

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF LABOR RELATIONS
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of

AFSCME, COUNCIL 93,
LOCAL 507, AFL-CIO

and

BOARD OF TRUSTEES,
UNIVERSITY OF MASSACHUSETTS

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Case No. CAS-06-3637

Date Issued:

July 15, 2009

Board Members Participating:

Marjorie F. Wittner, Chair
Elizabeth Neumeier, Board Member
Harris Freeman, Board Member

Appearances:

James B. Cox, Esq.	-	Representing the Board of Trustees, University of Massachusetts
Jaime DiPaola-Kenny, Esq.	-	Representing AFSCME, Council 93, Local 507, AFL-CIO

DECISION¹Statement of the Case

1 On April 26, 2006, AFSCME, Council 93, AFL-CIO, Local 507 (Union) filed a unit
2 clarification petition with the former Labor Relations Commission regarding the following
3 two Staff Assistant positions at the University of Massachusetts at Dartmouth
4 (University): External Budget Analyst and Internal Budget Analyst. On August 9, 2006,
5 the University of Massachusetts Faculty Federation, Local 1895, AFT, Massachusetts
6 AFL-CIO (Federation) moved to intervene in this matter, indicating that it believed the
7 disputed position properly belonged to the bargaining unit represented by the Union.
8 On August 23, 2006, the Federation withdrew its motion to intervene, reiterating its
9 belief that the position belonged in the Union's bargaining unit.

10 The parties participated in an informal conference before Victor Forberger, Esq. a
11 duly-designated Hearing Officer (Hearing Officer) on August 24, 2006. At the
12 conference, the Union decided to withdraw the position of Internal Budget Analyst from
13 the petition because the position was unfilled at the time and agreement regarding the

¹ Pursuant to 456 CMR 13.02(1) of the former Labor Relations Commission's regulations, this case was designated as one in which the former Labor Relations Commission would issue a decision in the first instance. Pursuant to Chapter 145 of the Acts of 2007, the Division of Labor Relations (Division) "shall have all of the legal powers, authorities, responsibilities, duties, rights, and obligations previously conferred on the labor relations commission."

1 job duties could not be reached.² The informal conference proceeded before the
2 Hearing Officer for the position of External Budget Analyst.

3 Soon after the informal conference, the University filled the Internal Budget
4 Analyst position, and the Union indicated it wanted to renew investigation into the
5 Internal Budget Analyst position. On October 26, 2006, the Union filed a charge of
6 prohibited practice, a new unit clarification petition for the Internal Budget Analyst, and a
7 motion for the Division to consolidate this new petition with the newly-filed charge. The
8 Union also asked the Division to consolidate the new unit clarification petition with Case
9 No. CAS-06-3637 and to reactivate the investigation begun in Case No. CAS-06-3637
10 into the External Budget Analyst and Internal Budget Analyst positions. The new
11 petition was not docketed pending clarification from the Union about how it wanted to
12 proceed with its petition in Case No. CAS-06-3637. On December 12, 2006, the Union
13 indicated that it wanted to examine the newly-filled Internal Budget Analyst through the
14 original petition, for the Division to discard the second petition that had yet to be
15 docketed, and for the unit clarification investigation into the Internal Budget Analyst
16 position to occur without delay and separate from the prohibited practice charge.³ To
17 that end, the parties participated in a second informal conference on April 20, 2007.

² The Division generally does not take up unit clarification petitions for positions that are unfilled unless the parties to the petition can stipulate as to the job duties of the position that are material to the questions raised in the petition. Upper Cape Cod Regional Vocational-Technical School Committee, 9 MLC 1503, 1506-7 (1982); see also Town of Tisbury, 30 MLC 77, 84 (2003) (coverage under M.G.L. c.150E is based on actual, not potential, job duties).

³ The Division is accordingly processing the prohibited practice charge, which it docketed as Case No. SUP-06-5304, separately.

1 productivity and performance and other terms and conditions of
2 employment for all full-time and regular part-time employees in this
3 bargaining unit as certified on December 29, 1997. A regular part-time
4 employee is defined as an employee who is expected to work 50% or
5 more of the hours in a work year of a full-time employee in the same title.

6 Should any new classified classification(s) be added to the work force, the
7 Employer shall notify the appropriate Union of such new classification(s).
8 The Employer shall determine if such new classified classification(s) shall
9 be added to the bargaining unit and the Employer shall notify the Union of
10 its determination. If the Union disagrees with the Employer's
11 determination, the matter may be referred to the State Labor Relations
12 Commission by the Union, with a request that the Commission make a
13 determination. In the event it shall be finally adjudicated that the classified
14 classification(s) be added to the bargaining unit, the classified
15 classification(s) shall then be subject to the provisions of this Agreement.

