



## Commissioner Kossuth Reappointed

The Commission staff has enjoyed working for, and with, Commissioner Charles H. Kossuth, Jr., over the past four years. So it was with profound joy that we welcomed the news of his reappointment to a second term on the Commission. Charlie is a forthright and caring voice in our office and it seemed appropriate to offer reflections on his tenure as commissioner in his own voice.

– Editor

Four years of learning! That is what I have enjoyed the most in my first term as Commissioner of PERC. The wonderfully intelligent group of hearing officers, led by General Counsel Steve Meck, have shown me a continuing excellent team of hard workers. They strive to make time limits and to keep PERC on top. The supporting employees, led by Ms. Mary Ann Burns and Clerk June Farrell, work tirelessly to “do the job!” Our library,

headed by Ms. Charlsie Hughes, is one of the best labor law libraries in the state. The Commission’s Secretary, Ms. Patty Perry, does the work of five and is most appreciated.

In my first year, I joined Ms. Cassandra Jackson as Commissioners. She was a joy to work with. The Chair Lady, Ms. Donna Poole, was there and very capably makes the clock tick. Governor Bush reappointed her to a second term last year and she continues to be a delight to work with. We were joined three years ago by Ms. Jessica Varn, who was appointed by Governor Bush. She is a valuable member of the team and very intelligent with a bright legal mind.

My days at the office usually start about 6:00 a.m. – I have mostly fire related decorations, which remind me of a

wonderful life of achievements. I find the work exciting, from Agenda Meetings where the Commissioners and involved legal staff decide issues, to Oral Argument where we are blessed to have some of the finest attorneys in the state lend us their expertise. I also enjoy the hours that I spend on the computer and researching. The time lobbying the legislature to keep PERC able to do its important job has been an satisfying experience.

Over these past four years, I have tried to give my honest opinion on each case which came before me. My thanks and appreciation go to Governor Jeb Bush for reappointing me for another four-year term. I will strive to continue to do my best.

– *Charlie Kossuth*

<b>In this Issue:</b>	First DCA Reverses Commission.....	2	Representation Cases.....	8
	2005 Legislation Report.....	2	Drug-Free Workplace Case .....	10
	Innocent Inaccuracy on Job Application.....	3	Veterans’ Preference Case.....	10
	Disparity in Treatment of COs Justified .....	4	Declaratory Statement Case .....	10
	Career Services Cases.....	4	Elections Verified.....	11
	Unfair Labor Practice Cases .....	7		

## First District Court of Appeal Reverses Commission on Successorship Issue

by Hearing Officer John G. Showalter

In *Florida Public Employees Council 79, AFSCME and United Faculty of Florida v. Florida State University Board of Trustees*, and *Florida Public Employees Council 79, AFSCME v. University of West Florida Board of Trustees*, 29 FPER ¶ 281 (2003), a majority of the Commission held that individual university boards of trustees are not successor employers to the Florida Board of Education (FBOE). The Commission and hearing officers applied *IBEW, Local 323 v. Lake Worth Utilities Authority and City of Lake Worth*, 11 FPER ¶ 16024 (1984), and concluded that there was not substantial continuity between the FBOE and the boards of trustees at FSU and UWF. As a result, in the *FSU* case, the Commission concluded that FSU did not commit an unfair labor practice by ceasing dues deduction and failing to process grievances, and in the *UWF* case, the UWF did not

unlawfully cease the collection of union dues for AFSCME.

Commissioner Kossuth dissented. He reasoned that the application of *Lake Worth* to the facts of these cases demonstrated that FSU and UWF were successor employers and had an obligation to maintain the status quo as determined by the collective bargaining agreements.

AFSCME and UFF appealed the Commission's decision to the First District Court of Appeal. On February 14, 2005, the First DCA reversed the Commission and held that the UWF and FSU boards of trustees are successor employers to the FBOE. *United Faculty of Florida and Florida Public Employees Council 79, AFSCME v. Public Employees Relations Commission, Florida State University Board of Trustees, and University of West Florida Board of*

*Trustees*, 30 Fla. L. Weekly D436 (Fla. 1st DCA 2005). The court determined that the Commission failed to properly apply the *Lake Worth* decision to the facts of these cases, and that FSU and UWF are successor employers because they continue to employ a majority, if not all, of the employees the FBOE employed at each institution, doing the same work and the same jobs, at the same locations, under the same immediate supervision, and under essentially the same working conditions as before the change. Therefore, the court remanded the cases for further proceedings consistent with its opinion.

FSU and UWF filed motions for rehearing, rehearing en banc, and certification. The motions were denied.

