



Chair Poole Departs; Chair Ray Appointed

On September 26, 2008, Chair Donna Poole left the Commission after serving two four-year terms and then some, having continued to serve after the expiration of her second term pending the Governor’s appointment of her successor. Donna was previously appointed by Governor Martinez as a Commissioner from 1988 to 1992, and she had a special appointment as a Commissioner by Governor Chiles.

Donna is a remarkable person who has a strong commitment to champion PERC. Aside from her quasi-judicial duties as a Commissioner, on numerous occasions she strived to maintain PERC’s budget in difficult economic times to insure that PERC would maintain its superior performance record. She also performed the most comprehensive reorganization of PERC since the 1980s in order to streamline operations to face the challenge of a diminishing staff and budget. PERC bids Donna a fond farewell, but we know that her presence will always be felt.

As Chair Poole departed, PERC welcomed Stephanie Williams Ray as its new Chair. Chair Ray worked at the Florida State University College of Law for approximately nine years prior to her appointment to PERC. During most of her tenure at the law school, she served as the Associate Dean for Administra-

tion, which provided her with a broad range of experience managing employees, implementing budget and financial controls, evaluating legal, accreditation and management issues, and providing leadership and direction in the areas of communications, information technology and facilities. Before joining the administrative faculty at the law school, she was an associate attorney with the Tallahassee law firm of Ausley & McMullen where she handled a variety of complex civil, administrative and corporate legal matters.

In her thirteen years as an attorney, Chair Ray has worked diligently to serve and advance the principles and ideals of the legal profession. As a young attorney, she was recognized as Florida’s Most Productive Young Lawyer by the Young Lawyers Division of The Florida Bar. She has served as President of the Young Lawyers Section of the Tallahassee Bar Association and as a member of the Board of Directors for the Tallahassee Bar Association, the Tallahassee Women Lawyers, and the Legal Aid Foundation. She has been appointed twice to the Second Circuit Judicial Nominating Commission and served a term as Chair of the Commission. She is a member of the Labor and Employment Law Section and Business Law Section of The

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Florida Bar, and she has been privileged to serve on a number of committees of The Florida Bar, including the Committee on Professionalism, the Judicial Nominating Procedures Committee, the Continuing Legal Education Committee, and the Student Education and Admission to the Bar Committee (SEABC). She is past chair of SEABC and current vice chair of the Committee on Professionalism. She also currently serves as membership chair of the William H. Stafford American Inn of Court.

Chair Ray is an honors graduate from Vanderbilt University and the Florida State University College of Law, where she served on the Law Review.

Message from the Chair:

I am honored to accept the Governor's appointment to Chair the Public Employees Relations Commission. I come to this position with great humility and respect for the role the Commission plays to help resolve disputes between public employees and their employers and to maintain harmonious labor relations in the state. I am also grateful for the opportunity to work alongside a team of exceptionally bright, talented and experienced Commissioners, hearing officers and staff.

I would like to give special thanks to outgoing Chair, Donna Poole, and to my fellow Commissioners, Charles Kossuth and Jessica Varn. They have each been extremely helpful to me during my transition into the position. I am also delighted to report that Steve Meck has agreed to continue in his role as General Counsel. Steve has been with PERC for 28 years, and he has a deep and sophisticated knowledge of Labor and Employment Law. I am very proud of the team of professionals in place at PERC.

I look forward to utilizing my training and experience as an attorney and manager to make a positive impact as chief executive and administrative officer of the Commission. I believe that my demonstrated commitment to the rule of law and the ideals of the legal profession ensure that I will act as an independent, objective and impartial arbiter of the cases that come before the Commission.

PERC NEWS

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Shift Commanders' Role in Policymaking Garners Managerial Designation

By Hearing Officer Jerry W. Chatham.

Local 4350, Clermont Professional Fire Fighters, IAFF v. City of Clermont, Case Nos. UC-2007-044, UC-2008-011, and RC-2008-008 (Fla. PERC July 15, 2008). A local union of firefighters petitioned to represent a supervisory bargaining unit of fire captains (shift commanders) employed by the City of Clermont. It also petitioned, as an alternative, to amend an existing supervisory bargaining unit to include those employees, and a second petition to amend the rank-and-file unit to include positions whose titles had been changed. The City opposed any union representation of these officers on the ground that they were managerial and not eligible to participate in collective bargaining.

