

posted, and display for a period of thirty (30) days thereafter, signed copies of the attached Notice to Employees.

e. notify the Commission in writing of the steps taken to comply with this Decision within ten (10) days after receipt of the Decision.

NOTICE TO EMPLOYEES

The Labor Relations Commission has found that the City of Boston has violated Sections 10(a)(5) and (1) of Massachusetts General Laws, Chapter 150E by unilaterally requiring Sandra Gows to attend the recruit academy program without providing the Union with an opportunity to bargain to resolution or impasse.

WE WILL NOT fail or refuse to bargain collectively in good faith with said Union over the decision to require a unit member who was absent from active duty as a police officer for an extended period of time to attend the recruit academy program.

WE WILL NOT change our past practice and require a unit member who was reinstated to active duty as a police officer after an extended interruption of service to attend the full recruit academy prior to the occurrence of one of the following conditions: an agreement between the parties, a bona fide impasse in bargaining or the subsequent failure of the Association to bargain in good faith.

WE WILL NOT in any like or similar manner interfere with, restrain and coerce our employees in the exercise of their rights protected under the Law.

WE WILL take the following affirmative action that will effectuate the purposes of the Law.

Make Gows whole for any loss of earnings she sustained as a result of the City’s requirement that the unit member attend the recruit academy as a condition for restoring her to active duty status.

To pay interest on all sums owed at the rate specified in M.G.L.c.23, §B up to the date the City complies with this order.

[signed]
CITY OF BOSTON

* * * * *

In the Matter of BARNSTABLE COUNTY

and

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

Case No. MCR-4744

- 33. *Consent Agreements and Stipulations*
- 34.2 *community of interest*
- 34.8 *similarity of work*
- 35.4 *other non-professionals*
- 35.41 *clericals*
- 35.7 *supervisory and managerial employees*
- 36. *One Person Units*
- 93.3 *petition for certification*

March 28, 2000

Robert C. Dumont, Chairman
Helen A. Moreschi, Commissioner
Mark A. Preble, Commissioner

Michael Gilman, Esq. Representing Barnstable County
Michael Halpin, Esq. Representing the National Association of Government Employees

DECISION AND DIRECTION OF ELECTION¹

STATEMENT OF THE CASE

On April 7, 1999, the National Association of Government Employees (the Union) filed a petition with the Labor Relations Commission (the Commission) seeking to represent certain employees of Barnstable County (the Employer or the County) who are employed in the Barnstable County Facilities Department. On June 25, 1999, Karen S. Fabiszewski (the Commission Agent) conducted a hearing on behalf of the Commission at which both parties had an opportunity to present testimonial and documentary evidence. The Employer and the Union filed post-hearing briefs that were received by the Commission on or before August 16, 1999. In accordance with 456 CMR 13.02(2), the Commission Agent issued recommended findings of fact on November 24, 1999. Neither party filed challenges to the Commission Agent’s findings of fact. The Commission has reviewed the record evidence and adopts the Commission Agent’s findings of fact in their entirety.

The Union seeks to represent all full-time and regular part-time Facilities Department employees, including the administrative assistant, the facilities field coordinator, the custodian, the maintenance and repairperson, the general maintenance supervisor, the supervising custodian (night supervisor), the mail clerk/custodial assistant, the switchboard operator, and the equipment specialist but excluding the Director of Facilities. The Employer asserts that the facilities field coordinator should be

1. Pursuant to 456 CMR 13.02(1), the Commission has designated this case as one in which the Commission shall issue a decision in the first instance.

excluded from the bargaining unit because it is a managerial position. The Employer further asserts that the administrative assistant should be excluded from the bargaining unit because it is a confidential position. In the alternative, the Employer argues that the administrative assistant should be excluded from the proposed bargaining unit because it is more appropriately included in a bargaining unit of clerical employees.

Both the Union and the Employer agree that the Director of Facilities is a managerial employee and should be excluded from any bargaining unit that the Commission finds appropriate. The parties further agree that the custodian, the maintenance and repairperson, the general maintenance supervisor, the supervising custodian (night supervisor), the mail clerk/custodial assistant, the switchboard operator and the equipment specialist are appropriate for inclusion in a single bargaining unit.

FACTS²

Barnstable County is composed of a legislative branch and an executive branch. The legislative branch is the assembly of delegates, which is composed of representatives from each of the fifteen (15) towns that comprise Barnstable County. The executive branch consists of three (3) elected county commissioners. There are approximately thirteen (13) departments in Barnstable County that report to the county commissioners, including the Facilities Department. The Facilities Department is responsible for maintaining all county facilities. No other department employs its own custodians or employees that perform maintenance work. Currently, none of the employers the Facilities Department are represented for purpose of collective bargaining.