### 2005 Legislative Report

by Commissioner Charles H. Kossuth, Jr.

The 2005 legislative session came upon PERC almost as hard as the 2004 hurricanes. One bill filed in the Senate would take career service cases away from PERC. That bill has not been heard in committee. The Governor and the Senate have offered budgets for PERC similar to last year's budget. The House budget for PERC is slightly less and, of course, PERC hopes to retain its effectiveness with a full budget. Florida is blessed to have the fine people represent them in the Legislature and we thank them for their hard work.

#### PERC NEWS

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4050 Esplanade Way  
Tallahassee, Florida 32399-0950  
(850) 488-8641  
FAX (850) 488-9704

Donna Maggert Poole	Chair
Charles H. Kossuth, Jr.	Commissioner
Jessica E. Varn	Commissioner
Stephen A. Meck	General Counsel
Suzanne M. Choppin	Editor
Barry Dunn	Labor Case Summaries
Julie Steinmeyer	Career Service Case Summaries
Barbara Kirkland	Designer

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## Innocent Inaccuracy on Job Application Does Not Warrant Dismissal

In *Greene v. Department of Corrections*, 20 FCSR 25 (2005), the Commission vacated the Department of Corrections' dismissal of a correctional officer charged with placing false information on his employment application. Greene marked on his application that he had received a high school diploma, and he had. Unbeknownst to Greene, however, he had not actually graduated from high school because he lacked some required credit hours. After Greene had worked for the Agency for more than seven years, the deficiency was discovered. Greene immediately secured a GED diploma. Nonetheless, he was dismissed.

The Agency contested the Commission's jurisdiction to hear Greene's appeal on the grounds that he committed the alleged offense before he became a permanent career service employee, asserting that the ruling in *Dickens v. Department of Juvenile Justice*, 830 So. 2d 135 (Fla. 1st DCA 2002), stands for the proposition that employees' appeal rights are determined by their status at the time the conduct for which they are disciplined occurred, not their status at the time the discipline is imposed.

Dickens was a selected exempt employee who was disciplined for conduct that occurred while he was a career service employee. The First DCA held that he could appeal his dismissal to the Commission because he had acquired a property interest in his career service position and nothing in the statutes effective at the time grounds for his discipline arose

precluded him from appealing action taken for conduct that occurred while he was a career service employee.

The Commission declined to read *Dickens* as broadly as the Agency proposed. Rather, the Commission found that *Dickens* supports a determination that upon completion of his probationary period Green acquired a property interest in his career service position and, thereafter, could only be dismissed or disciplined for cause. The Commission noted that the Agency's interpretation of *Dickens* would lead to the illogical result that an agency could discipline a permanent career service employee at any time by alleging that the action was based on some misconduct that occurred during a long-past probationary period and, because the employee would only have those job protections afforded to probationary employees, the employee would not even have a right to know the reason for the discipline, much less a right to appeal.

The Commission also considered the Agency's argument that, because he had not met the minimum job requirement of high school graduation when he was hired, Greene had never properly completed his probationary period and was, therefore, still a probationary employee without appeal rights. In rejecting this contention, the Commission concluded that there was no basis for requiring Greene to undergo yet another probationary period subsequent to his receipt of his GED diploma, as such a requirement would be fundamentally unfair in the absence of any suggestion that the

lack of a valid diploma raised any issue regarding Greene's demonstrated competence as a correctional officer.

On the merits of the appeal, the Agency adamantly argued that, because it had purposefully charged Greene with putting false information on his application rather than falsification, the hearing officer erred in requiring a showing of knowing or intentional falsification. The Commission rejected the Agency's contention that Greene could be disciplined for what the hearing officer found to be an unintentional, non-negligent act, finding that Greene's conduct did not violate any of the Agency's standards of conduct and that none of those standards would have reasonably alerted Greene that he could be subject to discipline for that unintentional, non-negligent conduct.

The Commission noted, however, that if the Agency wished to hold its employees strictly liable for the truthfulness and accuracy of information entered onto documents, fairness requires that the question posed be strictly construed. The employment application asked whether Greene had "received" a diploma. Since he had received a diploma from his school that appeared to be completely valid, Greene's response that he had received a diploma was not inaccurate. The Commission vacated the dismissal and ordered that Greene be reinstated with back pay.

