PERC NEWS

Florida Public Employees Relations Commission

October 1—December 31, 2005

Commission Orders Rerun Election Based on Unlawful Pre-Election Conduct

By John Showalter, Hearing Officer.

In *International Association of EMT's and Paramedics, SEIU/NAGE, AFL-CIO v. Emergency Medical Services Alliance*, RC-2004-066 (April 12, 2005), the Commission defined a bargaining unit of EMTs and paramedics and directed that an election be conducted. On May 24 and 25, 2005, an on-site election was held, and the Association prevailed 65-52.

EMSA filed a post-election petition objecting to an advertisement for a scholarship drawing contained in an Association campaign newsletter. After receiving a response from the Association, the case was remanded to the hearing officer to resolve disputed issues of fact and to make a recommendation regarding the alleged unlawful pre-election conduct. After a hearing, the hearing officer concluded that the Association's advertisement for a scholarship lottery was not improper and that the Association should be certified as the exclusive bargaining agent.

The hearing officer found that two weeks before the election the Association mailed a newsletter to all eligible voters and also distributed it in the workplace. This newsletter was prepared specifically for the EMSA election, and its purpose was to inform the unit members of the benefits they would receive by voting for the Association as their exclusive bargaining agent. In the newsletter was an advertisement titled "WIN … a $500 scholarship from SEIU/NAGE." In the text of the ad, the employees were informed that SEIU/NAGE Local 5000 would award fifty $500 scholarships to members in five affiliated unions, including the Association, through a lottery drawing. This was the second year the scholarships had been awarded through a drawing, and there is no evidence the scholarship award was discussed by the Association in the informational meetings prior to the election or that employees were told the scholarship offer was contingent upon them voting for the Association or the Association prevailing in the election. However, the Association's constitution provides that an individual can not become a member of the Association unless the Association is first certified as the bargaining agent.

The Commission majority reversed the hearing officer and concluded that the advertisement for a scholarship drawing was improper. The Commission has held that the award of a prize through a raffle or lottery is improper if it is contingent upon an employee's vote or the outcome of the election. *See SEIU, Local 1991 v. Hillsborough County Hospital Authority*, 20 FPER ¶ 25059 (1994); *Local 218, Textile Processors, Service Trades, Healthcare, Professional and Technical Employees International Union v. Gadsden County*, 7 FPER ¶ 12472 (1981). The Commission majority reasoned that EMSA employees could not become Association members and participate in the scholarship lottery unless the Association first won the election. Thus, access to the benefits was dependent upon the outcome of the election; the Association had to win the election. While the scholarship lottery would occur regardless of the election results, EMSA employees were not able to participate in the drawing unless they first voted in favor of the Association. Therefore, since the employees' ability to participate in the scholarship lottery was contingent upon the Association prevailing in the election, the lottery was an improper inducement to persuade EMSA employees to vote for the Association.

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Whistle-Blower Jurisdiction over Employees of State Agency's Private Subcontractor

By William Salmon, Hearing Officer.

Gilbert Washington filed a whistle-blower complaint with the Florida Commission on Human Relations alleging that Youth Services International, Inc. d/b/a/ Hillsborough Academy and Correctional Services Corporation (Respondents) discharged him for reporting alleged prisoner abuse. FCHR determined that it had jurisdiction to investigate Washington's complaint because the Respondents contracted with the Department of Juvenile Justice. Thereafter, the FCHR dismissed Washington's complaint because there was insufficient evidence to demonstrate a violation.

Washington then filed a whistle-blower complaint with the Commission. The hearing officer concluded that the Commission did not have jurisdiction of Washington's complaint because working for a private employer that is a subcontractor to a state agency did not make Washington a state employee for the purpose of filing a whistle-blower complaint. The hearing officer also rejected FCHR's conclusion that Washington could appeal to the Commission.

The Commission agreed with the hearing officer that Florida has a whistle-blower provision protecting private sector employees such as Washington, who could have brought a civil action in any competent court of jurisdiction within 180 days of the alleged unlawful action pursuant to Section 112.3187(8)(c), Florida Statutes. *Washington v. Youth Services International, Inc. d/b/a Hillsborough Academy and Correctional Services Corporation*, 30 FPER ¶ 268 (2004). Washington appealed to the First District Court of Appeal, which affirmed the Commission's order without opinion. *Washington v. Youth Services International, Inc. d/b/a Hillsborough Academy and Correctional Services Corporation*, 911 So. 2d 106 (Fla. 1st DCA 2005), *review dismissed*, No. SC05-2016 (Fla. Nov. 7, 2005).