After hearing evidence, the hearing officer rejected all of the City's arguments in favor of a managerial designation for all but one of the shift commanders. He also clarified the rank-and-file unit

to reflect the position title changes and recommended that the chief, two assistant chiefs, and two captains be designated managerial. He further decided that it was appropriate to decide whether to amend the existing supervisory unit and to dismiss the representation petition as unnecessary.

The Commission disagreed with the latter recommendation because the title changes had eliminated all the positions in the existing supervisory unit. Thus, the Commission revoked the certification for that unit. It agreed with the recommendation to amend the rank-and-file unit to include the title changes. It then, pursuant to the representation petition, turned to the managerial dispute over the shift commanders.

The Commission accepted the hearing officer's conclusions, including the conclusion that the shift commanders' participation in

monthly staff meetings at which policy was discussed and recommendations made to the chief, justified a managerial designation. The majority noted that the statutory language does not require a significant role in making policy. Rather, it requires that an employee assists in formulating policies. The majority noted that it "is compelled to apply the statute as written...." Commissioner Kossuth dissented, arguing that the Commission's broad interpretation of the statutory provision raises constitutional implications and is inconsistent with prior Commission decisions narrowly construing the managerial exclusion from collective bargaining. Kossuth noted that the City now has eight fire department managers, no supervisors, and forty fire and rescue personnel. The case has been appealed to the First District Court of Appeal.

The Times They Are A-Changin'¹

On January 1, 2009, several of the time periods applicable to career service appeals will change due to the 2008 amendments to Section 110.227, Florida Statutes. Two changes of particular import alter the time for filing an appeal and the time for filing exceptions. In addition, as of January 1, the Commission will be vested with jurisdiction to hear appeals of the involuntary transfers of career service employees in excess of fifty highway miles.

Filing Deadline - The time within which an employee must file his career service appeal is extended from fourteen to twenty-one days. The new filing period will apply to employees who *receive* notice of an appealable disciplinary action on or after January 1. Agencies should amend the notice of appeal rights in disciplinary letters to reflect this new filing period.

Exceptions - The parties will be allowed fifteen calendar days, rather than the current five-workday period, in which to file exceptions to hearing officer recommended orders issued on or after January 1.

¹Bob Dylan, on *The Times They Are A-Changin'* (Columbia Records 1964).

Commission Not Bound by Agency Zero-Tolerance Policy

By Hearing Officer William D. Salmon.

Crystal Carlisle is a correctional officer sergeant with the Department of Corrections (DOC). Carlisle and James Ford dated for a couple of years, but she broke up with him in 2001 or 2002. In January 2006, five of Ford's siblings and two of his cousins were killed in a car accident. Ford's grandfather died that same day of a heart attack after learning of the accident. Like many citizens in the community, Carlisle offered her support and condolences to Ford and his family. Since the accident, Carlisle has called Ford, particularly around the holidays or the anniversary of the accident, to see how he and his family are doing.

In February 2006, Carlisle went on leave from her DOC position to begin active duty with the U.S. Air Force. Also in February 2006, DOC published a document which informed employees that it would not tolerate any personal or social relationships between employees and inmates or offenders under DOC supervision or the families of such persons.

From April 2007 through April 2008, Ford was on community control supervision with DOC. In August or September 2007, Ford told Carlisle that he was on community control. Between September 2007 and January 2008, Carlisle visited with Ford on one occasion, visited Ford's mother on one occasion (while Ford was present) and called Ford on the telephone once around the anniversary of the car accident. DOC dismissed Carlisle for violating several Department of Management Services and DOC rules, and Carlisle appealed to the Commission.

Notwithstanding that Carlisle was on military leave, the hearing officer found that Carlisle was a DOC employee during the time that Ford was on community control. Consequently, Carlisle was obligated to maintain a professional relationship with individuals under DOC supervision. The hearing officer further found that Carlisle had a personal

relationship with Ford and his family after she learned that he was on community control. Thus, the hearing officer found cause for discipline.

Because Carlisle was a correctional officer, the hearing officer considered whether the disciplinary penalty should be mitigated and concluded that Carlisle's tenure and employment record supported mitigation. The hearing officer considered a correctional officer sergeant having a personal relationship with an individual under DOC supervision as serious misconduct. He also acknowledged the importance of DOC seeking to avoid the harm that can occur by officers having personal relationships with individuals under DOC supervision. However, the hearing officer also weighed the fact that this is not a typical officer/offender personal relationship case. Carlisle and Ford were long time friends. Over the years, their contact had been limited and had centered on Carlisle being concerned for Ford's family after the 2006 car accident.