## Disparity in Treatment of Correctional Officers Justified

by Hearing Officer H. Lee Cohee, II

In *Anton v. Department of Corrections*, 20 FCSR 30 (2005), the Commission declined to mitigate the dismissal of a correctional officer by the Department of Corrections based upon disparate treatment and after-the-fact remedial efforts by the officer to cure his misconduct. The Agency disciplined the officer for violating its rule against personal relationships between employees and those under its supervision when the officer moved a young woman on probation into his residence.

The Commission ruled that Anton was not treated disparately even though the girl's mother, a correctional officer sergeant, received only a reprimand for failing to report either the fact that her daughter was living with an officer or that her daughter had been placed on probation because the

record was unclear on this point. The Commission found that Anton's conduct in maintaining a sexual relationship with the girl was not comparable to, and was more serious than, whatever her mother failed to report. The Commission also discerned a difference between the undisclosed personal relationships each had with the girl that did not support a reduction in the Agency's choice of discipline.

The Commission further concluded that Anton's after-the-fact efforts to comply with Agency policy by having the girl move out of his residence and severing their relationship is not a basis for mitigation. The employee has appealed the Commission's decision to the Third District Court of Appeal.



### Career Service Cases

***Clemmer v. Department of Children and Families*, 20 FCSR 1 (2005).**

Dismissal of child abuse registry counselor for handling abuse report in a sarcastic and inappropriate manner in violation of agency policy affirmed.

***Dunbar v. Department of Corrections*, 20 FCSR 4 (2005).**

Appeal mailed on last day of filing period but not received by the Commission until two days after the close of the filing period dismissed as untimely. No equitable reason to toll the filing period was proven and the Uniform Rules of Procedure do not provide mail extension of filing period.

***Vasquez, Lewis, McMahon, Riley, and Santos v. Department of Corrections*, 20 FCSR 6 (2005).**

Dismissal of five correctional officers vacated where agency failed to prove charges of alleged inmate abuse by a preponderance of the evidence. Back pay awarded.

***Higgins v. Department of Corrections*, 20 FCSR 9 (2005).**

Five-day suspension of correctional officer for tardiness and excessive absenteeism affirmed.

***Kriesen v. St. Johns County Sheriff's Office*, 20 FCSR 11 (2005); *Bass v. Okeechobee County Sheriff's Department*, Case No. CS-2005-056 (Mar. 21, 2005); *McCabe v. Palm Beach County Sheriff's Office*, Case No. CS-2005-070 (Mar. 31, 2005).**

Appeals filed by county sheriffs' employees dismissed for lack of jurisdiction.

***Pyles v. Department of Corrections*, 20 FCSR 12 (2005).**

Ten-day suspension of classification officer for negligence affirmed where officer failed to sign paperwork and perform warrants check on inmates released from work release camp.

***Wallace v. Department of Elder Affairs*, 20 FCSR 13 (2005).**

Dismissal of registered nurse specialist for poor performance and insubordination for willful repeated refusal to report to work after hurricane affirmed. Hurricane was not mitigating factor where agency allowed employee paid administrative leave time to relocate family and protect possessions. Mitigation was not warranted where good mid-length employment record is outweighed by seriousness of conduct.

***Durham v. Department of Corrections*, 20 FCSR 16 (2005).**

Appeal filed two days late dismissed as untimely. Employee's

(Continued on page 5)

(Continued from page 4)

mistaken belief that weekends are not included in calculation of filing period does not warrant equitable tolling.

***White v. Department of Corrections, 20 FCSR 17 (2005).***

Dismissal of correctional officer for violating rule by accepting clothes and money from inmate's family on behalf of inmate mitigated to thirty-day suspension based on good eight-year employment record and lesser seriousness of security concerns in minimum security center. Back pay, less pay for period of suspension, awarded.

***Jackson v. Department of Children and Family Services, 20 FCSR 21 (2005); Conley v. Department of Corrections, 20 FCSR 24 (2005).***

Appeals of probationary employees dismissed for lack of jurisdiction.

***Whitler v. Department of Corrections, 20 FCSR 22 (2005).***

Ten-day suspension of correctional officer for making disrespectful statement to superior officer mitigated to five-day suspension based on good employment record, disparate treatment, and extraordinary circumstances of employee's sister's recent tragic death. Five days of back pay awarded.

***Johnson v. Department of Corrections, 20 FCSR 33 (2005).***

Appeal of five-day suspension dismissed where agency vacated suspension and compensated employee for lost wages.

***Hillman v. Department of Corrections, 20 FCSR 34 (2005).***

Dismissal of correctional officer for driving with a suspended license, misrepresentation of insurance, failing to report license suspension, and possession of marijuana affirmed. Mitigation was not warranted.