On July 1, 1998, the County implemented a new classification and compensation plan. This classification and compensation plan was developed from a study performed by the Massachusetts Municipal Association (MMA) on behalf of the County. The classification and compensation plan reviewed, rated and created job descriptions and a pay scale for all non-union employees, including employees in the Facilities Department, based on certain criteria. Additionally, the County's personnel policy and procedure manual delineates the benefits and hours of work of all non-union employees in the County, including those employees employed in the Facilities Department.

Some departments in the County have a forty (40) hour work week while others operate on a thirty-seven and one-half (37.5) hour work week. In the Facilities Department, the mechanical and labor positions work forty (40) hours per week, and the administrative assistant and the switchboard operator work thirty-seven and one-half (37.5) hours per week. Some of the maintenance positions require the incumbent to work weekends. Both the administrative assistant and the switchboard operator work Monday through Friday.

The Administrative Assistant (Facilities Department)

One of the classification categories developed under the County's classification and compensation plan is the office occupational grouping. The County employs approximately twenty-five employees in the office occupational grouping throughout the County. The titles in the office occupational grouping include administrative assistant I, administrative assistant II, department assistant I, department assistant II and department assistant III. The essential functions of the office occupational titles consist of administrative responsibilities like answering phones, word processing, filing and other clerical functions. However, the scope of the essential functions of administrative assistants may vary according to the size of the department. For example, in departments where there is one administrative assistant, the administrative assistant's essential functions tend to be broader than departments where there are numerous administrative assistants. Each department has separate job descriptions for administrative assistants that were created as part of the classification and compensation plan prepared by MMA.

In the Facilities Department, some duties of the administrative assistant include filing performance evaluations and other departmental paperwork as well as typing material for the Director. The administrative assistant also has access to the Director's email and voice mail. Generally, the Director will answer the phone if he is present in the office. However, if the Director is unavailable, the administrative assistant receives the call. Depending on the nature of the call, she may take a message for the Director or direct the call to another employee in the Facilities Department. The administrative assistant has an access code for the Director's voice mail, allowing her to access telephone messages left for the Director on the voice mail system. With the exception of mail marked personal and confidential, the administrative assistant opens all correspondence addressed to the Director. She sorts the mail and gives it to the Director for his review. After the Director has reviewed the mail, the administrative assistant files it in the appropriate file.

The Facilities Department maintains one personnel file for each employee. An employee's personnel file contains information about the employee's use of sick time and vacation days as well as information pertaining to employee discipline. Personnel files for Facilities Department employees are kept in a locked file cabinet in the Director's office. Both the Director and the administrative assistant have a key to the file cabinet. The file cabinet also contains records concerning budget information. Although the administrative assistant has access to the personnel files kept in the file cabinet, she does not have the authority to freely access those files. Instead, her authority to access the personnel files is limited in that she may access the files only in the context of a specific project that she is working on.

The administrative assistant is also responsible for submitting information on potential employees for a criminal records check. Once the check is completed, the administrative assistant receives

2. The Commission's jurisdiction is uncontested.

a copy of the report. If the individual is hired by the County, the administrative assistant files the criminal records check in the employee's personnel file. The administrative assistant also performs reference checks by contacting a potential employee's former employers.

The administrative assistant's desk is located in the Director's office approximately twelve (12) feet from the Director's desk. There is no wall or partition separating the administrative assistant from the Director. There is a breakroom attached to the Director's office that is used by Facilities Department employees. The Director's office and the breakroom are separated by an open doorway. During lunch periods and breaks, Facilities Department employees are present in the breakroom while the Director is working in his office. In addition, other employees enter and leave the Director's office on a fairly frequent basis.

Although the Director performs some of his own word processing, he often writes a memorandum and gives it to the administrative assistant to type on the County's letterhead. On occasion, if the document is critical or urgent, the Director will type it himself. Prior to the classification and compensation plan study completed by MMA, the administrative assistant filed all paperwork for the Facilities Department. Similarly, the administrative assistant would be present at all discussions, including discussions involving disciplinary matters. The administrative assistant would take notes at the meeting, prepare a memorandum and place it in the employee's file. However, since the completion of the classification and compensation study, the administrative assistant has been excluded from discussions involving the discipline of employees. For other matters not involving employee discipline, including counseling employees on their job performance, the administrative assistant is not required to leave the room. Similarly, if employees request to speak to the Director, the administrative assistant will often remain in the room, depending on the issue to be discussed. All paperwork related to disciplinary discussions is filed in the employee's personnel file by the Director. Additionally, the Director will type documents himself that he considers to be confidential. Since the classification and compensation plan study, the County determined that the Facilities Department should maintain separate files for information involving employee discipline. However, since this decision was made, no employee has been disciplined.