In addition, because Carlisle was on military leave during the time Ford was on community control, she had little or no ability to provide Ford with an improper benefit or jeopardize the safety and security of the Agency, its institutions, or its employees. Thus, the hearing officer concluded that Carlisle's infrequent contact with Ford during the time he was on community control was insufficient to warrant dismissal. He recommended reducing the dismissal to a ten-day suspension. DOC excepted to the hearing officer reducing Carlisle's dismissal to a ten-day suspension.

The Commission agreed that DOC had cause for discipline and with DOC's concern about the seriousness of an employee knowingly and willfully maintaining a personal relationship with an individual who is under DOC supervision. The Commission also acknowledged DOC's zero-tolerance

policy toward unprofessional relationships between staff and offenders. However, the legislature has authorized the Commission to review an agency's disciplinary penalty and reduce the penalty upon "specific written findings of mitigation." Thus, the Commission concluded that it was not bound by DOC's zero-tolerance policy.

The Commission recognized the unique facts and circumstances of this case. Carlisle had not been working at the Agency for nearly two years because she had been on military leave, and she had little or no ability to provide Ford with an improper benefit or jeopardize the safety and security of DOC, its institutions, or its employees. The infrequent contact between Carlisle and Ford was taken into consideration. However, the Commission disagreed with the length of the hearing officer's recommended disciplinary penalty. The Commission did not believe that a ten-day suspension adequately conveyed to employees the seriousness of engaging in a personal relationship with an individual under the Agency's supervision. Thus, the Commission exercised its discretion and mitigated Carlisle's dismissal to a twenty-one day suspension.



Career Service Cases

***LeFiles v. Department of Corrections*, 23 FCSR 121 (2008).**

Five-day suspension of a correctional officer for excessive absenteeism was upheld. Mitigation was not appropriate.

***LaMont v. Department of Highway Safety and Motor Vehicles*, 23 FCSR 124 (2008).**

Dismissal of a law enforcement officer and district commander for unbecoming conduct in a traffic stop was reversed.

***Griffin v. Department of Corrections*, 23 FCSR 128 (2008).**

Demotion of a correctional officer captain for negligence and violation of agency rules in applying chemical agent to an inmate was upheld. Mitigation was not appropriate.

***Lloyd v. Department of Highway Safety and Motor Vehicles*, 23 FCSR 131 (2008).**

Dismissal of a trooper for unbecoming conduct (sexually provocative internet postings) was upheld.

***Werner v. Department of Corrections*, 23 FCSR 135 (2008).**

Dismissal of a vocational instructor for absence/call-in violations was upheld.

***Franklin v. Department of Management Services*, 23 FCSR 135 (2008).**

A dismissal was upheld following a lengthy stay to allow an ancillary DOAH case to proceed.

***Smith v. Florida Parole Commission*, 23 FCSR 139 (2008).**

Dismissal of parole employee for participating in a verbal disturbance in the office during parole hearings was upheld.

***Pendleton v. Circuit Court of Polk County*, 23 FCSR 142a (2008).**

A career service appeal filed by a court employee was dismissed for lack of jurisdiction.

***Navarr v. Department of Corrections*, 23 FCSR 142b (2008).**

A career service appeal was dismissed as settled by private agreement.

***Fischer v. Washington County Board of County Commissioners*, 23 FCSR 143a (2008).**

A career service appeal filed by a county employee was dismissed for lack of jurisdiction.

***Mortimer v. Department of Corrections*, 23 FCSR 143b (2008).**

An appeal was dismissed because the appealing employee was promoted out of the career service, then demoted back into the career service, but failed to complete probation in her new position before being terminated.

***Madsen v. Department of Management Services*, 23 FCSR 145 (2008).**

Dismissal of a maintenance mechanic for poor performance

and violation of its customer service policy was reversed.

***Hamilton v. Department of Corrections*, 23 FCSR 149 (2008).**

Demotion of a sergeant for unbecoming verbal conduct at work, tardiness, and insubordination was upheld. Mitigation of the demotion to a lesser penalty was not justified despite the employee's long tenure.

