

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



IN THE MATTER OF: )  
)  
UNIT DETERMINATION FOR SKILLED ) Case Nos.  
CRAFTS EMPLOYEES OF THE ) SF-RR-1002-H et al.  
UNIVERSITY OF CALIFORNIA PURSUANT )  
TO CHAPTER 744 OF THE STATUTES ) Request for Reconsideration  
OF 1978 (HIGHER EDUCATION ) PERB Decision No. 242b-H  
EMPLOYER-EMPLOYEE RELATIONS ACT) )  
) PERB Decision No. 242c-H  
)  
) August 19, 1983  
\_\_\_\_\_)

Appearances: Jerrold C. Schaefer, Attorney (Corbett, Kane, Berk & Barton) and James N. Odle, Associate Counsel for the Regents of the University of California.

Before: Tovar, Jaeger, Morgenstern and Burt, Members.\*

DECISION

On March 31, 1983, the Public Employment Relations Board (PERB or Board) issued a decision<sup>1</sup> under the Higher Education Employer-Employee Relations Act (HEERA)<sup>2</sup> determining the supervisory exclusions from the skilled crafts employees unit at the University of California (UC). These three units are

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\*Chairperson Gluck did not participate in this Decision.

<sup>1</sup>In the Matter of; Unit Determination for Skilled Crafts Employees of the University of California Pursuant to Chapter 744 of the Statutes of 1978 (Higher Education Employer-Employee Relations Act) (3/31/83) PERB Decision No. 242b-H.

<sup>2</sup>The HEERA is codified at Government Code section 3560 et seq.

located respectively at the UC Berkeley/Lawrence Berkeley Laboratory, the UC San Francisco campus, and the UC Los Angeles campus.

UC filed a request for reconsideration of certain of the exclusionary decisions. Specifically, UC requested that the Board reconsider the inclusion of assistant physical plant mechanic supervisors and assistant chief stationary engineers in the UC Berkeley/Lawrence Berkeley Laboratory skilled crafts unit, the inclusion of assistant physical plant mechanic supervisors and assistant chief medical center stationary engineers in the UC San Francisco skilled crafts unit, and the inclusion of assistant chief operating engineers in the UC Los Angeles skilled crafts unit. No employee organization filed a response.

With regard to all of the contested classifications, UC argues that the Board's decision mischaracterized and ignored UC's uncontested evidence. Except for the assistant chief operating engineer (Title Code 8237), the Board did not err in its interpretation of the facts for any of these classifications. Therefore, with this one exception, there are no extraordinary circumstances which merit reconsideration pursuant to PERB rule 32410.3

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<sup>3</sup>PERB rule 32410 pertains to reconsideration of Board decisions and provides:

- (a) Any party to a decision of the Board itself may, because of extraordinary

With regard to the classification of assistant chief operating engineer, the Board now concludes that such employees should be excluded as supervisory. In this instance, prejudicial errors of fact have occurred stemming from the extraordinary complexity and sheer volume of evidence presented in the exclusionary proceedings.

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circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and 5 copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

(b) Any party shall have 20 days from service to file a response to the request for reconsideration. An original and 5 copies of the response shall be filed with the Board itself in the headquarters office. Service and proof of service of the response pursuant to Section 32140 are required.

(c) The filing of a request for reconsideration shall not operate to stay the effectiveness of a decision of the Board itself unless otherwise ordered by the Board itself.

PERB rules are codified at California Administrative Code, title 8, section 31001 et seq.

In the request for reconsideration, UC argues that the declarations submitted regarding assistant chief operating engineers support their exclusion from the unit as supervisory.<sup>4</sup> The declarations indicate that the incumbents in the classification possess the authority to select, from a pool of applicants, the individual who will be hired. There is no evidence that this responsibility is subject to higher level control. Additionally, these employees are responsible for the annual and/or probationary performance evaluations of their subordinates and deliver the evaluations to subordinates without prior approval. With respect to probationary employees, the performance evaluations are critical to a determination whether employees will either be retained or discharged from employment. The record does not indicate that other personnel decisions concerning subordinates are subject to review by superiors. Absent rebutting counter-declarations, UC has established that the classification of assistant chief operating engineer should be excluded from the Los Angeles skilled crafts unit as supervisory.

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<sup>4</sup>The procedure regarding declaration evidence was previously described in the Board's decision, In the Matter of; Unit Determination for Professional Scientists and Engineers, Lawrence Livermore National Laboratory, of the University of California Pursuant to Chapter 744 of the Statutes of 1978 (Higher Education Employer-Employee Relations Act) (3/8/83) PERB Decision No. 246b-H.

ORDER

Upon the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that the request for reconsideration of the inclusion of various classifications in the University of California skilled crafts units, filed by the University of California, is DENIED, except that the entire classification of Assistant Chief Operating Engineer (Title Code 8237) shall be excluded from the Los Angeles skilled crafts unit as supervisory.

BY THE BOARD