The administrative assistant works closely with the Director in preparing the Facilities Department's budget. She has access to budget information, including line items and buildings, during the preparation stage prior to finalization. The administrative assistant also has access to the budget after the county commissioners have reviewed it but prior to finalization. The Facilities Department budget does not contain information regarding personnel wages. This information is processed by another County department.

On July 1, 1998, the County implemented a new classification and compensation plan that reviewed, rated and created job descriptions and a pay scale for all non-union employees based on certain criteria. One of the criteria examined was the use of confidential information.³ This factor rated whether the use of confidential information could compromise the position of the organization or the public or constitute a breach of security. The criteria did not examine access to confidential information but rather the use of that information. The administrative assistant was scored at the second level, indicating that the position had access to some confidential information but that the effect of any disclosure would probably be negligible or that the full significance would not be apparent in the work performed. The incumbent administrative assistant requested that the County reconsider her rating under the classification and compensation plan. Among the issues raised by the incumbent was the rating the administrative assistant position received regarding the use of confidential information. On April 14, 1999, the County informed the incumbent that it agreed with the rating assigned by the study, noting that the administrative assistant has access to some confidential information but the impact is negligible.

Facilities Field Coordinator

The facilities field coordinator is responsible for providing supervisory and skilled maintenance, construction and repair work for all Barnstable County facilities. The facilities field coordinator works under the general supervision of the Director of Facilities and acts as the Director of Facilities in his absence. The facilities field coordinator works a forty (40) hour week, although the actual hours of work vary. The County buildings are opened by the facilities staff at 6:30 a.m. Monday through Friday. The facilities field coordinator and three other employees rotate on a weekly basis to ensure that one employee is available to open the buildings at 6:30 a.m. Therefore, the facilities field coordinator works from 6:30 a.m. to 2:30 p.m. one week per month. The other three weeks per month, the facilities field coordinator works a regular day shift.⁴ Because the Director of Facilities is scheduled to work thirty-seven and one-half (37.5) hours per week, there is a two and one-half (2.5) hour period each week where the facilities field coordinator is scheduled to work when the Director of Facilities is not.

In some capacities, the facilities field coordinator acts as the Director of Facilities in the Director's absence. This includes times when the Director consults with a vendor off-site or attends a conference or training seminar. Similarly, if the Director is on vacation or out sick, the facilities field coordinator fills in. In addition to performing his own daily responsibilities, the facilities field coordinator is required to respond to calls made to the Director in the Director's absence. The facilities field coordinator would not be notified that he is the acting Director nor would his daily role necessarily change. However, if a situation arises during the

3. According to the classification and compensation plan study, the category involving the use of confidential information "...evaluates the need for discretion required by those employees with access to privileged information *obtained and used in the normal performance of duties.*" (emphasis in original). In rating this factor, the following criteria are considered "...the nature of the information, the level to which the full significance and meaning of the information is apparent to

the employee and whether disclosure would compromise the position of the organization or the public or constitute a breach of security....The mere collection or maintenance of a file of confidential information does not constitute use of confidential information."

4. The record does not contain the facilities field coordinator's exact hours of work.

Director's absence, the facilities field coordinator is the employee responsible for handling the situation.

For issues involving employee discipline, the facilities field coordinator has the authority to make a judgment regarding the issue. Then, if the judgment requires that disciplinary action be taken against an employee, the facilities field coordinator is to turn the matter over to either the County Administrator or the Assistant County Administrator. If neither of these individuals is available, the facilities field coordinator has the authority to impose disciplinary action. However, there has never been a case where the facilities field coordinator has had to either consult the County Administrator or Assistant County Administrator or impose discipline on his own.

The facilities field coordinator does not fully assume the Director's responsibilities in the Director's absence. For example, unlike the Director, the facilities field coordinator does not have the authority to hire or fire employees. Additionally, the facilities field coordinator is not involved in the budget process nor does he have access to employee personnel files. The facilities field coordinator is not involved in any policy making decisions to a substantial degree nor does he participate in any negotiations between labor and management.