16 The Trustees and the Federation are parties to a collective bargaining agreement
17 (Federation Agreement) for the period July 1, 2004 to June 30, 2007 that describes a
18 bargaining unit of administrative positions as the educational services unit (ESU).⁶
19 ESU-designated positions include staff assistants, staff associates, engineers, directors,
20 and assistant directors, and almost all ESU positions require at least a Bachelor's
21 degree. ESU positions are exempt from the overtime requirements of the Fair Labor
22 Standards Act, whereas members of the clerical bargaining unit represented by the
23 Union are not exempt and are entitled to overtime pay when working more than forty
24 hours in a week.⁷ The recognition clause of the Federation Agreement, in part,
25 provides:

26 In the event that new administrative bargaining unit positions are created
27 or any other modifications are made, the Faculty Federation and
28 Educational Services Unit shall be notified and consulted within thirty (30)
29 days prior to the posting or change becoming effective. Such positions

⁶ The Federation is also the bargaining representative for a separate unit of faculty instructors at the University.

⁷ Clerical unit members regularly work 37.5 hours a week.

1 shall become part of the bargaining unit upon execution of a memorandum
2 of understanding between the Board of Trustees or its designee and the
3 Faculty Federation.

4 In the event that new or vacant administration positions are created, the
5 administration shall send to the union chairperson a copy of the position(s)
6 job description within thirty (30) days prior to the posting or filling of the
7 position(s).

8
9 The University enrolls over 4,000 students, and its Administration & Finance
10 Division encompasses numerous administrative support, purchasing, and budgetary
11 services for the University. An Associate Vice Chancellor for Finance, William Mitchell
12 (Mitchell), heads up this division, and the senior titles of Assistant Budget Director,
13 Assistant Director of Administrative Services, Director of Financial Aid, Controller, and
14 manager of the Campus Store report directly to Mitchell.

15 From 2002 to 2007, the University's total revenues increased from \$99 million to
16 \$153 million. Because of these increased revenues, the University created two new
17 Staff Assistant titles: an Internal Budget Analyst and an External Budget Analyst. The
18 University wanted these titles to exercise a greater degree of independent judgment and
19 initiative over budgetary planning with moderate-to-little supervision over their increased
20 workload.

21 Prior to this decision, an Administrative Assistant II, Connie Lemieux (Lemieux),
22 handled some of this accounting work. Lemieux's then job description specified that
23 she provides administrative support to Mitchell and that she monitor "assigned unit
24 activities to include Academic and Student Affairs Division budgets (approx. 80 million
25 dollars; coordinate[d]/supervise[d] budgets with other departments; prepares analyses
26 and reports; [and] responds to inquiries and confer with agency staff." The job
27 description also specified that Lemieux serve as a liaison between Mitchell and other

1 departments, including Academic and Student Affairs and the Chancellor's Office.

2 Specific examples of Lemieux's job duties as Administrative Assistant II included:

- 3 • Structure Unit/Divisional Budgets; prepare analyses and projections of revenues
4 and expenditures for review by the Associate Vice Chancellor and Academic and
5 Student Affairs Department Heads.
- 6 • Collect and disseminate budget information to Academic and Student Affairs
7 Departments.
- 8 • Analyze project expenditure patterns in order to make recommendations on
9 appropriate action to control spending.
- 10 • Confer with department heads to explain/interpret various fiscal reports,
11 PeopleSoft, and assist with budget preparation.
- 12 • Monitor all Academic and Student Affairs PeopleSoft accounts and alert
13 appropriate personnel to take action to control spending or suggest ways to
14 reconcile deficits.
- 15 • Back-up for Goldbook.⁸
- 16 • Coordinate, schedule, prepare material and participate in the annual budget
17 hearings for Academic and Student Affairs.
- 18 • Participant in Academic Affairs and Student Academic Departmental meetings
19 when requested by the Provost or Vice Chancellor of Student Affairs to assist on
20 budget related matters.
- 21 • Act as liaison between Administrative and Fiscal Services and the Divisions of
22 Academic and Student Affairs; attend meetings to discuss policy and procedures
23 to ensure conformance with established reporting requirements, etc.
- 24 • Prepare material and agendas for meetings as they pertain to the Divisions of
25 Academic and Student Affairs through referral, phone calls, visits, written
26 correspondence, etc.
- 27 • Assist Associate Vice Chancellor with special projects/assignments.
- 28 • Respond to inquires from Academic and Student Affairs staff in order to provide
29 training or information for budgets, strategic initiatives, reports and spreadsheets.

