding these positions stems from the University's own supplemental guidelines, heavily relied upon by CUE, which reveal fair room for debate as to whether the work described here falls within the upper reaches of the __ assistant series. For example, the campus guidelines, designating the __ assistant III as the highest level, include language ("authority . . . to act on day-to-day operational decisions with minimum supervision"; "work with general guidelines which may not be directly applicable . . ."; "exercise originality to develop methods or procedures to resolve recurring or unusual problems"; "problem-solving involves 'entry level staff analysis'"; "searches for, evaluates and summarizes potential sources of funding for PIs and transmits information to PIs"; "independently purchases non-standard items"; "administer several complex contracts and grants with multiple fund sources"),[32] suggesting the work arguably could be assigned to the clerical unit. Nevertheless, the record as a whole, particularly the placement of duties established by reference to the work of positions actually described, does demarcate a sufficiently clear line so as to justify placement of these positions outside the unit, and I conclude that such placement is consistent with these guidelines.[33]

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[32] The Davis supplemental guidelines quoted from are from 1998, prior to establishment of the __ assistant IV position.

[33] A factor present in these positions, as well as many of the others described below, is that the incumbents are not part of a team of clerical support employees. As noted in the clerical unit hearing officer decision, if clerical employees are not supervised in a team by another in the same classification series, they are supervised individually by a professional

The SAO Positions

Tesla Parrales and Walter Douglas are candidates for SAO positions. SAO's have traditionally focused on professional level advising of the student body in connection with admissions and degree attainment, as well as student life activities.

Parrales's position falls within the outlines of the SAO specifications in terms of the requirement for judgment in matters of admissions, outreach, and academic progression. The question in her case is whether that judgment involves professional level work. I find that it does. Parrales trains, directs and supervises the work of the front-line public response staff and ensures uniformity of advice consistent with campus policy. She is a work flow manager both in terms of public responses and application files, signifying a high level of accountability. She is also a reader of admissions applications. Her direct involvement in public responses is limited to the specialized requests, such as those involving foreign transcripts and those where it is necessary to resort to more specialized resources regarding course equivalencies. Parrales's focus on public response does not diminish the level of judgment required of her position, because she does not provide readily available information. Her liaison duties with other campus departments also embody higher level external relations responsibilities. Her position is on par with the SAO's in the evaluation unit, where the staff concentrates on analysis in the admission process. Her acquired knowledge regarding transcript evaluation qualifies as specialized knowledge not expected of a clerical employee. I find she is appropriately classified at the SAO level.

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employee. In the proposed classifications, the incumbent typically reports not simply to a professional employee, but the department head, director, MSO, or other high level management position. That attribute speaks to the independent judgment and consultative role expected of the position and the degree to which responsibility for an administrative function is delegated.

Douglas's position, as the University concedes, does not neatly fit within the SAO description, though it is perhaps the closest fit. That is so because the UC Riverside radio station promotes the University's public service mission more so than its educational one. Student radio hosts do receive a form of vocational and/or artistic training as broadcasters of their radio shows and the activity itself supplements the student life experience for them. Regardless, Douglas's position is characterized to a greater degree by his administrative responsibility in overseeing the operations of the station. He is no longer merely an extension of the station's director and general manager, working under close supervision. Douglas has primary responsibility for the day-to-day activities of the station. Consequence of error is a factor weighing heavily in favor of professional level work. So, too, is a level of professional and artistic judgment involved in selecting programming for the station. While Douglas reports to the director, he is more than just a first among equals at the station. I find that Douglas is appropriately classified at the SAO level.

The Program Representative Position

Gloria Medina is a candidate for a program representative position. Program representatives focus on curriculum implementation. The typical position deals with education programs for the general public. Medina's program is for medical students and it is unclear whether professional schools fall under the rubric of programs offered to the public. The most likely conclusion is that they do not, but such a distinction is not critical. Program representatives are required to fully understand the professional goals of the department and they have a range of duties needed to implement a curriculum or program.

