

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

In the Matter of

CITY OF BOSTON

and

UNITED STEELWORKERS OF AMERICA,
SENA, LOCAL 9158

and

AFSCME, COUNCIL 93, AFL-CIO

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

Case No.: CAS-07-3669

Date Issued:

December 31, 2008

Board Members Participating:

Marjorie F. Wittner, Chair
Elizabeth Neumeier, Board Member

Appearances:

Alysha G. Glazier, Esq.	--	Representing City of Boston
Warren H. Pyle, Esq.	--	Representing United Steelworkers of America, SENA, Local 9158
Jamie DiPaola-Kenny, Esq.	--	Representing AFSCME, Council 93, AFL-CIO

DECISION¹

¹Pursuant to 456 CMR 13.02(1) of the former Labor Relations Commission's (Commission) regulations in effect prior to November 15, 2007, this case was designated as one in which the 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." The Commonwealth Employment Relations Board (Board) is the Division agency charged with deciding adjudicatory matters. References to the Board include the Commission.

1 AFSCME's Unit, Generally

2 In 1967, the City and AFSCME executed a voluntary recognition agreement in
3 which the City recognized AFSCME as the exclusive representative of a wide range of
4 nonprofessional and professional titles in the City's various departments, including "all
5 civilian employees" in the Department.

6 Pursuant to the recognition clause of the collective bargaining agreement in
7 effect between the City and AFSCME from 2003-2006 and continued through June 30,
8 2007 by a memorandum of agreement executed on March 27, 2007, the City
9 recognizes AFSCME as the "exclusive representative of all employees in the service of
10 the city covered by the Recognition Agreement dated March 20, 1967."

11 According to a chart provided by the City, as of November 8, 2006, AFSCME
12 represented thirty-six employees in the Department, ranging from a Grade R-10 to a
13 Grade R 16-8.³ Among these thirty-six employees are three employees holding the title
14 of Administrative Assistant, including the R-15 Administrative Assistant in dispute here.
15 All three Administrative Assistants are in Grade R 15-4. There is also an
16 "Administrative Assistant (Med.*)" who is classified as a Grade R 17-9.

17 SENA's Unit, Generally

18 On June 2, 1986, in Case No. MCR-3598, the Commission certified SENA as the
19 exclusive representative in a unit consisting of "all administrative and supervisory
20 employees" in seventeen different City departments, including the Department,
21 excluding managerial, professional and confidential employees and all other City
22 employees. The recognition clause of the collective bargaining agreement in effect

³ The City designates AFSCME bargaining unit positions with the "R" prefix and SENA bargaining unit positions with the "MM" prefix.

1 between SENA and the City from July 1, 2003 to June 30, 2006⁴ recognizes SENA as
2 the exclusive representative of the employees set forth in the Commission's
3 certification.⁵ As of the date of SENA's submissions, SENA and the City had not
4 entered into a successor agreement.

5 As of November of 2006, SENA represented thirty-three employees in the
6 Department.⁶ Of those thirty-three employees, there are seven "Senior Administrative
7 Assistant (Fire)," who are each classified as a grade MM 6-9. There are six Senior
8 Administrative Assistants, who are all MM 5-9's. There is a single Administrative
9 Assistant (Fire), an MM 4-8, who works in the Executive Office.

10 Civilian Staffing in the FIU from 1996 to 2006

11 Before 1996, the FIU had a total of four civilian employees: two were members of
12 SENA's bargaining unit, and two were in AFSCME's bargaining unit. In 1996, for
13 reasons that are not clear from this record, the City decided to post an additional SENA

⁴ SENA provided a copy of a memorandum of agreement that the parties had executed on March 3, 2004, extending the terms of the 2000-2003 agreement until December 31, 2004. On some unspecified date after March 3, 2004, the parties executed an agreement that was effective by its terms from July 1, 2003 to June 30, 2006.

⁵ SENA's written submission includes an attachment consisting of an unsigned, undated agreement between itself and the City. The second page of the agreement is titled "Proposal I, Persons Covered by this Agreement." This is followed by a list of positions by department including the "Senior Administrative Assistant" and "Administrative Assistant (Fire)" in the Department. SENA argues that this document demonstrates that the City agreed to include the Administrative Assistant title in the bargaining unit. However, because the agreement is unsigned, undated and is labeled "Proposal," we accord it no weight.