***Donnell v. Department of Juvenile Justice, 20 FCSR 38 (2005).***

Dismissal of juvenile detention officer for violation of and negligence for filing an inadequate incident report and failing to intervene as a fellow officer escalated an incident with an aggressive youth affirmed. Use of extraordinary dismissal procedure was unjustified. Seven days of back pay awarded.

***Howard v. Department of Corrections, 20 FCSR 43 (2005).***

Five-day suspension of correctional officer for leaving his assigned work station without authorization and failing to follow oral or written instructions affirmed. Mitigation was not warranted where fifteen-year employment record is outweighed by seriousness of conduct and prior discipline for similar conduct.

***Mitchell v. Department of Corrections, Case No. CS-2004-220 (Feb. 7, 2005).***

Appeal of dismissal dismissed where employee had been reinstated and would be made whole with regard to back pay and benefits.

***Moore v. Department of Children and Family Services, Case No. CS-2004-250 (Feb. 9, 2005).***

Dismissal of human services worker for client abuse and falsification of related reports affirmed.

Agency was justified in invoking extraordinary circumstances provision to effect dismissal without notice.

***Scott v. Department of Financial Services, Case No. CS-2004-301 (Feb. 9, 2005).***

Appeal dismissed as abandoned where employee failed to appear at hearing.

***Schroader v. Department of Corrections, Case No. CS-2004-178 (Feb. 10, 2005).***

Appeal of dismissal of correctional officer for off-duty criminal conduct dismissed as abandoned where employee failed to file required statement describing when he was scheduled for trial or show cause why appeal should not be dismissed as abandoned.

***Insdorf v. Department of Children and Families, Case No. CS-2004-253 (Feb. 15, 2005).***

Dismissal of child protective investigator for negligence for failing to commence an investigation within twenty-four hour time requirement affirmed.

***Chapman v. Department of Transportation, Case No. CS-2005-011 (Feb. 16, 2005).***

Appeal of one-day suspension dismissed for lack of jurisdiction where agency voluntarily reduced suspension to written reprimand and awarded back pay.

***Mixon v. Department of Health, Case No. CS-2005-029 (Feb. 16, 2005).***

Appeal of alleged dismissal that agency characterized as a voluntary resignation dismissed as settled

(Continued on page 6)

(Continued from page 5)

where agency allowed employee to rescind resignation and reinstated her.

***Wells v. Department of Corrections, Case No. CS-2004-295 (Feb. 22, 2005).***

Five-day suspension of correctional medical technician-certified for negligence affirmed.

***Glover v. Department of Juvenile Justice, Case No. CS-2005-001 (Feb. 22, 2005).***

Dismissal of senior juvenile detention officer for negligence affirmed.

***Avenarius v. Florida Department of Law Enforcement, Case No. CS-2004-269 (Feb. 23, 2005).***

Dismissal of forensic technologist for insubordination and falsification of records for disobeying order not to communicate with person who complained employee was threatening him via Internet and falsification of timesheet affirmed.

***Small v. Department of Corrections, Case No. CS-2004-292 (Feb. 28, 2005).***

Dismissal of correctional officer for sleeping on duty and insubordination affirmed. Mitigation was not warranted. Agency did not have cause for discipline for intoxication at work where employee smelled of alcohol due to diabetes and agreed to drug test or for failing to report for duty during two hurricanes where severe weather prevented efforts to report.

***Miller v. Department of Children and Families, Case No. CS-2004-285 (Mar. 9, 2005).***

Dismissal of institutional security specialist/certified correctional officer for verbal abuse of resident affirmed. Mitigation was not warranted where seriousness of conduct outweighed two-year employment record.

***Davis v. Department of Corrections, Case No. CS-2005-019 (Mar. 9, 2005).***

Five-day suspension of correctional officer for failing to report to work during hurricane affirmed. Mitigation was not warranted by extraordinary circumstance of weather where employee's presence at home was not necessary to family, and employee made no attempt to report for duty.

***Hopper v. Department of Revenue, Case No. CS-2004-287 (Mar. 14, 2005).***

Three-day suspension of revenue specialist for conduct unbecoming a public employee for standing near prisoner not yet processed into custody in courtroom affirmed.

***Gallon v. Department of Corrections, Case No. CS-2004-303 (Mar. 14, 2005).***

Five-day suspension of correctional probation specialist for negligence for failing to refer sexual predator to court-ordered counseling affirmed. Mitigation was not warranted where seriousness of conduct outweighed lengthy employment record.