30 The University currently recognizes both positions as ESU positions. In
31 November of 2005, the University received formal authorization to create the new Staff
32 Assistant positions, and a Joint Classification Committee between the Federation, and
33 the University analyzed these titles in February and March of 2006 to determine an
34 appropriate level of compensation for these positions relative to other ESU titles. Once

⁸ The Goldbook is a compendium of University salary information. Lemieux worked with the Assistant Controller two to three times a year to make sure the information in the Goldbook was current.

1 that work was complete, the University posted job vacancy notices on March 31, 2006
2 and again in April of 2006. Jillian George (George) applied for the External Budget
3 Analyst position from another ESU position, and the University transferred her into this
4 position on May 30, 2006. After additional advertising in newspapers, Lemieux applied
5 for the Internal Budget Analyst position, and, on September 3, 2006, the University
6 transferred her to the new position. Both George and Lemieux report directly to
7 Mitchell.

8 The Internal Budget Analyst, as an ESU level 12 title, earns \$51,334 annually,
9 and the External Budget Analyst, an ESU level 14 title, earns \$52,961 annually. George
10 and Lemieux usually have the same work day as members of the Union's bargaining
11 unit. These Staff Assistants, however, will work longer hours during peak periods.
12 While George has an MBA, the minimum qualification for these positions is a Bachelor's
13 degree or an equivalent combination of education, training, and experience. Because
14 they are ESU titles, these Staff Assistants earn twenty vacation days a year and are
15 eligible for twenty-eight vacation days after fifteen years of service. Clerical and
16 accounting titles, on the other hand, initially earn ten vacation days a year and, after five
17 years of service, earn fifteen vacation days a year. Dental plans available to University
18 employees vary by bargaining unit.

19 George's job description as an External Budget Analyst indicates that she is
20 "responsible for external budget reporting and analysis" and that she assists "in the
21 administration of the campus operating budget throughout the annual budget cycle from
22 budget preparation and analysis of financial results and developing and maintaining the
23 necessary information resources (both computerized and non-computerized)." The job

1 description also states that she works "closely with campus budget staff and interacts
2 with President's Office and financial staff," and that she provides "financial management
3 information to the Associate Vice Chancellor for Finance in support of university short
4 and long term financial planning." Specific examples of George's job duties include:

- 5 • Creates ad hoc reports and performs financial analyses for use by the Campus
6 and President's Office such as Operating Budget, Board of Higher Education
7 Reporting, financial indicators, monthly reporting, etc.
- 8 • Verifies the accuracy of, and interprets financial data through the use of
9 computer systems and in consultation with campus and central administration
10 financial and budget staff.
- 11 • Generates, reconciles and distributes monthly budget reports.
- 12 • Assists in the development of annual operating and capital budget documents for
13 both internal and external use.
- 14 • Gathers information and prepares analyses for presentation to management on
15 historical budget, financial and other information.
- 16 • Develop and maintain databases for completing, summarizing, reviewing,
17 tracking and reporting information at account, department, campus and
18 University levels and to monitor actual performance against budgets.
- 19 • Maintain and review budget data on University financial systems (PeopleSoft
20 Financial and Human Resources Systems).

21 Lemieux's job description as an Internal Budget Analyst indicates that she assists
22 "in the coordination and management of the internal budget process" and that she
23 "[p]repares materials for internal budget meetings[, works] with Administration to
24 recommend and formulate policy and procedures related to budget process[, serves] as
25 support staff for the University Budget Review Board[, and trains] non-fiscal staff on
26 budget issues." Specific examples of Lemieux's job duties include:

- 27 • Maintains Goldbook including communicating with Vice Chancellors, Deans and
28 Directors regarding issues related to personnel expenses[.]⁹
- 29 • Develops and maintains various standard and Ad Hoc reports[.]
- 30 • Generates, reconciles and distributes monthly budget reports[.]
- 31 • Participates as a member of the University Budget Review Board[.]

⁹ In 2004, an Accountant II previously had this responsibility and was paid a stipend of \$780. After her promotion to Assistant Controller, this individual continued to perform this work with, as noted above, Lemieux's assistance as an Administrative Assistant.