⁶ The grades of SENA positions whose titles include their department name in parenthesis, like Administrative Assistant (Fire), are higher than those positions that contain the title only, such as Administrative Assistant.

1 Administrative Assistant position at a Grade MM-4. The posting for this position
2 contained the following job description:

3 Under general supervision from an employee of a higher grade, who
4 provides instruction as required and procedural and policy guidance;
5 exercises direct supervision over, assigns work to and reviews the
6 performance of 1 to 5 clerical personnel; monitors assigned unit activities;
7 confers with agency staff; maintains liaison with others to exchange
8 information, coordinate activities, and resolve problems; compiles, reviews
9 and analyzes data concerning assigned unit activities; prepares reports;
10 responds to inquiries; knowledge of the principles and practices of office
11 management; knowledge of the methods of general report writing;
12 knowledge of the methods used in the preparation of charts, graphs, and
13 tables; ability to apply the laws, rules, regulations, policies, procedures,
14 specifications, standards and guidelines governing assigned unit activities;
15 ability to gather information through questioning individuals and by
16 examining records and documents; performs related work as required.

17
18 The minimum qualifications for this position were at least two years of full-time or
19 equivalent part-time experience in office administration and business administration.

20 The Department filled this vacancy by promoting Grade R-14 AFSCME unit
21 member Irene Burke (Burke).⁷ The City decided not to fill Burke's vacancy. From 1996
22 to 2005, the FIU was comprised of three members of SENA's bargaining unit and one
23 member of AFSCME's bargaining unit. The SENA employees were: Janice Boyle
24 (Boyle), Senior Administrative Assistant (Fire); Linda Cleary (Cleary), Senior
25 Administrative Assistant; and Burke, Administrative Assistant (Fire). Cleary was a
26 Grade MM-5. Boyle was upgraded from a Grade MM-5 to MM-6 in April of 2005.

27 The AFSCME employee was Grade R-12 Head Clerk Karen Denver (Denver).

28 The generic job description for a Grade R-12 states:

29 Under the general supervision of an employee of higher grade, maintains
30 files and records; answers telephone inquiries; prepares and mails

⁷ The submissions do not reflect Burke's title before her promotion.

1 outgoing correspondence; prepares forms, files, and reports for
2 processing, storage or forwarding; explains provisions and contents of
3 various documents; develops, revises and with approval of supervisor,
4 carries out work procedures in cooperation with other units of the
5 department to ensure the efficient and effective flow of work; and performs
6 related work as required.

7 Denver's duties included handling the database for court files, performing data
8 entry, and inputting all insurance information in case of fire losses and automobile fires
9 related to criminal investigations by the FIU. She also answered the telephone, made
10 folders and hand-entries into fire journals, and faxed and copied various documents.

11 In 2003, Burke wrote a memo to Boyle containing the following list of duties that she
12 performed as the FIU's Administrative Assistant:

- 13 1. Fire Incidents: Check and log in all prior and small business fires.
14 Research owners of property
- 15 2. Auto Fires: Enter into mainframe computer all field incident reports. . . .
- 16 3. Juvenile and Reference File: Enter all data available on each client after
17 researching the CAD System. Update records weekly. . . . Assist
18 communities outside of Boston in the placement and treatment of fire
19 setters.
- 20 4. FireSense Program: Organizing an orientation and planning session to
21 rebuild a successful Juvenile FireSetters Program.
- 22 5. Other duties. Maintain, update and back-up all files on the PC. Update
23 passwords of all members of the FIU/AS every 90 days. Do research on
24 fires. Check owners' liens, taxes, permits, etc. Typing reports and letters.
25 Fax. . . . File. . . . Answer telephone. Do back-up for [Boyle]. Do training
26 for FIU inspectors on the new programs on the computer. Do
27 troubleshooting when coworkers are having problems on the PC.