In addition, the facilities field coordinator is also the individual in charge in the field. Even if the Director is present in his office in Barnstable, the facilities field coordinator is the ranking employee at any work site where he is present. His responsibilities including ordering or managing the Facilities Department employees who are performing work at a particular site.

DECISION

Under Section 3 of the Law, the Commission is responsible for determining appropriate bargaining units that are consistent with the purposes of providing for stable and continuing labor relations. In determining whether a bargaining unit is appropriate for the purposes of collective bargaining, the Commission shall give due regard to the following statutory considerations: 1) community of interest; 2) efficiency of operation and effective dealings; and 3) safeguarding the rights of employees to effective representation. *Town of Bolton*, 25 MLC 62, 65 (1998).

In deciding whether employees share a community of interest, the Commission examines factors like similarity of skills and functions, similarity of pay and working conditions, common supervision, work contact and similarity of training and experience. *Id.* at 65 (citing *Boston School Committee*, 12 MLC 1175, 1196 (1985)). The Commission traditionally favors broad, comprehensive units over small, fragmented units. *Higher Education Coordinating Council*, 23 MLC 194, 197 (1997). No single factor is outcome determinative. *City of Worcester*, 5 MLC 1018, 1111 (1978). The Law requires that employees share only a community of interest rather than an identity of interest. *Springfield*

Water and Sewer Commission, 24 MLC 55, 59 (1998)(citations omitted). The Commission has consistently found a community of interest among employees who share a similarity of interests and working conditions based upon common supervision and similar work environment. *Id.*

To satisfy the second and third statutory considerations, the Commission contemplates the impact of the proposed unit structure upon the public employer's ability to effectively and efficiently deliver public services, while safeguarding the rights of the public employees to effective representation. *Town of Bolton*, 25 MLC at 66. The Commission fulfills these obligations by placing employees with common interests in the same bargaining unit, thus avoiding unnecessary burdens on the employer while maximizing the strength of public employees in the bargaining relationship. *Id.* (citations omitted).

A. The Administrative Assistant

First, we must determine whether the administrative assistant shares a community of interest with the other employees in the proposed bargaining unit. Generally, the Commission disfavors placing clerical employees and maintenance employees in the same bargaining unit because of the differences in their duties, interests and conditions of employment. *Springfield Water and Sewer Commission*, 24 MLC 55, 60 (1997); *Town of Milford*, 22 MLC 1624, 1629 (1996). Here, the administrative assistant performs clerical functions like typing, filing and answering the telephone. However, the maintenance employees perform maintenance and custodial duties in various county buildings. In addition, the administrative assistant works thirty-seven and a half (37.5) hours a week, but the maintenance employees work forty (40) hours per week. Further, the administrative assistant works Monday through Friday, but some of the maintenance positions are required to work weekends. Finally, the record indicates that, although there are no other employees in the County who perform maintenance activities other than those employees in the petitioned-for unit, there are other employees in the County who perform clerical functions. Therefore, because there are significant differences in the duties and working conditions of the clerical and maintenance employees in the Facilities Department, we find that the administrative assistant does not share a community of interest with the maintenance employees and, therefore, should not be placed in the proposed bargaining unit.⁵

B. Switchboard Operator

Our decision concerning the administrative assistant causes us to question the parties' stipulation that the switchboard operator is appropriately included in the bargaining unit. Traditionally, the Commission has adopted the parties' stipulations regarding the appropriateness of a bargaining unit if the stipulations are not in conflict with either the Law or established Commission policy or precedent. *Board of Trustees, State Colleges*, 4 MLC 1428, 1431 (1977). At the outset of the hearing, the parties agreed that the

5. Because we have determined that the administrative assistant does not share a community of interest with the maintenance employees, we need not decide whether the position is confidential under the Law.

switchboard operator was appropriately included in the bargaining unit. Because neither party disputed the inclusion of this position in the bargaining unit, there was very little testimony offered about this position, although the parties did submit the switchboard operator's job description as a joint exhibit. Therefore, we must rely on the switchboard operator's job description in determining whether the switchboard operator shares a community of interest with the other employees in the proposed bargaining unit.