- 1 • Coordinates and collaborates with each Division regarding all budget issues
2 including but not limited to development, projections tracking and monitoring[.]
- 3 • Analyzes monthly financial reports and prepares executive summary for
4 management[.]
- 5 • Participates in the formulation of budget policies and procedures[.]
- 6 • Participates in the annual campus based internal budget process[.]
- 7 • Collaborates with other professional and classified staff on system related
8 issues[.]
- 9 • Participates in the development of external financial reports.

10
11 In light of these new responsibilities, Lemieux no longer provides clerical support
12 to Mitchell, and Lemieux's accounting work has expanded in scope.¹⁰ She and George
13 work without oversight from Mitchell, and they conduct budgetary analysis and prepare
14 reports that Mitchell previously did himself with data that Lemieux had gathered on his
15 behalf. While the skills Lemieux and George employ in this work are similar to the skills
16 Lemieux exercised in her former Administrative Assistant position, the scope of that
17 work has expanded to encompass greater responsibilities. For example, when
18 discrepancies are found in the data they analyze, George and Lemieux track down
19 explanations for the discrepancies across various departments and divisions. They
20 then determine the validity of the explanations relative to all available financial data
21 rather than limiting this auditing activity to a single department or line item. Finally, both
22 Staff Assistants occasionally present their analyses and reports to individuals outside of
23 the immediate University community.

24 Together with the Assistant Budget Director and the Financial Reporting Clerk,
25 George and Lemieux have developed expertise in PeopleSoft and other computer
26 software to track and document expenditures across all facets of the University's

¹⁰ Another Administrative Assistant has assumed the clerical assistance Lemieux previously provided Mitchell.

1 operations. They analyze and examine campus-wide data and present their findings
2 and recommendations directly to the University Budget Review Board and other top-
3 level University officials as well as the Trustees.¹¹ They also assist and support each
4 other in handling the University's various financial databases.

5 Besides Lemieux and George, the Administrative & Fiscal Services Division
6 employs several other individuals to handle the University's budgetary matters. An
7 Assistant Budget Director and a Financial Reporting Clerk — both ESU titles — report
8 directly to Mitchell. Other ESU titles involved in budgetary matters are the Manager of
9 Disbursements, the Bursar, the Assistant Director of Administrative Services, and the
10 Assistant Controller.¹² Three individuals — the Assistant Budget Director, Financial
11 Reporting Clerk, and the Assistant Controller — previously held titles that were part of
12 the Union's bargaining unit.

13 The budgetary responsibilities of these positions is illustrated, for example,
14 through an examination of the Assistant Budget Director's job description. The
15 Assistant Budget Director is an ESU level 13 title, and a four-year degree is not required
16 for the position. The job description for this position specifies that this individual
17 "coordinates and manages the internal budget process[; o]versees budgeting
18 transactions for campus accounts[; p]erforms analysis of internal budget activity[;
19 p]erforms budget modeling for alternative budget strategies[; p]repare materials for

¹¹ In her former position as an Administrative Assistant, Lemieux also attended University Budget Review Board meetings. Her participation was limited, however, to being available for an occasional query on a departmental budgetary matter.

¹² There is also a Controller. As with Mitchell, the Controller does not belong to a bargaining unit.

1 internal budget meetings[; w]orks with Management to recommend and formulate policy
 2 and procedures related to budget process[; s]erves as a resource to the campus
 3 community for budget issues[; s]erves as support staff for the University Budget Review
 4 Board[; and t]rains non-fiscal staff on budget issues." The specific duties for this
 5 position include:

- 6 • Coordinates, reviews and maintains documentation for internal budget process.
- 7 • Participates in campus wide budgeting activities such as budget meetings to act
 8 as a resource for budget issues and to ensure awareness of budget issues and
 9 agendas.
- 10 • Compiles and analyzes internal budget submissions
- 11 • Oversees input of internal budget to computerized accounting system
- 12 • Resolution of budget problems such as resolving budget deficit issues with
 13 campus staff; deals with cost center managers on these issues.
- 14 • Oversees ongoing budget transactions for campus.
- 15 • Involvement in PeopleSoft budgeting implementation and budget tracking
 16 methods.
- 17 • Activity engaged in the planning portion of the PeopleSoft budget module. Works
 18 with the PeopleSoft implementation team to define and detail the needs of the
 19 Budget Office from PeopleSoft.
- 20 • Involvement in new budget process implementation.
- 21 • Prepares and maintains MMARS budget transactions.
- 22 • Prepares standard and ad hoc management reports.
- 23 • Ongoing analysis of current budget situation with monthly routine reporting as
 24 required by management.
- 25 • Serves as campus resource for budget issues.