I find that Medina is appropriately classified at the program representative level. The faculty and student liaison duties comprise 65 percent of her time. As the primary point of contact with 160 faculty members, this is a position which necessarily embodies independence

and the ability to problem-solve without assistance. Medina's curriculum duties focusing on syllabus preparation are situated within the broader category of work described as "course administration." The scope of the syllabus project (preparation of a 2,000 page document) coupled with the coordinative aspect (obtaining submissions from 160 faculty members) demonstrates intensity and complexity of the project. Though the work of compiling the syllabus itself suggests there is much production work of a clerical nature in the project as a whole—and Medina is responsible for editing of the work—the nature of the subject matter, physiology, which involves cellular biology and biochemistry, indicates a high level of mental concentration necessary to proof the document and make the judgments necessary to achieve consistency of format. Further, Medina has three __ assistants performing this work and reporting to her. She supervises and evaluates these clericals, while she herself reports to the department's MSO, working at a different location. Supervision, at 20-percent time, is the second largest function of the position. Two other curriculum coordinators at the school of medicine are placed at the analyst I level, a possible alternative classification for the position.[34] I find Medina's position is appropriately classed outside of the clerical unit based on the independence of judgment, nature of decisionmaking and analysis, complexity and intensity of the work, and her supervision of other clericals.

Medina's curriculum coordination duties exist at a higher level than that of the Davis OB/GYN position and the UCSF family practice positions, which focus on scheduling of classes and do not involve the same intensity of work or supervision of others in preparation of the syllabus.

[34] Another professional unit classification, publications coordinator, is responsible for the planning, scheduling and coordination of publications, editing, and effecting changes to content and design.

The Administrative Specialist Positions

Leah Tamayo-Brion, Karen Stephens, and Nancy Keys are candidates for administrative specialist positions. The administrative specialist position was envisioned as a junior MSO position at the time it was created. Its focus is on management or supervision of the administrative processes of a department or unit. As used at some campuses it is akin to an executive assistant covering a range of clerical duties, but confined to higher level executives at the dean or vice chancellor level. In the latter respect, the specialist position rises to the level of professional work through the application of discretion (for example, in the handling of sensitive matters) and the assignment of tasks involving research and analysis. I find that all three incumbents are appropriately classified at the administrative specialist level.

Tamayo-Brion replaced a departing administrative specialist reporting to the MSO. Other direct reports to the department's MSO (a specialist and an SAO) are professionals. Tamayo-Brion was not placed at the specialist level initially because she was not fully functional at that level, though there was an expectation that she would become proficient. Tamayo-Brion appears to have obtained the required training to qualify as a specialist, according to the department's standards. Tamayo-Brion's knowledge of the academic professional advancement procedures qualifies as specialized knowledge. Expertise beyond that expected of a clerical employee is required for overseeing the progression of the lecturers, advising the chair as needed on these issues, and notifying the department of relevant changes to the PPM. The level of confidence the department has in these skills is reflected in the MSO's plan to delegate full management of the process to Tamayo-Brion. In preparing personnel files for review by the chair, Tamayo-Brion analyzes the student evaluations for the purpose of advising the chair on their content. Analytical work is reflected in her planning activities related to matching projected class demand with instructional staffing, with attendant

consequences of error. Tamayo-Brion interacts directly with the MSO and department chair and directs the work of two lower-level staff.

Stephens is assigned program coordination duties in an academic department whose graduate program has grown to a level of sustainability. In contrast to Lim's position, which has a similar history but emphasizes lecture and practicum scheduling, Stephens focuses on advising graduate students, particularly around admissions. Because of the new and interdisciplinary nature of the department, a significant amount of time is devoted to advising students on their preparation and specialization which the department has to offer them. Stephens's responsibility goes beyond answering routine questions. The department has also delegated her a significant amount of responsibility in terms of screening applicants for the program. Owing to her comprehensive review of the pool, she is a voting member of the admissions committee. Her in-depth knowledge of the degree requirements allows her to liaison with faculty advisors outside the department for students pursuing joint degrees. On the undergraduate side, she has been assigned to complete the questionnaire for accreditation review. While a good portion of her work, particularly that around monitoring student progress and advising of a routine nature, is suited to assignment to a clerical position, her primary role in the admissions process qualifies her as a professional unit employee.

Keys's position is another example of the devolution of an administrative function from the vice-chancellor's level to the departmental level. Keys is the in-house expert on human resources issues for the recreation department. The department is sufficiently large as an organization serving many users that the work is varied and hence complex. The proposed classification is comparable to two other human resource specialists in the student affairs division. Keys must be knowledgeable about the requirements of all five MOU's whose bargaining units are represented. She interacts directly with the director, who relies on her to

advise him on all human resources matters. Keys is responsible for ensuring that all campus employment policies are followed. Keys has independent decisionmaking responsibility. Though she retains some work that is transactional in nature, the bulk of her duties is not clerical.