***Francis v. Department of Corrections, Case No. CS-2004-280 (Mar. 15, 2005).***

Ten-day suspension of correc-

tional probation specialist for substandard quality or quantity of work for failing to timely complete address verification forms on sexual offenders and failing to complete affidavits reporting curfew violations affirmed. Mitigation was not warranted where seriousness of conduct outweighed five-year employment record.

***Chavers v. Department of Corrections, Case No. CS-2005-012 (Mar. 15, 2005).***

Five-day suspension of correctional probation senior officer for negligence for failing to timely file violation of probation reports and complete placement investigation affirmed. Mitigation was not warranted where conduct was serious and employee had prior discipline for negligence.

***Gayle v. Department of Juvenile Justice, Case No. CS-2005-007 (Mar. 17, 2005).***

Appeal dismissed as untimely filed where attempt to fax appeal on fourteenth day of filing period was unsuccessful.

***Hall v. Department of Corrections, Case No. CS-2005-034 (Mar. 21, 2005).***

Dismissal of computer systems analyst for failure to follow work ticket procedures and negligence in repairing server affirmed.

***Hicks v. Department of Corrections, Case No. CS-2002-347 (Mar. 25, 2005).***

Appeal of dismissal stayed as a result of employee's arrest and pending criminal charges was dismissed where neither party objected to lifting stay two years

(Continued on page 7)

(Continued from page 6)

after it was imposed and dismissing case.

***Robison v. Department of Children and Families, Case No. CS-2004-300 (Mar. 25, 2005).***

Dismissal of child protective investigator for violating confidentiality policies by viewing abuse report and divulging filing of report affirmed.

***Rivera v. Department of Juvenile Justice, Case No. CS-2005-041 (Mar. 25, 2005).***

Dismissal of senior juvenile detention officer for effecting take-down of juvenile without first exhausting verbal intervention and for not using proper takedown technique affirmed.

***Isele v. Office of the Public Defender, Seventh Judicial Circuit, Case No. CS-2005-077 (Mar. 30, 2005).***

Appeal filed by employee of public defender's office dismissed for lack of jurisdiction.

***Ervin v. Department of Corrections, Case No. CS-2004-288 (Mar. 31, 2005).***

Dismissal of agency architect for failing to follow oral and written instructions and knowingly submitting inaccurate or untruthful information to an agency inspector affirmed.



***Hamilton County Education Association v. School Board of Hamilton County, Florida, 31 FPER ¶ 7 (2005).***

Commission calculated attorney's fees and costs school board was required to pay to union for its successful prosecution of two unfair labor practices cases. The Commission determined that \$275.00 was a reasonable hourly rate for attorney services.

***Professional Association of City Employees, Inc. v. City of Jacksonville, 31 FPER ¶ 11 (2005).***

Commission majority held that employee did not have a *Weingarten* right to union representation prior to entering what he thought was a grievance meeting, and employee's demand for union assistance at that time did not necessitate employer granting request. Further, employer did not violate employee's *Weingarten* right when employee failed to request union representation after he learned that meeting did not pertain to his grievance, but instead was investigatory and could reasonably lead to discipline. Commissioner Kossuth dissented, concluding that the city violated employee's *Weingarten* right.

***Professional Association of City Employees, Inc. v. City of Jacksonville, 31 FPER ¶ 14 (2005).***

City committed unfair labor practice when it refused to engage in collective bargaining with union president who was acting as union's authorized representative, refused to remit to union's president dues collected from bargaining unit employees, and interfered with union's internal affairs by creating and perpetuating controversy regarding the identity of union's president.

***Meyer v. School Board of Polk County, 31 FPER ¶ 15 (2005).***

Commission affirmed General Counsel's summary dismissal, agreeing that charge was facially deficient, was untimely, and failed to demonstrate manner in which school board allegedly retaliated against employee for engaging in protected concerted activity. Additional allegations not presented to General Counsel were not properly before Commission.

***Voyles, et al. v. SEIU Local #8, 31 FPER ¶ 17 (2005).***

Union committed unfair labor practice during collective bargaining ratification vote by failing to provide reasonable notice of ratification vote, failing to afford a fair and reasonable opportunity to study and discuss collective bargaining agreement to be voted upon, allowing membership solicitation during the voting process, and allowing pooled voting procedure wherein members of three different bargaining units collectively voted for ratification of all agreements without individually identifying votes for each agreement.

(Continued on page 8)

(Continued from page 7)

***International Union of Police Associations, AFL-CIO (IUPA) v. State of Florida Department of Management Services and John Ellis "Jeb" Bush, Governor of the State of Florida, 31 FPER ¶ 23 (2005).***

State did not commit unfair labor practice when it restricted solicitation of showing of interest cards to stationary locations near entrances of correctional facilities and prohibited union representatives from roaming parking lots. State had legitimate security reasons for limiting movement of non-employees on institution grounds.