***Travis v. Department of Children and Families*, 23 FCSR 152 (2008).**

Dismissal of a unit treatment specialist for physical inability to perform her job was upheld.

***Robinson v. Department of Children and Families*, 23 FCSR 153 (2008).**

An employee was awarded back pay.

***Givens v. Department of Corrections*, 23 FCSR 154 (2008); *Weigand v. Department of Corrections*, 23 FCSR 155 (2008).**

Appeals were dismissed because the employees failed to appear at their hearings.

***Anderson v. Department of Highway Safety and Motor Vehicles*, 23 FCSR 156 (2008).**

Suspension of a driver's license examiner for biting a co-worker was upheld.

***Taylor v. Department of Corrections*, 23 FCSR 158 (2008).**

Suspension of a correctional officer for various policy violations was upheld. The

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Commission rejected assertions that understaffing and a chronic medical condition affected the officer's actions and justified reduction of the discipline.

Fields v. Department of Corrections, 23 FCSR 161 (2008).

Five-day suspension of a correctional officer was mitigated to two days. Although he violated safe firearm handling procedures, the officer's conduct was less serious than alleged, and he had a long, good record.

Johnson v. Florida Department of Law Enforcement, 23 FCSR 164 (2008).

Dismissal of a special agent for sexual harassment of several co-workers was upheld. Mitigation was not warranted because of the agent's past discipline for sexual misconduct.

McCloud v. Department of Corrections, 23 FCSR 173 (2008).

Dismissal of a correctional officer sergeant for bringing an unsecured loaded gun, an open bottle of liquor, and undelivered inmate letters on prison grounds in his car was upheld. Finding the behavior to be especially serious, the Commission rejected his request for mitigation of the dismissal.

Smith v. Department of Corrections, Case No. CS-2008-166 (Sept. 3, 2008).

Dismissal of a correctional officer sergeant for false statements made during an investigation was upheld. Mitigation was inappropriate because "lying is extremely serious" for a law enforcement officer.

Folston v. Agency for Workforce Innovation, Case No. CS-2008-194 (Sept. 8, 2008).

A career service employee's representative appealed a disciplinary action on her behalf, but the employee later withdrew her appeal before it was scheduled for a hearing. The case was closed despite an exception from the agency that the employee had elected her remedy and had to complete the career service appeal process.

Carlisle v. Department of Corrections, Case No. CS-2008-145 (Sept. 16, 2008).

The Commission dismissed a motion to clarify the portion of a final order mitigating an employee's dismissal to a twenty-one day suspension. However, it noted that all time periods are measured by calendar days unless work days are expressly stated.

Mitchell v. Department of Corrections, Case No. CS-2008-187 (Sept. 16, 2008).

An employee's appeal of her placement on compulsory disability leave without pay was dismissed after the Commission concluded that the agency had complied with the pertinent administrative rule.

Charles v. Department of Corrections, Case No. CS-2008-138 (Sept. 25, 2008).

A wellness education specialist appealed his dismissal, contending that a settlement of a prior suspension precluded discipline for events that preceded the settlement. The hearing officer reviewed the agreement and rejected the employee's contention. However, the hearing officer declined to credit the agency's witnesses on the issue of cause for discipline, especially after the agency's main witness admitted he had been told to

"get" the employee. The Commission accepted the hearing officer's recommendations and vacated the dismissal.

Evans v. Department of Corrections, Case No. CS-2008-199 (Sept. 30, 2008).

Dismissal of a correctional officer for violating agency rules by accepting contraband (tamales) from an inmate's sister, bringing that contraband into the institution, and giving some of contraband to the inmate was upheld. Mitigation was not appropriate because the seriousness of the offense outweighed an unblemished fourteen-year record.

Veteran's Preference Case

Isabell v. City of Boca Raton, Case No. VP-2008-005 (Sept. 16, 2008).

An employer did not violate the veteran's preference law by failing to hire an applicant for a position as a theatre activity monitor position where the non-veteran hired was more qualified than the veteran.

Unfair Labor Practice Cases

Johnson v. Transport Workers Union of America, Local 291, AFL-CIO, 34 FPER ¶ 145 (2008).

The Commission affirmed the General Counsel's summary dismissal of a charge alleging that the charging party had been improperly removed as a shop steward. The Commission agreed with the dismissal because the allegations of the charge were beyond the six-month limitations period for the filing of an unfair labor practice charge and because the substance of the charge related to an internal union matter that was not within the Commission's unfair labor practice jurisdiction.