According to the joint exhibit submitted at the hearing, the switchboard operator works under the direct supervision of the Director of Facilities. The switchboard operator performs communications work relating to answering telephones, oversees the main switchboard and provides telephone assistance for all County and State offices. The switchboard operator is responsible for operating telephone, computer, and office equipment. The job description also indicates that the switchboard operator maintains daily logs of long distance calls and installation and malfunction requests. Based on this information, we find that the switchboard operator, like the administrative assistant, performs work that is primarily clerical in nature. As we have noted above, we will adopt the parties' stipulations if the stipulations do not conflict with either the Law or established Commission precedent. Here, however, we find that the parties' stipulation that the switchboard operator should be included in the proposed bargaining unit to be in conflict with the established Commission policy of not placing clerical employees in the same unit as maintenance employees. The evidence regarding the switchboard operators' duties and conditions of employment reflect that the position, like the administrative assistant, does not share a community of interest with the maintenance employees in the proposed unit. Therefore, we decline to include the switchboard operator in the bargaining unit.

C. The Facilities Field Coordinator

Next, we must determine whether the facilities field coordinator should be included in the proposed bargaining unit. Based on the information presented at the hearing, we find that the facilities field coordinator shares a community of interest with the other employees in the petitioned-for unit. Like many of the employees in the proposed unit, the facilities field coordinator works a forty (40) hour work week. The facilities field coordinator and three other employees work on a rotating schedule designed to ensure that one employee is available to open the County buildings at 6:30 each morning. Additionally, the facilities field coordinator works closely with the other employees in the proposed unit and is the ranking employee at any work site where he is present. We note that the facilities field coordinator is responsible for overseeing the work performed by members of the petitioned-for unit. Based on this evidence, we determine that the facilities field coordinator and the other employees in the proposed unit share a community of interest.

The Employer argues that the facilities field coordinator should be excluded from the bargaining unit because he is a managerial employee. Section 1 of M.G.L. c.150E, sets forth the criteria for determining whether an employee is a managerial employee:

Employees shall be designated as managerial employees only if they
(a) participate to a substantial degree in formulating or determining

policy, or (b) assist to a substantial degree in the preparation for or the conduct of collective bargaining on behalf of a public employer, or (c) have a substantial responsibility involving the exercise of independent judgment of an appellate responsibility not initially in effect in the administration of a collective bargaining agreement or in personnel administration.

Under Section 3 of the Law, an employee must be excluded from an appropriate bargaining unit if the employee's actual duties and responsibilities satisfy any one of the three statutory criteria. Unlike supervisory personnel who "transmit policy directives to lower level staff and, within certain areas of discretion, implement the policies," managerial employees "make the [policy] decisions and determine the objectives." *Wellesley School Committee*, 1 MLC 1389, 1400 (1975), *aff'd. School Committee of Wellesley v. Labor Relations Commission*, 376 Mass. 112 (1978). The policy decision must be of major importance to the mission and objectives of the public employer. *Id.* Neither limited participation in the decision-making process, nor attending and participating in policy-making discussions is sufficient to consider an employee managerial, if the person's input is merely informational or advisory in nature. *Town of Medway*, 22 MLC 1261, 1268 (1995); *Town of Wellfleet*, 11 MLC 1238, 1241 (1984); *Wellesley School Committee*, 1 MLC at 1403. Rather, this first criterion of a managerial employee "includes not only the authority to select and implement a policy alternative, but also regular participation in the policy decision-making process." *Town of Plainville*, 18 MLC 1001, 1009 (1991), *citing Town of Agawam*, 13 MLC 1364, 1368 (1986).

To be considered a managerial employee under the second part of the statutory definition, a person must participate to a substantial degree in preparing for or conducting collective bargaining. *Commonwealth of Massachusetts*, 25 MLC 121, 124. The Commission has previously determined that the employee must either participate in actual negotiations or be otherwise involved directly in the collective bargaining process by preparing bargaining proposals, determining bargaining objectives or strategy, or have a voice in the terms of settlement. *Id.* (citations omitted). The Commission has indicated that merely identifying problem areas to be discussed during bargaining or consulting about bargaining proposals is insufficient to warrant designating an employee as managerial. *Id.*

Here, it is undisputed that the facilities field coordinator is not involved in any policy making decisions to a substantial degree nor does he participate in any negotiations between labor and management. Therefore we find that the facilities field coordinator is not a managerial employee based on the first two statutory criteria.

Under the third part of the statutory definition, the Commission has determined that the use of independent judgment requires that an employee exercise discretion without consultation or approval. *Id.* (citing *Wellesley School Committee*, 1 MLC at 1408). There must be more than a coincidence of recommendation and acceptance by a higher authority. *Wellesley School Committee*, 1 MLC at 1408. To be substantial, the responsibility must not be perfunctory or routine, it must have some impact and significance. *Id.*; *Town of Plainville*, 18 MLC at 1009, *citing, Town of Agawam*, 13 MLC at 1369.