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General Counsel Speaks at State HR Conference

The Commission's General Counsel, Steve Meck, was invited to speak at a statewide conference of state human relations personnel on December 14-15, 2005. Steve discussed the Commission's jurisdiction over appeals filed by state career service employees and the impact that the "Service First" legislation in 2002 has had on employee appeal rights. He walked the attendees through a typical career service appeal proceeding and provided insight into what they could expect at hearing and afterward. Steve noted that state agencies have a very high success rate in defending against these appeals and that very few of the Commission's final orders in career service cases are appealed to the courts. Enthusiastic reviews of his presentation presage an invitation for an encore performance next year.

Service First, Twice More

By H. Lee Cohee, II, Hearing Officer.

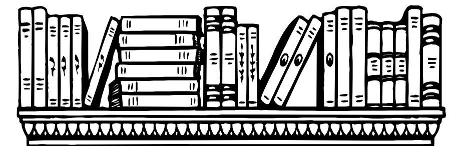
The First District Court of Appeal affirmed the Commission, without comment, in two unfair labor practice cases that had been stayed pending judicial resolution of AFSCME's challenge to the Service First legislation enacted in 2001. The first appeal concerned the State of Florida's unilateral adoption of new personnel rules after the repeal of its existing rules, pursuant to the Service First legislation. Affirming its General Counsel's summary dismissal of AFSCME's charge, the Commission ruled that AFSCME contractually waived its right to bargain over the rule changes, and the court affirmed.

AFSCME, Public Employees Council 79 v. State of Florida, 30 FPER ¶ 291 (2005), *per curiam aff'd*, Case No. 1D04-5064 (Fla. 1st DCA Nov. 17, 2005).

The second case also addressed action taken by the State pursuant to the Service First legislation; specifically, passage of a statutory provision that exempts managerial, confidential, and supervisory personnel from the State Career Service System. Relying upon this provision, the State unilaterally removed 7,000 employees from four statewide bargaining units of career service employees, for whom AFSCME is the certified bargaining agent, by designating them as either managerial, confidential, or supervisory employees. AFSCME contended that: (1) only the Commission can remove positions from established bargaining units after the filing of an appropriate petition; (2) the State refused to negotiate over either the decision or the impact of the decision to remove employees from AFSCME bargaining units; and (3) the State unlawfully interfered with AFSCME's existence by reducing the size of its bargaining units and terminating payroll dues deductions.

In affirming its General Counsel's summary dismissal of AFSCME's charge, the Commission decided that no remedy was feasible because to return the parties to the status quo that existed prior to 2001, would interrupt the orderly operations and functions of government and the stability of collective bargaining relationships since many of the 7,000 employees have been included in the Selected Exempt Service bargaining units. The Commission further ruled that the State lawfully acted in accordance with legislative intent which the Commission was without authority to review, and that employees whose positions were moved from the Career Service System into the Selected Exempt Service had recourse to challenge their reclassification by filing an appeal with the Division of Administrative Hearings. Finally, the Commission concluded that AFSCME had the ability to file a unit clarification petition to determine the unit placement of the disputed reclassifications at the time of the State's actions and chose not to use this remedy. Commissioner Kossuth dissented and stated that it is the Commission's role, not that of the State, to decide who is a managerial, confidential, or supervisory employee whose duties create an impermissible conflict with subordinates, and that AFSCME had no duty to file a petition seeking to protect the composition of its bargaining units.

AFSCME, Public Employees Council 79 v. State of Florida, 31 FPER ¶ 76 (2005), *per curiam* aff'd, Case No. 1D05-1446 (Fla. 1st DCA Dec. 14, 2005).



New Edition of *Scope of Bargaining* Available Now

A new edition of the Commission's *Scope of Bargaining* publication, containing summaries of cases addressing mandatory, permissive, and prohibited subjects of bargaining from 1970 to 2005 is now available. A table of cases and a subject matter index are included. *Scope of Bargaining* is available at a cost of $5.00 from the Office of the Clerk, PERC, 4050 Esplanade Way, Suite 150, Tallahassee, Florida 32399-0950.

School Board's Belief in Impending Teacher Sick Out Constitutes Exigent Circumstance Warranting Temporary Unilateral Change in the Sick Leave Policy

By William Salmon, Hearing Officer.

In early December 2003, the relationship between the Broward County School Board and the Broward Teachers Union was strained and labor negotiations became acrimonious. On December 10 and 11, the School Board issued memos unilaterally changing the personal reason and sick leave policy after learning of a possible district-wide "sick-out," which was to occur on December 12. The change involved directing each school principal to deny leave to that school's teachers if more than ten percent of them requested it. Only one school had more than ten percent of the teachers request either personal reason or sick leave for December 12. The principal at that school granted the leave requests of some teachers and denied the requests of others. After December 12, the School Board did not rely on these memos to deny leave to any teachers.