28
29 On June 12, 2003, Boyle sent a different memo to the Department's Director of
30 Human Resources, Robert Moran (Moran), summarizing Burke's responsibilities as
31 follows:

- 32 • Liaison of Juvenile FireSense Program;
- 33 • Provides pertinent data to Mass. Coalition of Juvenile FireSetters
34 Intervention Program;
- 35 • Research of property and vehicle owners, including taxes, liens,
36 etc.;

- 1 • Maintain and back-up all files on the p.c.;
- 2 • Maintain and update ID's on the CAD System;
- 3 • Maintain and back-up the reference file;
- 4 • Filing, typing, training new members on related computer programs
- 5 in regards to the Juvenile FireSense Program;
- 6 • Working with outside agencies (schools, courts, housing, District
- 7 Attorney's Office, DSS, etc.;
- 8 • Conduct screenings and education classes for juvenile fire setters;
- 9 • Prepares court documents for investigators for juvenile fire setters
- 10 program;
- 11 • Knowledge of standard office equipment.

12
 13 Moran subsequently prepared the following MM-4 job description based on Boyle's
 14 information.⁸

MM-4 – Fire Investigation Unit

Brief Job Description

15
 16
 17
 18
 19 Under the supervision of a higher grade, this member is responsible to
 20 complete all work assignments and administrative functions assigned
 21 within the Fire Investigation Unit. Coordinates, prepares and enters
 22 investigative information into the NFIRS. Responsible for coordinating the
 23 Juvenile FireSetters Program within the FIU. Prepare reports concerning
 24 assigned duties in order to improve work methods, determine progress
 25 and revise established procedures.

General

Juvenile FireSetters Program:

- 30 • Compiles all documents that have been identified by arson
- 31 investigators as candidates into the Juvenile Fire Sense Program;
- 32 • Contacts and coordinates with other juvenile agencies, DSS, DYS,
- 33 Juvenile Probation, Juvenile Courts;
- 34 • Forwards information to the JFS program, monitors progress and
- 35 upon completion of the program coordinates with investigators for
- 36 resolution of court action;
- 37 • Assists if necessary with juvenile screening and education;
- 38 • Responsible for tracking activities within the unit for annual report;
- 39 • Responsible for entering and monitoring confidential information
- 40 files;
- 41 • Responsible for assisting investigators searching confidential files;
- 42 • Responsible for tracking court activities of investigators;

⁸ This job description is undated.

- 1 • Responsible for collecting and entering insurance loss information;
2 • Be familiar with the overall operations of the specific units within the
3 Fire Investigation Unit;
4 • Is knowledgeable and when necessary assist with the duties of
5 other administrative staff within the FIU;
6 • Answers telephones, taking phone messages, directing calls to
7 appropriate individuals or agencies;
8 • Copies, files and faxes information as necessary;
9 • Knowledge of standard office equipment.

10 In June of 2003, Boyle also sent Moran the following summary of the FIU's MM-5
11 Senior Administrative Assistant's job duties.⁹

- 12 • Types all confidential narratives, cause and origin report follow-ups,
13 and interviews;
14 • Prepares victim and witness statements for court proceedings;
15 • Types confessions of suspects arrested by Fire Investigation
16 Unit/Arson Squad;
17 • Answers telephone calls and directs calls to appropriate individuals
18 and agencies;
19 • Assigns and maintains case numbers to all files;
20 • Maintains weekly assignments for uniformed personnel;
21 • Answers public inquiries;
22 • Maintains fire investigator's resumes for court presentation;
23 • Copies and faxes files to appropriate authorities;
24 • Supervisor of Unit when Senior Administrative Assistant/Fire is not
25 present;
26 • Knowledge of standard office equipment.

27
28 FIU Staffing from 2005 to 2006

29 Denver retired from the FIU in September of 2005. The Department did not post
30 or fill her vacancy. For approximately one year, there were no members of AFSCME's
31 bargaining unit working in the FIU.

⁹ As noted above, Boyle was promoted to a Grade MM-6 in April of 2005 and was still a Grade MM-5 employee when she wrote this memo. However, because Boyle signed the memo as the Senior Administrative Assistant/Fire, it is reasonable to assume that she was summarizing Cleary's duties in this memo, not her own.