***Coastal Florida Police Benevolent Association v. City of Melbourne, 31 FPER ¶ 37 (2005).***

City did not commit unfair labor practice when it exercised discretion in deciding which police officers would be required to work on holidays that fell within an employee's regular work schedule. Union had argued that contractual language required that city allow employees to work on holidays regardless of whether their services were needed.

***Heyhurst v. Broward Teachers Union, Case No. CB-2004-024 (Feb. 22, 2005).***

Charging party, a school principal, asserted that union representative had assisted a teacher in improperly obtaining ex parte temporary restraining order so that teacher could transfer away from the principal's school. As part of the proceeding, the charging party sought to take the deposition of the union representative, and the union filed for a protective order. The

hearing officer determined that, although the attorney-client privilege applied to teacher's discussion with both the union representative and her attorney, the representative was required to testify about her conversations with teacher because the restraining order was obtained under false pretenses. The Commission reversed and held that the crime-fraud exception to the attorney-client privilege was not applicable because the restraining order was not obtained through the use of false statements.

***International Union of Painters and Allied Trades, Local 1010, AFL-CIO v. City of Sweetwater, Case No. CA-2004-139 (Mar. 9, 2005).***

City committed unfair labor practice when it unilaterally changed medical insurance benefits of unit employees. The Commission held that an employer must bargain over changes to specific health care insurance benefits where the plan is not set forth in detail in the contract, but is incorporated into the agreement by reference.

to include the classification of hospitalist-EEC in a bargaining unit of physicians granted.

***Florida State Lodge, Fraternal Order of Police, Inc. v. City of Miramar v. Broward County Police Benevolent Association, Inc., Chartered by the Florida Police Benevolent Association, Inc., 31 FPER ¶ 8 (2005).***

Consent election agreement seeking to represent a unit of police officers and police sergeants approved.

***Florida Public Employees Council 79, AFSCME, AFL-CIO v. New College of Florida Board of Trustees, 31 FPER ¶ 9 (2005).***

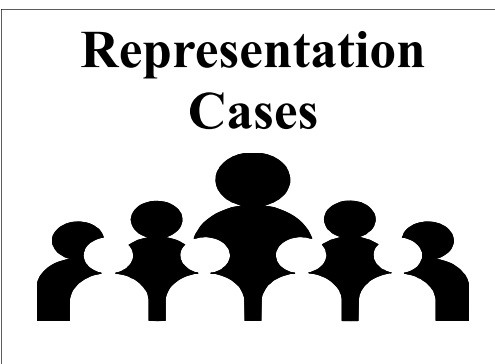
Recognition-acknowledgment petition for a bargaining unit of full-time and part-time nonprofessional employees granted.

***International Union of Painters and Allied Trades, AFL-CIO, Local Union 2301 v. City of Cape Coral, 31 FPER ¶ 10 (2005).***

Unit clarification petition seeking to include newly-created classifications and modify unit descriptions to reflect title changes and title deletions for a unit of operational services employees granted.

***Osceola County Professional Fire Fighters Association, Local 3284 v. Osceola County, 31 FPER ¶ 12 (2005).***

Unit clarification petition seeking to include the classification of training captain in a bargaining unit of firefighting personnel granted.



***Service Employees International Union, Local 1991, AFL-CIO, CLC v. Jackson Memorial Hospital/Public Health Trust, 31 FPER ¶ 3 (2005).***

Unit clarification petition seeking

(Continued on page 9)

(Continued from page 8)

***City of Boynton Beach v. National Conference of Firemen and Oilers, SEIU Local 1227, AFL-CIO, CLC, 31 FPER ¶ 16 (2005).***

Unit clarification petition seeking to include classification of master electrician in bargaining unit granted.

***Palm Harbor/Oldsmar Professional Firefighters, Local 2980, International Association of Fire Fighters v. City of Oldsmar, 31 FPER ¶ 18 (2005).***

Unit clarification petition seeking to include paramedic/EMS coordinator and fire code administrator in a supervisory bargaining unit granted.

***Palm Harbor/Oldsmar Professional Firefighters, Local 2980, International Association of Firefighters v. City of Oldsmar, 31 FPER ¶ 19 (2005).***

Unit clarification petition seeking to include classification of fire prevention inspector in a rank-and-file bargaining unit of firefighters granted.