Hodgkinson v. City of Atlantic Beach, 34 FPER ¶ 150 (2008).

The Commission remanded a case to the General Counsel upon determining that the appeal of his summary dismissal of an unfair labor practice charge, which included new supportive documents and new allegations, was actually an amended charge rather than an appeal. The General Counsel was directed to perform a sufficiency review of the amended charge.

City of Winter Haven v. Federation of Public Employees, a Division of the National Federation of Public and Private Employees, AFL-CIO, 34 FPER ¶ 154 (2008).

The union did not commit an unfair labor practice by requesting arbitration of an employee's dismissal when the employer disputed whether the employee was in the bargaining

unit. The Commission disagreed with the employer that the matter was solely appropriate for the Commission's determination in a unit clarification proceeding because there was no dispute as to whether a classification belonged in the bargaining unit, but only whether the employee was within that classification, a matter that could properly be decided by an arbitrator. The Commission determined that neither party was entitled to an award of attorney's fees and costs, especially in the case of the prevailing union because the appropriate forum for determining an employee's status under a collective bargaining agreement had not been previously determined.

United Faculty of Florida v. Florida State University Board of Trustees, 34 FPER ¶ 159 (2008).

The employer did not commit an unfair labor practice by awarding administrative discretionary salary increases. The provision allowing for such increases survived the expiration of the parties' collective bargaining agreement and represented the status quo pending the resolution of negotiations for a new agreement. The employer was awarded attorney's fees and costs as the prevailing respondent because prior Commission case law was clearly dispositive of the issue and, therefore, the union knew or should have known that it would not prevail.

Professional Law Enforcement Association of Miami-Dade County v. Miami-Dade County Board of County Commissioners v. Dade County Police Benevolent Association, Case No. CA-2008-019 (Aug. 18, 2008).

The employer violated a non-union member's right to choose a representative of a non-certified union in a grievance when the certified union refused to represent the employee because the employee is not a member of the certified union. The Commission denied the employer's exceptions to an award of attorney's fees and costs, holding that the Commission has held for over twenty years that rival unions have the right to represent employees in these circumstances.

Arena v. School District of Collier County, Florida, Case No. CA-2008-050 (Aug. 19, 2008).

Commission affirmed the General Counsel's summary dismissal of charge alleging that the charging party had been unlawfully discriminated against and that his employer had unlawfully refused to process his grievance. The charging party did not dispute the General Counsel's basis for dismissing the discrimination claim, and there was no showing that the charging party was unable to fully utilize the grievance procedure.

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Williams v. School District of Broward County and Broward Teachers Union 1975, Florida Education Association (FEA), American Federation of Teachers (AFT), AFL-CIO, Case Nos. CA-2008-063 and CB-2008-024 (Aug. 2008).

The Commission affirmed the General Counsel's summary dismissal of charges consisting of 334 single-spaced typewritten pages because the charges do not contain a "clear and concise statement" of the facts constituting alleged unfair labor practices as required by both statute and rule.

Nassau County Board of County Commissioners v. Nassau County Fire Rescue Professionals, Local 3101, IAFF, Case No. SM-2008-019 (Aug. 28, 2008).

A motion to revoke the appointment of a special magistrate and direct ratification of a collective bargaining agreement was denied where the Commission was unable to conclude that there is an agreement between the parties.

Wimberly v. Miami-Dade County, Florida Employees Local Number 199 of the American Federation of State, County and Municipal Employees, AFL-CIO, Case No. CB-2008-025 (Sept. 3, 2008).

Commission affirmed the General Counsel's summary dismissal of a charge alleging that the charging party's grievance was not processed, in violation of the duty of fair representation. In addition to the facts considered by the General Counsel, the Commission considered the charging party's evidence that her initial dispute arose in the context of a similar unfair labor practice charge filed and summarily dismissed in 2005. The Commission agreed with the General Counsel that the charge was both untimely and without merit.

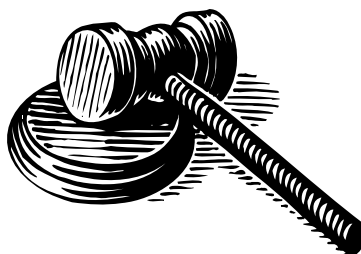
All City of Hialeah Gardens, Florida Police Officers v. City of Hialeah Gardens, Case No. CA-2008-024 (Sept. 16, 2008).