1 Cleary retired in February of 2006. On March 28, 2006, the Department posted
2 the following vacancy for Cleary's position, "Senior Administrative Assistant – MM5."

3 Under the supervision of a higher grade, this member assigns work and
4 supervises clerical staff in all administrative issues within the FIU.
5 Monitors, analyzes and prepares reports concerning assigned unit
6 activities in order to improve work methods, determine progress and
7 revise established procedures and to provide information to superiors.
8 Assigns unit activities to ensure effective operations, compliance with
9 established standards and for the maintenance of reports, records and
10 documents.

11
12 Review FIU fire reports and cross check for accuracy with all written
13 reports and statements. Responsible for typing and transcribing
14 statements or confessions of alleged suspects, prepare victim and witness
15 statements for court proceedings and prepare case information when
16 there are subpoenas, freedom of information requests and record
17 requests. Maintain liaisons with various local, state and federal agencies
18 to exchange information to resolve issues in the FIU. Responsible for
19 providing a copy of all narratives, fire reports and incident worksheets to
20 the Boston Police Detectives assigned to the FIU. Responsible for
21 obtaining information from the NFIRS¹⁰ report and entering this
22 information into the BATS tracking program.

23
24 Responsible for creating and properly filing case files for FIU along with
25 maintaining weekly assignment roster for members of this department.
26 Perform related work as required including answering public inquiries,
27 taking phone messages and directing calls to appropriate individuals and
28 agencies.

29
30 Burke applied for this position, and the Department promoted her sometime in
31 August of 2006. The City did not post or fill Burke's former Grade MM-4 position.
32 Instead, on July 25, 2006, without bargaining with either union, the Department posted
33 the following job opening for an AFSCME "Administrative Assistant R15:"

34 Under the supervision of an employee of a higher grade the Administrative
35 Assistant will:

36

¹⁰ This stands for National Fire Information Reporting System.

- 1 • Liaison to the Juvenile FireSetters Program, compiling all
- 2 documentation for the FireSense Program;
- 3 • Responsible for assisting investigators searching confidential files;
- 4 • Responsible for entering investigative information from the NFIRS;
- 5 • Maintains and backs up all Fire Investigation Unit files and reports;
- 6 • Responsible for tracking court activities of investigators;
- 7 • Responsible for and entering insurance loss information;
- 8 • Types and maintains all auto unit arson investigations;
- 9 • Familiar with overall operations of the specific units within the Fire
- 10 Investigation Unit;
- 11 • Answers telephones, takes phone messages, directing calls to
- 12 appropriate individuals or agencies;
- 13 • Copies, files and faxes information as necessary;
- 14 • Knowledge of standard office equipment;
- 15 • Performs all other duties or special projects as assigned.

16
17 The minimum entrance qualifications for this position were at least two years of full-
18 time or equivalent part-time experience in office administration and business
19 administration.

20 The Department hired Joanne Callahan (Callahan) to fill this position. Both Burke
21 and Callahan work under Boyle's daily oversight. However, according to Burke's
22 un rebutted affidavit, Boyle does not have any role in hiring, transferring, suspending,
23 promoting or discharging employees, or in resolving grievances.¹¹

24 On August 11, 2006, SENA filed a grievance alleging that the Department had
25 breached the terms of the collective bargaining agreement by posting Burke's former
26 MM-4 position as a Grade R-15. The Department denied the grievance on October 16,
27 2006.

¹¹ Moran provided an affidavit in which he states: "A SENA employee supervises the AFSCME R-15 Administrative Assistant position within the Unit." However, Moran failed to identify the SENA employee or describe the nature or scope of the supervision. Accordingly, Burke's first-hand, detailed affidavit is given more weight.