The hearing officer found that the change in the personal reason and sick leave policy was a temporary response to an exigent circumstance. She concluded that the School Board had not committed an unfair labor practice and recommended dismissing the charge. The hearing officer further recommended awarding attorney's fees to the School Board because the BTU knew or should have known that the School Board's action was due to exigent circumstances requiring immediate action.

The Commission agreed with the hearing officer that an unprecedented number of requests for leave in the context of an on-going labor dispute created an exigent circumstance that warranted the School Board implementing a temporary change in the personal reason and sick leave policy and that the School Board was entitled to reasonable attorney's fees and costs of litigation. *Broward Teachers Union v. School Board of Broward County, Florida*, 30 FPER ¶ 304 (2004). The BTU appealed, and the Fourth District Court of Appeal affirmed the Commission's final order without opinion. *Broward Teachers Union v. School Board of Broward County, Florida*, No. 1D04-4887 (Fla. 4th DCA Oct. 19, 2005).

Gator Faculty Finally Back to Business of Bargaining

By H. Lee Cohee, II, Hearing Officer

After several years of litigation over the composition of the faculty bargaining unit at the University of Florida after its Board of Trustees became the public employer, the unit placement issues raised and litigated in that representation case became moot upon the Commission's approval of the United Faculty of Florida's petition to amend its statewide certification of university faculty to reflect the UF Board of Trustees as the successor employer to the Florida Board of Education for UF faculty. In so deciding, the Commission relied heavily upon the First District Court of Appeal's opinion that the Florida State University Board of Trustees and the University of West Florida Board of Trustees were employers to the Board of Education. Even though the earlier-filed representation-certification petition was dismissed, the record developed in that case may be useful for determining the unit placement of classifications the United Faculty of Florida may seek to add to the unit through a future petition for clarification or modification.

In re Petition of United Faculty of Florida to Amend Certification No. 218 and United Faculty of Florida v. University of Florida Board of Trustees, 31 FPER ¶ 189 (2005).

Career Service Cases

***Watson v. Agency for Persons with Disabilities*, 20 FCSR 357 (2005).**

Dismissal of behavior program specialist supervisor for negligence for failing to properly monitor resident and check his motion alarm resulting in him leaving the facility affirmed.

***Brown v. Department of Corrections*, 20 FCSR 362 (2005).**

Employee's appeal dismissed where employee, since April 29, 2005, failed to file periodic status reports regarding the pendency of his application for disability retirement.

***Molina v. Department of Children and Families*, 20 FCSR 363 (2005).**

Dismissal of family services counselor for poor performance vacated where poor performance was due to excessive workload.

***King v. Department of Highway Safety and Motor Vehicles*, 20 FCSR 369 (2005).**

Dismissal of Florida Highway Patrol captain for conduct unbecoming a public employee, falsification of records, improper or unauthorized use of state property or equipment, and violation of statutory authority, rules, regulations, or policies affirmed. Employee flirted in a sexually graphic manner with a person he had stopped for a traffic violation and falsified documents to have her citation dismissed. Mitigation not warranted where seriousness of conduct outweighs twenty-two year employment record and spotless disciplinary history.

***Faircloth v. Department of Corrections*, 20 FCSR 373 (2005)**.

Back pay awarded to employee whose suspension was vacated.

***McMahon v. Department of Elder Affairs*, 20 FCSR 375 (2005).**

Appeal of dismissal of selected exempt service employee dismissed for lack of jurisdiction.

***Elkins v. Department of Revenue*, 20 FCSR 376 (2005).**

Dismissal of revenue specialist for absenteeism affirmed.

***Coleman v. Department of Juvenile Justice*, 20 FCSR 380a (2005); *Cassignol v. Department of Juvenile Justice*, Case No. CS-2005-262 (Dec. 7, 2005).**

Appeals filed more than fourteen days after receipt of final action letter dismissed as untimely filed.

***Benedett v. Department of Health*, 20 FCSR 380b (2005).**

Appeal of alleged forced resignation dismissed for lack of jurisdiction where employee voluntarily resigned is lieu of dismissal.

***Ibrahim v. Department of Children and Families*, 20 FCSR 383 (2005).**

Dismissal of child protective investigator for conduct unbecoming a public employee for being publicly discourteous, inconsiderate, and disrespectful to two guards performing security screening at juvenile justice center affirmed.

***Sager v. Department of Corrections*, Case No. CS-2005-241 (Nov. 1, 2005); *Bennett v. Department of Corrections*, Case No. CS-2005-246 (Nov. 2, 2005); *Holmes v. Agency for Persons with Disabilities*, Case No. CS-2005-248 (Dec. 1, 2005); *Todd v. Department of Children and Families*, Case No. CS-2005-276 (Dec. 13, 2005).**

Appeals of employees dismissed where employees failed to appear at hearing.