The Academic Exhibits and Reservation Coordinator Positions

Ramon Smith and Burke Anderson are candidates for coordinator positions. Their work is administrative in nature, and they both have been assigned sole responsibility for their particular function.

Smith's position serves a marketing function for the University Press. It requires a baccalaureate degree because of the need to sufficiently understand the content of scholarly publications in order to make decisions about which books to display and to engage the authors around book promotion. The principal role that Smith plays in the display of books at the conventions is to manage the event and coordinate the logistics including making all staffing decisions. While the elements of a successful display may have developed over time and are capable of being reduced to writing, the work does not lend itself to characterization as routine or transactional in nature. Smith is involved at a high staff level in terms of the participants at the new title launch meeting. He is provided a budget with which he must accomplish the goals of his assignment. There is sufficient evidence of independent decisionmaking to justify placement of the position outside of the clerical unit.

Anderson is charged with maximizing the use of the Alumni Center, consistent with the goals of the new strategic plan to expand the customer base. He brings his previously acquired marketing skills to this task. Anderson is the primary contact representing the University in relations with users from the public. Anderson, like Smith, is responsible for coordinating staffing for events, much of which he delegates rather than performs. He is accountable for

compliance with all applicable building use codes and campus regulations. He is expected to recommend policy changes as needed. He has delegated the routine aspects of the invoicing work, but retains responsibility for resolving billing disputes with the users. Anderson exercises discretion of a non-prescriptive nature and is expected to work independently. His position bears similarities to the public events manager position. The majority of Anderson's work is not clerical in nature.

The Computer Resource Specialist Position

Christopher Hall's vacant position is proposed for reclassification to a computer resource specialist position, which is found in the technical unit. Technical employees use independent judgment and exercise specialized skills. Assignments must be complex and the level of responsibility must be significant.

The proposed reclassification is designed to fill one of the project's two IT employees. The vacated position was held at the program analyst IV level. Though Hall's position was assigned administrative duties such as scheduling staff, some of that work has been removed to permit 70-percent time devoted to IT support. The IT work described includes the full range of network administration, including installation of new systems and maintenance of database systems. The work satisfies the requirements of specialized skills in a technical field.

CUE's "Blank" Assistant IV Proposal

The findings made that all of the positions at issue are properly reclassified as non-bargaining unit positions for all intents and purposes disposes of CUE's request that the positions be placed at the __ assistant IV level. The question presented here is simply whether the majority of the work in each position is clerical bargaining unit work or not, as determined by the parties' MOU language establishing PERB as the dispute arbiter. It is beyond the scope of this hearing to decide that the __ assistant IV position is a more appropriate classification

for the work of the incumbent described, without first having found the work is clerical in nature. Stated differently, CUE's petition cannot serve to reshape the boundaries of its unit by redefining what is meant by clerical work in the absence of a classification-based community of interest analysis not made here. Having found that each of the positions qualifies to serve in a position outside the bargaining unit, I must deny CUE's petition.

While CUE argues that the various classifications into which the University seeks to reclassify the incumbents do not entail the work of a professional employee, as the term is defined under section 3562(o)(1), for the purpose of invoking a presumption to aid its case, I find it unnecessary to decide that issue. As noted above, the classifications into which the University has proposed incumbents be moved are located outside of CUE's unit for purposes of deciding this case. For this reason, I have not applied any presumption in favor of placing the employees within the clerical bargaining unit. (See *John P. Scripps Newspaper Corp.* (1999) 329 NLRB 854 [unit clarification proceedings framed by the existing definition of the unit, which also provides the initial presumption].) The findings in this case are based on review of the totality of evidence, together with PERB's guidance delineating the boundaries of the competing units and the historical contours of those units.

Conclusion

Based on all of the evidence submitted for this record, I find that the 14 positions at issue share a greater community of interest with employees in non-clerical bargaining units and therefore are properly reclassified in positions outside of the clerical and allied services bargaining unit.

PROPOSED ORDER

For the above reasons and based upon the entire record in this case, it is hereby ordered that the petition of the Regents of the University of California (case no. SF-UM-620-H) is

granted with respect to the positions at issue and the petition of Coalition of University Employees (SF-UM-621-H) is denied.

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

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

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

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

Donn Ginoza
Administrative Law Judge