1 Other Postings within the Fire Department

2 In 2003, the Department posted a vacancy for the position of MM-5 Senior
3 Administrative Assistant position in the Fire Prevention division. The job duties of that
4 position included:

5 Under the supervision of an employee of a higher grade, this member
6 assigns work, reviews performance through conferences and reports for
7 effectiveness and compliance with laws, rules and regulations. Directly
8 supervises clerical personnel, including the planning and assigning of
9 work according to the nature of the job to be accomplished. Confers with
10 agency staff in order to exchange information to resolve problems and
11 coordinate activities. Reviews, analyzes and prepares reports concerning
12 assigned unit activities in order to improve work methods, determines
13 progress, reviews established procedures and/or to provide information to
14 superiors. Oversees and coordinates the activities of subordinates in
15 connection with the preparation and maintenance of reports, records and
16 documents. Supervision of the support staff of the Fire Prevention Unit[.]
17 Serves as back up when needed for any member of the unit.

18
19 Also in 2003, the City posted a vacancy for an AFSCME R-15 Administrative
20 Assistant to the Director of Emergency Management. According to the posting, the
21 duties of this position included organizing meetings, maintaining databases, distributing
22 materials and insuring the compliance of both the Department and the business
23 community with all aspects of certain federal laws. The posting included no duties
24 related to supervising, overseeing or assigning work to other employees.

25 Opinion

26 In analyzing whether employees should be accreted into an existing bargaining
27 unit, the Board uses a three-step test. First, the Board determines whether the position
28 was included in the original certification or recognition of the bargaining unit. Second, if
29 that examination is inconclusive, the Board will examine the parties' subsequent
30 conduct, including bargaining history, to determine whether the employee classifications

1 were considered by the parties to be included in the unit. Finally, if that inquiry is also
2 inconclusive, the Board will examine whether the positions sought to be included in the
3 unit share a community of interest with the existing positions. If the Board determines
4 that the requisite community of interest exists, it will accrete the petitioned-for employee
5 into the existing bargaining unit. Town of Granby, 28 MLC 139, 141 (2001); Town of
6 Dartmouth, 22 MLC 1618, 1621 (1996); Worcester School Committee, 15 MLC 1178,
7 1180 (1988).

8 Both SENA and AFSCME argue that the first prong of the accretion test is
9 conclusive, because their respective certification/voluntary recognition clauses include
10 the disputed position. Both arguments are without merit.

11 Although the City voluntarily recognized AFSCME as the representative of "all
12 civilian employees" in the Department, the Commission never certified that unit. As a
13 result, the Board is not required to maintain that unit in future cases where the unit
14 structure is in dispute. Boston School Committee, 11 MLC 1352, 1361 (1985). This is
15 particularly true where SENA's certified unit has included civilian Department
16 employees since 1986. See, Town of Dartmouth, supra (Commission unable to
17 determine whether parties had explicitly agreed to exclude part-time dispatchers from
18 unit where language in recognition clause varied from parties' actual practice).
19 Similarly, although SENA's certification includes "administrative" employees, the parties'
20 submissions reflect that both units contain employees with the title of "Administrative
21 Assistant". See, id. Moreover, the Department created both the MM-4 and the R-15
22 positions at issue in this matter after SENA's certification in 1986. Accordingly, the
23 Board finds that the first prong of the accretion test is inconclusive.

1 The Board must next examine whether the parties' subsequent conduct, including
2 bargaining history, reflects that the parties considered the disputed position to be
3 included in the unit. Absent bargaining history to support a finding that the parties
4 addressed and resolved the unit placement of the contested position, the Board will find
5 that it is unable to determine whether the parties explicitly agreed to exclude the
6 contested position from the bargaining unit. Town of Somerset, 25 MLC 98, 100 (1999).

7 Here, the FIU has employed an employee in the title of "Administrative Assistant"
8 since at least 1996. Although both unions have negotiated several collective bargaining
9 agreements since then, neither party presented any convincing evidence of a contract
10 provision or bargaining history expressly including or excluding the position, other than
11 the ones considered and rejected in the analysis of the first prong, above. SENA
12 nevertheless argues that, because the R-15 position is identical to the MM-4 position
13 that Burke held, as memorialized in Moran's job description, the position belongs in its
14 unit. SENA further contends that the parties have treated that particular position as
15 included in its unit since at least 2003.