***Orlando International Airport Professional Firefighters, Local 4389, IAFF v. Greater Orlando Aviation Authority, 31 FPER ¶ 20 (2005).***

Employer's motion to seal documents that contained list of bargaining unit employees was denied. Further, employer's request that union be prohibited from disseminating these documents and return them to the employer at the conclusion of the case was denied. Employer failed to identify any law or rule which would allow Commission to seal documents which Florida's public records law

requires to be open for public inspection.

***School District of Dixie County v. Dixie County Education Association, 31 FPER ¶ 22 (2005).***

Unit clarification petition dismissed where school district failed to specify which classifications it sought to add or delete from the bargaining unit.

***Communications Workers of America, AFL-CIO, CLC v. City of Jacksonville v. Professional Association of City Employees, Inc., 31 FPER ¶ 26 (2005).***

Pursuant to Section 447.305(1), Florida Statutes, incumbent union's name was removed from the election ballot because it was not registered with the Commission by the date the ballots were to be mailed.

***Broward County Police Benevolent Association, Inc. v. Town of Davie v. Florida State Lodge, Fraternal Order of Police, 31 FPER ¶ 31 (2005).***

Consent election agreement seeking to represent a unit of non-supervisory law enforcement officers approved.

***United Food and Commercial Workers Union, Local 1625 v. City of Mulberry, 31 FPER ¶ 33 (2005).***

Representation-certification petition seeking to represent unit of firefighters and lieutenants granted.

***Ramsey v. Fraternal State Lodge, Fraternal Order of Police, Inc. v. Alachua County Sheriff's Office, 31 FPER ¶ 34 (2005).***

Petition seeking to revoke the certification of incumbent union granted.

***Professional Firefighters of Miramar, IAFF, Local 2820 v. City of Miramar, 31 FPER ¶ 36 (2005).***

Unit clarification petition seeking to delete abolished classifications and include captain classification in rank-and-file fire suppression unit granted. Division chiefs, shift commanders, and training battalion chief were excluded from unit due to supervisory conflict.

***Communications Workers of America, AFL-CIO, CLC v. City of Jacksonville v. Professional Association of City Employees, Inc., Case No. EL-2004-071 (Relates to RC-2004-070) (Feb. 28, 2005).***

PACE's motion seeking an indefinite stay of representation election denied where PACE failed to renew its registration and was not eligible to participate in the election.

***International Association of EMTs and Paramedics, SEIU/NAGE, AFL-CIO v. Polk County Board of County Commissions, Case No. RC-2004-079 (Feb. 28, 2005).***

Consent election agreement seeking to represent a unit of full-time and part-time emergency medical technicians and paramedics approved.

***School Board of Dixie County v. Dixie County Education Association, Case No. UC-2004-019 (Mar. 2, 2005).***

Unit clarification petition seeking to include certain classifications in bargaining unit dismissed where position descriptions were the only evidence presented by school board in proceeding and board failed to show that the disputed classifications were newly-created or substantially

(Continued on page 10)

(Continued from page 9)

changed since the unit was last certified.

***Coastal Florida Public Employees Association, Inc. v. City of Flagler Beach, Case No. RC-2005-002 (Mar. 15, 2005).***

Consent election agreement seeking to represent a unit of supervisory employees approved.

***United Food & Commercial Workers International, AFL-CIO, CLC v. City of Mulberry, Florida, Case No. RC-2005-011 (Mar. 15, 2005).***

Representation-certification petition dismissed where union was not registered, petition failed to list all classifications to be included in proposed unit, and proposed unit was departmental in nature.

***Gustavson v. Teamsters Local Union No. 385 v. City of Palm Coast, Department of Public Works, Case No. RD-2005-001 (Mar. 17, 2005).***

Petition seeking to revoke the certification of incumbent union granted prospectively upon the expiration of collective bargaining agreement in October 2005. Incumbent union disclaimed interest in representing unit employees and had no outstanding financial obligations related to election costs.

***Teamsters Local Union No. 769, Affiliated with the International Brotherhood of Teamsters v. Indian River County/Emergency Services District, Case No. RC-2005-013 (Mar. 25, 2005).***

Representation-certification petition seeking to represent unit of animal control officers was dismissed. Commission will not define departmental units due to overfragmentation concerns.



## Veterans' Preference Case

***Wood v. University of Central Florida, Case No. VP-2004-025 (Mar. 3, 2005).***

Veterans' preference complaint dismissed where selected applicant for administrative assistant position possessed experience that more closely encompassed the background the employer sought for the job than did veteran.