26
 27 A few other ESU titles and numerous administrative assistants and accountants
 28 included in the Union's bargaining unit report to senior ESU titles. These individuals
 29 handle cash and do accounting and budget work similar to what Lemieux did in her
 30 Administrative Assistant position.

31 Opinion

32 A unit clarification petition permits the Board to clarify or amend the scope of an
 33 existing bargaining unit. Plymouth County Sheriff's Department, 30 MLC 85, 87 (2003).
 34 In analyzing whether employees should be accreted into an existing bargaining unit, the

1 Board uses a three-step test. First, the Board determines whether the position was
2 included in the original certification or recognition of the bargaining unit. Second, if that
3 examination is inconclusive, the Board examines the parties' subsequent conduct,
4 including bargaining history, to determine whether the employee classifications were
5 considered by the parties to be included in the unit. Finally, if that inquiry is also
6 inconclusive, the Board examines whether the positions sought to be included in the
7 unit share a community of interest with the existing positions. If the Board determines
8 that the requisite community of interest exists, it accretes the petitioned-for position into
9 the existing bargaining unit. Town of Granby, 28 MLC 139, 141 (2001); Town of
10 Dartmouth, 22 MLC 1618, 1621 (1996); Worcester School Committee, 15 MLC 1178,
11 1180 (1988).

12 Examining the first prong of the accretion test with respect to both positions, the
13 record reveals that the University first created them in 2005 and posted and filled them
14 in 2006. Because these positions did not exist when the former Commission last
15 certified the Union's bargaining unit in 1997, the first prong of the accretion analysis is
16 inconclusive. Further, although the University currently recognizes both positions as
17 belonging to ESU's unit, both the Union's and the Federation's stated opposition to
18 classifying the two positions in the ESU unit demonstrates the University has not
19 reached agreement with either union to include these positions in a bargaining unit.¹³
20 Cf. Board of Higher Education, 31 MLC 63, 67 (2004) (parties' historical treatment of

¹³ The facts reflect that the Federation and University met to discuss the compensation for the two new positions. The record does not reflect, however, that they executed a memorandum of agreement as required by the recognition clause of the Federation Agreement, set forth above.

1 disputed positions as part of another bargaining unit is conclusive evidence warranting
2 dismissal of the petition). The second prong of the Board's accretion analysis is
3 accordingly inconclusive as well.

4 Turning to the third prong of the accretion analysis, to determine whether the
5 petitioned for positions share a community of interest with members of the Union's
6 bargaining unit or with another bargaining unit, the Board considers factors such as
7 similarity of skills and functions, similarity of pay and working conditions, common
8 supervision, work contact and similarity of training and experience. Town of Granby, 28
9 MLC at 141; Boston School Committee, 12 MLC 1175, 1196 (1985). No single factor is
10 outcome determinative. City of Springfield, 24 MLC 50, 54 (1998); City of Worcester, 5
11 MLC 1108, 1111 (1978). Further, members of a bargaining unit need share only a
12 community of interest rather than an identity of interest. County of Dukes
13 County/Martha's Vineyard Airport Commission, 25 MLC 153, 155 (1999); Springfield
14 Water and Sewer Commission, 24 MLC 55, 59 (1998). Where a position shares a
15 community of interest with more than one bargaining unit, the Board places the position
16 in the unit with which it shares the greater community of interest. Board of Trustees,
17 University of Massachusetts, 31 MLC 209, 215 (2005). We first analyze the Internal
18 Budget Analyst position.

19 Internal Budget Analyst

20 The facts demonstrate that, although the incumbent in this position continues to
21 use some of the same accounting skills that she used when she was part of the Union's
22 bargaining unit, working as an Administrative Assistant II, she no longer performs
23 certain clerical duties and that the scope of her work has expanded to include greater