16 A careful side-by-side reading of the R-15 posting and the MM-4 job description
17 demonstrates that the positions are similar, but not identical. (See Appendix A.) Both
18 positions are responsible for: assisting investigators; researching confidential files;
19 collecting and entering insurance loss information; entering investigative information into
20 the NFIRS; tracking court activities of investigators; being familiar with the overall
21 operations of the specific units of the FIU; answering phone messages, taking
22 messages, and directing calls; copying files and faxing information; and having
23 knowledge of standard office equipment.

1 The positions differ, however, with respect to the duties associated with the
2 Juvenile FireSetters (JFS) and FireSense programs. Whereas the R-15 position
3 description simply states that the Administrative Assistant serves as the "liaison" to the
4 JFS program, compiling all documentation for the FireSense Program, the MM-4 job
5 description provides much greater detail about the responsibilities associated with these
6 programs, such as coordinating the entire program; contacting and coordinating with
7 other juvenile agencies such as DSS, DYS, Juvenile Probation; monitoring the progress
8 of the JFS program; coordinating with investigators for resolution of court action upon
9 completing the program; and assisting, if necessary, with juvenile screening and
10 education. Although these duties could arguably be encompassed by the term "Liaison
11 to the JFS program", the monitoring, coordinating and teaching aspects of the MM-4
12 position suggest that, not only did the incumbent in this position handle the paperwork
13 for the JFS, she had actual responsibility for implementing and monitoring its progress.
14 Burke's own job description reflects that she was responsible for organizing an
15 orientation and planning session to rebuild a successful JFS program. Boyle's version of
16 that job description indicates that this position also conducted screenings and classes
17 for juvenile fire setters. These duties require an exercise of independent judgment that
18 is absent from the R-15 job description. In light of these differences, we are unable to
19 conclude that the MM-4 and R-15 positions are identical as SENA argues. Instead, the
20 R-15 appears to be a new position that is a hybrid of the ones performed by Denver and
21 Burke before they vacated their respective positions.

22 With respect to the parties' bargaining history, the evidence shows that the
23 Department created the position on July 25, 2006 without first bargaining with either

1 union. Although AFSCME and the City executed a successor collective bargaining
2 agreement in March of 2007, there is no evidence that they had bargained over the unit
3 placement of the position during successor negotiations. Moreover, SENA filed a
4 grievance just two weeks after the position was posted, demonstrating that it did not
5 regard that position as included in AFSCME's bargaining unit. Accordingly, the second
6 prong of the test is inconclusive.

7 Turning to the final criterion, the Board must consider whether the Administrative
8 Assistant shares a community of interest with AFSCME's unit or SENA's unit. To
9 determine whether employees share a community of interest, the Board considers
10 factors like similarity of skills and functions, similarity of pay and working conditions,
11 common supervision, work contact and similarity of training and experience. Waltham
12 School Committee, 25 MLC 137, 139 (1999). No single factor is outcome
13 determinative. Town of Ludlow, 27 MLC 34, 36 (2000), citing, City of Worcester, 5 MLC
14 1108, 1111 (1978).

15 It is evident from reviewing the job descriptions of the MM-4 position in SENA's
16 bargaining unit and the R-15 position in AFSCME's bargaining unit that the disputed
17 position shares a community of interest with employees in both units. Employees in both
18 units have responsibility for typing, filing, faxing, copying, and maintaining files for
19 investigations or databases. Administrative Assistants in both units also have contact
20 with persons inside and outside the Department. Moreover, as described above, the R-
21 15 position performs many of the duties that the MM-4 Administrative Assistant
22 performed.

1 Notwithstanding these similarities, the job descriptions for the AFSCME and
2 SENA positions are materially different with respect to the exercise of supervisory or
3 oversight responsibility. The 2005 posting for the MM-5 position that Burke filled
4 indicates that the incumbent in this position “assigns work and supervises clerical staff
5 in all administrative issues within the FIU.” Similarly, the 2003 MM-5 posting for the
6 Senior Administrative Assistant position in the Fire Prevention division required the
7 incumbent to “[d]irectly supervise clerical personnel, including the planning and
8 assigning of work according to the nature of the job to be accomplished.” Although
9 there are not many details about the specific duties of Boyle’s MM-6 position, Burke’s
10 affidavit indicates that both she and the incumbent in the disputed R-15 position work
11 under Boyle’s daily oversight. Even the original job description for the 1996 MM-4 job
12 posting contained some oversight responsibilities. Yet, for reasons that are not clear
13 from this record, Burke no longer performed these duties by 2003.