Finally, the appellate authority must be exercised beyond the first step in a grievance-arbitration procedure. *Id.* The exercise of supervisory authority to insure compliance with the provisions of a collective bargaining agreement is insufficient, standing alone, to satisfy this third criterion. *Somerville Housing Authority*, MCR-4249, slip op. at 10, (LRC, March 2, 1994), *citing*, *Town of Agawam*, 13 MLC 1364, 1369 (1986).

Although he does, on occasion, act as the Director of Facilities, this does not warrant a finding that the facilities field coordinator is a managerial employee. When acting in the absence of the Director, the facilities field coordinator assumes limited responsibilities belonging to the Director. In the Director's absence, the facilities field coordinator may impose discipline only if both the County Administrator and the Assistant County Administrator are unavailable. If either the County Administrator or the Assistant County Administrator are available, the facilities field coordinator must turn the matter over to either one of them. Additionally, the facilities field coordinator has no authority to hire or fire employees. He is not involved in the budget process nor does he have access to employee personnel files.

Based on this evidence, we determine that the facilities field coordinator does not meet the statutory requirements necessary to be deemed a managerial employee. However, we note that although the parties do not raise the issue, there is some support for finding that the facilities field coordinator is a supervisory employee.

The Commission has previously determined that managerial employees can be distinguished from supervisory employees because managerial employees "make the decisions and determine the objectives" whereas supervisory employees "transmit policy directives to lower level staff, and, within certain areas of discretion, implement the policies." *Town of Bolton*, 25 MLC at 66 (quoting *Wellesley School Committee*, 1 MLC 1389, 1401 (1975), *aff'd*, *School Committee of Wellesley v. Labor Relations Committee*, 376 Mass. 112 (1978)). However, it is unnecessary for us to determine whether the facilities field coordinator is a supervisory employee give our historical reluctance to create one person bargaining units where there is a larger appropriate unit. *See*, *Freetown-Lakeville Regional School District*, 11 MLC 1508, 1517, n.6 (1985); *Chatham School Committee*, 6 MLC 1042 (1975). Therefore, because he shares a community of interest with the other employees, we find that the facilities field coordinator should be included in the bargaining unit with the other employees. For these reasons, we find that the appropriate unit for the purposes of collective bargaining consists of the custodian, the maintenance and repairperson, the general maintenance supervisor, the supervising custodian (night supervisor), the mail clerk/custodial assistant, the equipment specialist and the facilities field coordinator.

CONCLUSION AND DIRECTION OF ELECTION

Based on the record and for the reasons stated above, we conclude that a question of representation has arisen concerning certain employees of Barnstable County and that the following employees constitute an appropriate bargaining unit for collective bargaining within the meaning of Section 3 of the Law:

All full-time and regular part-time employees employed by Barnstable County in the Facilities Department, including the custodian, the maintenance and repairperson, the general maintenance supervisor, the supervising custodian (night supervisor), the mail clerk/custodial assistant, the equipment specialist and the facilities field coordinator but excluding the Director of Facilities, the administrative assistant, the switchboard operator, all managerial, confidential and casual employees and all other employees.

IT IS HEREBY DIRECTED that elections by secret ballot shall be conducted to determine whether a majority of the employees in the above-described bargaining units desire to be represented by the National Association of Government Employees or by no employee organization. The eligible voters shall include all those persons within the above-described unit whose names appear on the Employer's payroll for the payroll period for the week ending Saturday, March 18, 2000 and who have not yet since quit or been discharged for cause. To ensure that all eligible voters shall have the opportunity to be informed of the issues and the statutory right to vote, all parties to this election shall have access to a list of voters and their addresses which may be used to communicate with them.

Accordingly, IT IS HEREBY FURTHER DIRECTED that two (2) copies of an election eligibility list for each of the bargaining units containing the names and addresses of all eligible voters must be filed by the Employer with the Executive Secretary of the Commission, 399 Washington Street, 4th Floor, Boston, MA 02108-5213 not later than fourteen (14) days from the date of this decision.

The Executive Secretary shall make the list available to all parties to the election. Failure to submit this list in a timely manner may result in substantial prejudice to the rights of the employees and the parties, therefore, no extension of time for filing the list will be granted except under extraordinary circumstances. Failure to comply with this direction may be grounds for setting aside the election, should proper and timely objections be filed.

SO ORDERED.

* * * * *