1 budgetary and accounting responsibilities that are very similar to those performed by
2 other members of ESU's unit, described above. Most notably, Lemieux is no longer
3 required to provide administrative support to Mitchell; those duties have been assumed
4 by another member of the Union's bargaining unit. Although Lemieux continues to
5 report directly to Mitchell, both she and George work without Mitchell's oversight. They
6 now conduct budgetary analyses and reports that Mitchell previously did himself with
7 data gathered by Lemieux. Similarly, instead of merely reporting accounting
8 discrepancies, as she did while she was an Administrative Assistant II, Lemieux now
9 tracks down department explanations for the discrepancies and assesses their validity.
10 She participates in the formulation of budget policy and procedure, instead of merely
11 explaining existing policies to University personnel. Her participation in University
12 Budget Review Board meetings has expanded to providing her findings and
13 recommendations to this Board and beyond simply answering an occasional question
14 on department budgetary matters. In addition, Lemieux's responsibility for Goldbook,
15 the compendium of University salary information, has become more comprehensive.
16 This is significant because the University had previously paid a stipend to a former
17 Union bargaining unit member to perform these duties. When the University promoted
18 that bargaining unit member to an ESU position, the individual continued to perform this
19 Goldbook work. Both Lemieux and George have expanded their knowledge of People-
20 Soft and other programs that help them track and document expenditures throughout
21 the University and present their analyses to top-level University officials and Trustees,
22 with whom Lemieux did not previously interact.

1 External Budget Analyst

2 The incumbent transferred into this position from another ESU position. Like
3 Lemieux, George reports directly to Mitchell, but has no clerical duties in this regard.
4 George's job description, like Lemieux's, reflects budgetary duties that are more
5 administrative than clerical in nature. She also extensively interacts with upper level
6 University officials, such staff in the President's office and University Trustees on
7 budgetary matters impacting all levels of University operations.

8 Interaction With and Similarity to Other ESU Bargaining Unit Members

9 The Internal and External Budget analysts perform work similar to other ESU
10 members who handle budgetary matters. In a recent decision involving the same
11 parties and similar issue, the Board determined that the University's Assistant Budget
12 Analyst more appropriately belonged in the ESU's bargaining unit, not the Union's,
13 because, among other things, the incumbent in that position was responsible for
14 preparing project budgets and providing general updates and recommendations to
15 University officials about various projects. Board of Trustees, 34 MLC 65, 66-67
16 (2007). These duties are similar to those performed by the two Budget Analysts at
17 issue in this case. The duties of the ESU title of Assistant Budget Director, described
18 above, are also similar to the Budget Analyst titles. The Assistant Budget Director is
19 responsible for: serving as a resource to the campus community for budget issues;
20 serving as support staff to the University Budget Review Board; preparing standard and
21 ad hoc management reports; compiling and analyzing internal budget submission;
22 coordinating, reviewing and maintaining documentation for internal budgets processes;

1 involvement with PeopleSoft budgeting information and tracking methods; and
2 compiling and participating in campus-wide budgeting activities.

3 With respect to the other components of community of interest, similarity of pay
4 and working condition, common supervision, work contact and similarity of training and
5 experience, the facts reflect that two other ESU budget titles report directly to Mitchell.
6 Lemieux and George also work with the Assistant Budget Director and Financial
7 Reporting Clerk, both ESU positions. The two Budget Analysts' salaries are in the \$50-
8 60,000 range.¹⁴ Both work a usual work day but will work longer, as needed, like other
9 ESU unit members. A number of other ESU titles, mentioned above, are also involved
10 in budgetary matters, such as the Manager of Disbursements, the Bursar, the Assistant
11 Director of Administrative Services and the Assistant Controller. Thus, both Budget
12 Analysts share a significant community of interest with other ESU bargaining unit
13 members, in terms of common supervision, interaction, compensation and duties.
14 Therefore, the Board concludes that the two positions share a greater community of
15 interest with the ESU unit than with the Union's and should therefore remain in ESU's
16 unit.

17 Conclusion

18 For the foregoing reasons, we conclude that the two Budget Analysts share a
19 greater community of interest with the members of ESU's bargaining unit than with the
20 Union's unit. Accordingly, we decline to accrete those positions into the Union's clerical
21 unit and dismiss the Union's petition.

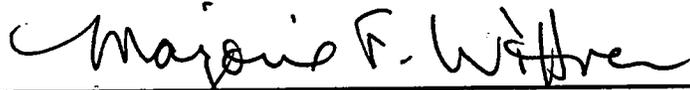
¹⁴ We take administrative notice of the fact that in 2006, the Staff Assistant Budget Analyst earned approximately \$57,000 a year while Accountant II's in the Union's unit earned between \$34,000 and \$49,000 annually.

1 SO ORDERED.

2

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF LABOR RELATIONS

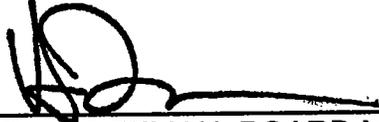
COMMONWEALTH EMPLOYMENT RELATIONS
BOARD



MARJORIE F. WITTNER, CHAIR



ELIZABETH NEUMEIER, BOARD MEMBER



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