The employer committed an unfair labor practice by threatening disciplinary action against bargaining unit employees for voting against the ratification of a collective bargaining agreement. The Commission rejected

the employer's argument that the charging party did not have standing because the name of the charging party is a shorthand way of referring to bargaining unit employees whose substantial interests were affected by the threats.

Polk Education Association, Inc. v. School District of Polk County, Case No. CA-2008-046 (Sept. 17, 2008).

The employer did not commit an unfair labor practice by implementing a teaching workday schedule change because adequate notice of the intention to make the change and a reasonable opportunity to bargain over the impact of the management right were given. Neither party was entitled to an award of attorney's fees and costs.



Representation Cases

International Union of Painters and Allied Trades, AFL-CIO, Local Union 2301 v. City of Cape Coral, 34 FPER ¶ 141 (2008).

Representation-certification petition seeking to represent a unit of nonsupervisory professional employees was granted, and a secret ballot election was ordered.

Florida Police Benevolent Association, Inc. v. City of Ocoee v. Teamsters Local Union No. 385, 34 FPER ¶ 142 (2008).

Consent election agreement seeking to represent a unit of rank-and-file police officers was approved, and a secret ballot election was ordered.

Headley, Jr., Miami Lodge #20, Fraternal Order of Police, Inc. v. City of Miami, 34 FPER ¶ 146 (2008).

Unit clarification petition seeking to clarify a unit of police officers to include a new classification of detention officer was granted.

Dade County Police Benevolent Association, Inc. v. City of Pinecrest v. International Union of Police Associations, Inc., 34 FPER ¶ 147 (2008).

Representation-certification petition seeking to represent a unit of police sergeants was dismissed because it was filed within a twelve month period after a certification election was held and the certification issued, either of which would have statutorily prevent an election and are known, respectively, as an election bar and certification bar. The petition was dismissed without prejudice to refile a

new petition after the twelve-month periods expire.

Local 3080, Metro-Broward Professional Fire Fighters, International Association of Fire Fighters v. City of Dania Beach, 34 FPER ¶ 149 (2008).

Unit clarification petition seeking to clarify a unit of fire suppression personnel to include a new classification of fire inspector was granted.

In re Petition of the Fort Myers City Employees Union to Amend Certification No. 614, 34 FPER ¶ 151 (2008).

Petition to amend certification was dismissed because there was no showing that the proposed change of representative was accomplished through proper notice of a vote to affected members of the bargaining unit, and neither the certified bargaining agent nor the proposed new bargaining agent was registered. Registration is required by statute for certification.

Florida Police Benevolent Association, Inc. v. Sheriff of Alachua County, 34 FPER ¶ 155 (2008).

Representation-certification petition seeking to represent a unit of nonsupervisory, certified detention officers was granted, and a secret ballot election was ordered.

Dade County Police Benevolent Association, Inc. v. City of North Miami v. International Union of Police Associations, AFL-CIO, 34 FPER ¶ 157 (2008).

Representation-certification petition seeking to represent a

unit of nonsupervisory, police officers currently represented by another union was granted, and a secret ballot election was ordered.

School District of Pinellas County, Florida v. Pinellas Educational Support Professionals Association, 34 FPER ¶ 158 (2008).

Unit clarification petition seeking to clarify a unit of non-instructional employees was granted as recommended by the hearing officer. Although the hearing officer approved the parties' agreement in large part, she concluded that secretaries to school principals were confidential employees and would not be included in the unit regardless of the parties' stipulation otherwise. The Commission affirmed the recommendation and declined the hearing officer's recommendation to revisit the question of the confidential status of secretaries to school principals, given the conclusive presumption of confidential status determined by the Florida district courts of appeal to exist without regard to the actual duties of the incumbents.

City of DeFuniak Springs v. Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO, 34 FPER ¶ 160 (2008).

Unit clarification petition seeking to clarify a unit of non-certified, non-professional, non-supervisory city employees was granted in part to include a retitled classification that remained appropriately included in the unit. However, the

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petition was denied as to that part seeking to exclude classifications never included in the unit because the Commission will not consider a unit clarification petition that merely seeks to exclude classifications never included.