14 The oversight and assignment duties performed by the MM-5 and MM-6
15 employees in SENA’s unit are consistent with the Commission’s unit certification of “all
16 administrative and supervisory employees.” The absence of these duties from the job
17 description of the disputed R-15 position lends force to the City’s argument that
18 AFSCME unit members are line employees who report to other employees in the unit.
19 There is insufficient evidence to conclude, as the City suggests, that SENA unit
20 members are true supervisors with authority to effectively recommend personnel
21 decisions like hiring, transferring, suspending, promoting, discharging or resolving
22 grievances. See, e.g., Greater New Bedford Regional Vocational School Committee, 15
23 MLC 1040, 1045 (1988). Nevertheless, in close cases like this one, the fact that the R-

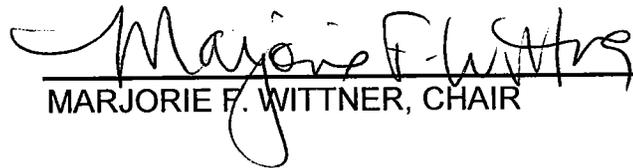
1 15 position has no responsibility for overseeing or assigning the work of employees in
2 the unit sufficiently distinguishes it from the other members of SENA's bargaining unit.
3 Consequently, we conclude that the R-15 position shares a greater community of
4 interest with the three other administrative assistants in AFSCME's unit than it does with
5 the existing Senior Administrative Assistants in the FIU.

6 Conclusion

7 For the foregoing reasons, we conclude that the Grade R-15 Administrative
8 Assistant in the FIU shares a greater community of interest with the members of
9 AFSCME's bargaining unit than with SENA's unit. Accordingly, we decline to accrete
10 that position into SENA's administrative and supervisory unit and dismiss SENA's
11 petition.

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF LABOR RELATIONS

COMMONWEALTH EMPLOYMENT
RELATIONS BOARD


MARJORIE F. WITTNER, CHAIR


ELIZABETH NEUMEIER, BOARD MEMBER

APPENDIX A
COMPARISON OF FORMER MM-4 JOB DESCRIPTION AND NEW R-15 JOB POSTING

Former MM-4 Position	New R-15 Position
1. Responsible for coordinating the Juvenile FireSetters Program within the Fire Investigative Unit Juvenile FireSetters Program; Compiles all documents that have been identified by arson investigators as candidates for the Juvenile Fire Sense Program; Contacts and coordinates with other juvenile agencies, DSS, DYS, Juvenile Probation, Juvenile Courts; Forward information to the JFS program, monitors progress and upon completing of the program coordinates with investigators for resolution of court action; Assists if necessary with juvenile screening and education	Liaison to the Juvenile FireSetters Program, compiling all documentation for the Fire Sense Program
2. Responsible for tracking activities within the unit for annual report	
3. Responsible for assisting investigators searching confidential files	Responsible for assisting investigators searching confidential files
4. Responsible for entering and monitoring confidential information files	Maintains and backs up all FIU Files and reports
5. Responsible for tracking court activities of investigators	Responsible for tracking court activities of investigators
6. Responsible for tracking activities within the unit for annual report	
7. Responsible for collecting and entering insurance loss information	Responsible for collecting and entering insurance loss information
8. Responsible for entering investigative information into the NFIRS	Responsible for entering investigative information into the NFIRS
9. Be familiar with the overall operations of the specific units within the Fire Investigation Unit	Familiar with overall operations of the specific units within the FIU
10. Is knowledgeable and when necessary assist with the duties of other administrative staff within the FIU	
11. Answers telephones, taking phone messages, directing calls to appropriate individuals or agencies	Answers telephones, takes phone messages, directing calls to appropriate individuals or agencies
12. Copies, files and faxes information as necessary	Copies, files and faxes information as necessary
13. Knowledge of standard office equipment	Knowledge of standard office equipment