## Drug-Free Workplace Case

***Isaac S. Campbell v. Esposito's Garden Center, Case No. DF-2005-001 (Mar. 25, 2005).***

Drug-free Workplace Act appeal by employee of private employer dismissed. Commission's jurisdiction under Act is limited to appeals filed by employees of state government.



## Declaratory Statement Case

***In Re Petition for Declaratory Statement of the Palm Beach County Classroom Teachers Association and the School District of Palm Beach County, Case No. DS-2005-001 (Mar. 11, 2005).***

A collective bargaining agreement in which the union agrees to use only non-attorney representatives to represent unit members in pre-arbitral steps of the grievance procedure is lawful as it pertains to union members. However, when the union declines to represent an employee due to non-union membership status, the parties' agreement as to non-attorney representatives cannot be imposed on that employee.

## Elections Verified and Certifications Issued

*Deland Professional Firefighters, Local 4347, IAFF v. City of Deland*, Case No. EL-2004-064; Certification 1532 issued 1/6/2005.

*Florida Public Employees Council 79, AFSCME v. New College of Florida Board of Trustees*, Case No. RA-2004-015; Certification 1533 issued 1/10/2005.

*Teamsters Local Union No. 385 v. City of Maitland*, Case No. EL-2004-066; Election 12/15/2004 – 1/5/2005; Union won; Certification 1534 issued 1/21/2005.

*Florida State Lodge, Fraternal Order of Police, Inc. v. Town of Davie v. Federation of Public Employees, A Division of the National Federation of Public and Private Employees*, Case No. EL-2004-065; Election 1/12/2005; FOP won; Certification 1535 issued 1/28/2005.

*Truck Drivers, Warehousemen and Helpers, Local Union 512 v. Town of Baldwin*, Case No. EL-2004-068; Election 12/21/2004 - 1/13/2005; Union won; Certification 1536 issued 1/31/2005.

*Federation of Public Employees, A Division of the National Federation of Public and Private Employees v. Village of North Palm Beach*, Case No. EL-2004-067; Election 12/29/2004 - 1/19/2005; Union won; Certification 1537 issued and certification 1231 revoked 2/4/2005.

*Federation of Public Employees, A Division of the National Federation of Public and Private Employees v. Broward County Sheriff's Office v. Florida State Lodge, Fraternal Order of Police, Inc.*, Case No. EL-2004-069; Election 12/29/2004 - 1/19/2005; FOP won.

*International Union of Police Associations v. City of North Miami Beach/Police Department*, Case No. EL-2004-072; Election 1/13 - 1/27/2005; Union won; Certification 1538 issued 2/14/2005.

*Orlando International Airport Professional Firefighters, Local 4389, IAFF v. Greater Orlando Aviation Authority*, Case No. EL-2004-075; Election 2/1 - 2/3/2005; Union lost.

*Coastal Florida Public Employees Association, Inc. v. City of Flagler Beach*, Case No. EL-2004-070; Election 1/18 - 2/8/2005; Union won; Certification 1539 issued 2/24/2005.

*Communications Workers of America v. City of Port Richey*, Case No. EL-2004-073; Election 1/18 - 02/8/2005; Union won; Certification 1540 issued 2/24/2005.

*Communications Workers of America v. City of Port Richey*, Case No. EL-2004-074; Election 1/18 - 2/8/2005; Union won; Certification 1541 issued 2/24/2005.

*Florida State Lodge, Fraternal Order of Police, Inc. v. Charlotte County Sheriff's Office v. Florida Police Benevolent Association, Inc.*, Case No. EL-2004-076; Election 1/25 - 2/15/2005; FOP won; Certification 1542 issued and certification 1439 revoked 3/3/2005.

*Ramsey v. Florida State Lodge, Fraternal Order of Police, Inc. v. Alachua County Sheriff's Office*, Case No. EL-2005-004; Election 3/3 - 3/4/2005; Union lost.

*Communications Workers of America, AFL-CIO, CLC v. City of Jacksonville v. Professional Association of City Employees, Inc.*, Case No. EL-2004-071; Election 2/22 - 3/16/2005; Certification 1543 issued and certification 1327 revoked 4/1/2005.

*Broward County Police Benevolent Association, Inc. v. Town of Davie v. Florida State Lodge, Fraternal Order of Police, Inc.*, Case No. EL-2005-002; Election 3/8 - 3/29/2005; FOP won.

*United Food and Commercial Workers Union, Local 1625 Chartered by the United Food and Commercial Workers International Union, AFL-CIO, CLC v. City of Mulberry*, Case No. EL-2005-003; Election 3/9 - 3/29/2005; Union lost.