Florida Police Benevolent Association, Inc. v. City of St. Cloud, 34 FPER ¶ 161 (2008).

Consent election agreement seeking to represent a unit of rank-and-file police officers was approved, and a secret ballot election was ordered.

Local 1991 of the Service Employees International Union, AFL-CIO, CLC v. Public Health Trust/Jackson Health System, 34 FPER ¶ 164 (2008).

Unit clarification petition seeking to clarify a unit of professional employees to include a newly created classification was granted.

International Union of Painters and Allied Trades, AFL-CIO, Local Union 2301 v. City of Cape Coral, 34 FPER ¶ 167 (2008).

Unit clarification petition seeking to clarify a unit of city operational services employees to include three new classifications was granted.

Dade County, Florida School Board Employees Local 1184 of the American Federation of State, County and Municipal Employees, AFL-CIO v. School District of Miami-Dade County, Florida, 34 FPER ¶ 168 (2008).

Unit clarification case that was remanded to the hearing officer for further proceedings was withdrawn by the petitioner after the issuance of a supplemental recommended order.

The hearing officer had tentatively granted a motion to intervene in the unit clarification case filed by an employee organization that had filed a related representation-certification case that had been consolidated with the unit clarification case and then later dismissed. That organization filed exceptions to the supplemental recommended order and an objection to the granting of the withdrawal of the petition. The Commission held that the employee organization's interest had been extinguished in the Commission's dismissal of the representation petition. Accordingly, the Commission denied intervenor status, dismissed the exceptions, and granted the petitioner's withdrawal of the unit clarification case.

City of Avon Park v. Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO, Case No. UC-2008-024 (Aug. 1, 2008).

Unit clarification petition was dismissed because it was both incomplete and sought to exclude a classification that was never included in the unit. The Commission will not consider a unit clarification petition that merely seeks to exclude classifications never included.

Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Marion County v. Florida Police Benevolent Association, Inc., Case No. RC-2008-019 (Aug. 8, 2008).

Consent election agreement seeking to represent a unit of rank-and-file law enforcement officers was approved, and a secret ballot election was ordered.

School-Based Computer Technicians Committee v. School District of Miami-Dade County, Florida, Case No. RC-2008-030 (Aug. 8, 2008).

Representation-certification petition seeking to represent a unit of computer technicians and exclude all other employees was dismissed because a similar petition had previously been dismissed for over-fragmentation. The dismissal was without prejudice to the filing of a new petition showing exceptional circumstances, a unique community of interest, or a conflict of interest justifying the fragmentation.

Brooksville Professional Fire Fighters Local 4661, International Association of Firefighters v. City of Brooksville, Case No. RC-2008-018 (Aug. 12, 2008).

Consent election agreement seeking to represent a unit of rank-and-file fire suppression employees was approved, and a secret ballot election was ordered.

Local 4420, Pasco County Professional Firefighters, International Association of Firefighters v. Pasco County Board of County Commissioners, Case No. RC-2008-021 (Aug. 12, 2008).

Consent election agreement seeking to represent a unit of supervisory emergency services employees was approved, and a secret ballot election was ordered.

School District of Monroe County, Florida v. United Teachers of Monroe, Local 3709, FEA, AFT, AFL-CIO, Case No. UC-2008-026 (Aug. 18, 2008).

Unit clarification petition seeking to clarify a unit of school teachers, librarians, counselors, and similar employees to include a new counselor classification was granted.

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In re Petition of Tampa Police Benevolent Association, Inc., to Amend Certification 251, Case No. AC-2008-013 (Aug. 19, 2008).

Amendment to certification petition seeking to amend a certification by substituting petitioner as the certified bargaining representative for a rank-and-file unit of law enforcement officers was granted.

In re Petition of School-Based Computer Technicians Committee, Case No. MS-2008-002 (Aug. 26, 2008).

Miscellaneous petition seeking Commission intervention concerning alleged improperly collective bargaining negotiations for unrepresented employees was dismissed as more properly considered within the context of an unfair labor practice proceeding.

AFSCME Local 1363 of the American Federation of State, County and Municipal Employees, AFL-CIO v. Miami-Dade County and Public Health Trust of Miami-Dade County, Case No. UC-2008-027 (Sept. 3, 2008).

Unit clarification petition was dismissed as unnecessary because the parties were in agreement to add classifications to a bargaining unit defined generically.

Moore v. Local Union 1395, Amalgamated Transit Workers Union, AFL-CIO v. Escambia County Board of County Commissioners, Case No. RD-2008-011 (Sept. 4, 2008).

Petition to revoke the certification of the incumbent union as the bargaining agent for a unit of non-professional, non-supervisory employees was granted, and a secret

ballot election was ordered. The Commission rejected an argument that there was a contract bar where there was no evidence that the collective bargaining agreement in question had actually been ratified.

Federation of Public Employees, a division of the National Federation of Public and Private Employees, AFL-CIO v. City of Miami Gardens, Case No. RC-2008-017 (Sept. 10, 2008).

Representation-certification petition seeking to represent a unit of nonsupervisory non-professional employees was granted, and a secret ballot election was ordered. The Commission rejected the city's argument that only employees of the city manager should be included and not the three employees of the city clerk. Although the manager and the clerk independently hire and determine conditions of employment, their employees are employed by the same public employer and have the same legislative body. To exclude the clerk's employees from the unit would result in overfragmentation and the creation of a fringe group.

Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. Indian River County Board of County Commissioners, Case No. UC-2008-025 (Sept. 15, 2008).

Unit clarification petition seeking to clarify a unit of nonsupervisory operational services employees to include a new lifeguard II classification was granted.

In re Petition of Fort Myers City Employees Union to Amend Certification 614, Case No. AC-2008-014 (Sept. 17, 2008).

Amendment to certification petition seeking to amend a certification by substituting petitioner as the

certified bargaining representative for a rank-and-file unit of non-professional employees was granted.

Moore v. Local Union 1395, Amalgamated Transit Workers Union, AFL-CIO v. Escambia County Board of County Commissioners, Case No. EL-2008-024 (Relates to RD-2008-011) (Sept. 17, 2008).

Motion to stay an election because of an unfair labor practice charge was denied because the standard for granting such a request was not met.

Dade County Police Benevolent Association, Inc. v. City of Miami Gardens and Florida State Lodge, Fraternal Order of Police, Inc. v. City of Miami Gardens, , Case Nos. RC-2008-022 and RC-2008-025 (Sept. 23, 2008).

Consent election agreement seeking to represent a unit of rank-and-file police officers was approved, and a secret ballot election was ordered.

Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees v. City of Riviera Beach, Case No. RC-2008-013 (Sept. 25, 2008).

Representation-certification petition seeking to represent a unit of nonsupervisory non-professional employees was remanded to the hearing officer because certain managerial designations may not be necessary. It is well-established that the Commission will not designate an employee as either managerial or confidential when the employee may be excluded on other grounds. The hearing officer was directed to consider whether the employees that she had concluded were managerial should instead be excluded as professionals.

Elections Verified and Certifications Issued

Bush v. Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. St. Lucie West Services District, Case No. EL-2008-014; Election 7/17 – 8/8/2008; Union lost.

Williams v. Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. St. Lucie West Services District, Case No. EL-2008-015; Election 7/17 – 8/8/08; Union lost.

International Union of Painters and Allied Trades, AFL-CIO, Local Union 2301 v. City of Cape Coral, Case No. EL-2008-016; Election 7/31 – 8/21/08; Union won; Certification 1673.

Florida Police Benevolent Association, Inc. v. City of Ocoee v. Teamsters Local Union No. 385, Case No. EL-2008-017; Election 7/31 – 8/21/08; Florida PBA won; Certification 1674.

Dade County Police Benevolent Association, Inc. v. City of North Miami v. International Union of Police Associations, AFL-CIO, Case No. EL-2008-019; Election 8/27 – 8/28/08; IUPA won.

Florida Police Benevolent Association, Inc. v. City of St. Cloud, Case No. EL-2008-020; Election 8/21 – 9/10/08; Union won; Certification 1675.

Florida Police Benevolent Association, Inc. v. Sheriff of Alachua County, Case No. EL-2008-018; Election 8/21 – 9/10/08; Union lost.

Local 4420, Pasco County Professional Firefighters, International Association of Fire Fighters v. Pasco County Board of County Commissioners, Case No. EL-2008-023; Election 9/9 – 9/30/08; Union won; Certification 1676.

Brooksville Professional Fire Fighters, Local 4461, International Association of Fire Fighters v. City of Brooksville, Case No. EL-2008-022; Election 9/9 – 9/30/08; Union won.