***Matijasevic v. Department of Corrections*, Case No. CS-2005-235 (Nov. 2, 2005).**

Dismissal of correctional officer sergeant for conduct unbecoming a public employee, among other charges, for allegedly spraying water on his elderly neighbor with a garden hose, violating a temporary injunction order, and resisting arrest vacated where neighbor's allegations were false, arresting officers used excessive force, and criminal case was dismissed.

***Santiago v. Department of Corrections*, Case No. CS-2005-157 (Nov. 8, 2005).**

Ten-day suspension of correctional probation officer for negligence in failing to timely submit violation of probation reports and for willful violation of directives and agency's rules for reporting tardiness affirmed. Mitigation not warranted.

***White v. Department of Children and Families*, Case No. BP-2005-018 (Relates to CS-2005-158) (Nov. 16, 2005).**

Back pay awarded to employee whose dismissal was vacated. Request for attorney's fees as a sanction against the agency for alleged delay in paying back pay denied where delay was caused by employee's failure to submit back pay proposal and the agency was waiting for the Commission's final order before making payment. Further, employee failed to serve motion for fees on agency fifteen days prior to filing motion with Commission, as required by Section 57.105(4), Florida Statutes.

***Gallon v. Department of Environmental Protection*, Case No. CS-2005-247 (Nov. 18, 2005).**

Dismissal of accountant for inability to perform duties due to asthma affirmed where the agency made significant efforts to accommodate employee's impairment and employee failed to

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identify further accommodation that would enable her to perform duties.

***Pittman v. Department of Corrections*, Case No. CS-2005-251 (Nov. 29, 2005).**

Ten-day suspension of correctional officer for negligence and insubordination for improperly restraining an inmate and failing to explain why the inmate was improperly restrained in his incident report affirmed. Mitigation not warranted due to seriousness of conduct and twenty-two year employment record riddled with disciplinary actions.

***Long v. Department of Corrections*, Case No. CS-2005-253 (Nov. 29, 2005).**

Dismissal of correctional officer for failing to conduct an inmate count, calling in phantom count, and refusing to filed an incident report affirmed. Mitigation not warranted due to seriousness of conduct and fourteen-year employment record riddled with disciplinary actions.

***King v. Department of Juvenile Justice*, Case No. CC-2005-203 (Nov. 30, 2005).**

Dismissal of registered nurse specialist for violating rules regarding kissing juveniles and making socially inappropriate statements and for violating infectious and communicable disease medical protocol affirmed. Mitigation not warranted due to seriousness of conduct.

***Greenlee v. Department of Juvenile Justice*, Case No. CS-2005-259 (Dec. 2, 2005).**

Dismissal of administrative secretary for alleged inefficiency or failure to perform assigned duties where employee ceased all job duties except answering the phone due to alleged wrist injuries and surgeries affirmed. Employee failed to prove that her impairment qualified as a disability for purposes of the ADA and the agency, nevertheless, made reasonable attempts to accommodate the employee's medical condition.

***Cortez v. Department of Corrections*, Case No. CS-2005-274 (Dec. 2, 2005).**

Appeal of dismissal of probationary employee dismissed for lack of jurisdiction.

***Goodwin v. Department of State*, Case No. CS-2005-260 (Dec. 13, 2005).**

Appeal dismissed as abandoned where employee made a statement and then left the hearing room.

***Vinson v. Department of Corrections*, Case No. CS-2005-268 (Dec. 13, 2005).**

Appeal dismissed where agency filed a notice of intent to rescind five-day suspension.

***West v. Department of Juvenile Justice*, Case No. CS-2005-223 (Dec. 19, 2005).**

Dismissal of senior juvenile detention officer for negligence and violation of law or agency rules for improper physical contact with a juvenile in violation of protective action response policy affirmed.

***Mack v. Department of Health*, Case No. CS-2005-212 (Dec. 21, 2005).**

Dismissal of registered nurse for negligence for improperly administering immunizations to a 28-day old infant affirmed. Mitigation not warranted due to seriousness of medical error.

***Palmer v. Department of Juvenile Justice*, Case No. CS-2005-280 (Dec. 27, 2005).**

Dismissal of senior juvenile detention officer for violation of rules and unbecoming conduct for making a vulgar statement to the youths he supervised affirmed.

Unfair Labor Practice Cases

***Volusia County Fire Fighters Association, Local 3547, IAFF v. Volusia County,* Case No. CA-2005-033, *Volusia County v. Volusia County Fire Fighters Association, Local 3547, International Association of Fire Fighters,* Case No. CB-2005-018 *and In Re Impasse Proceeding Between Volusia County Fire Fighters Association, Local 3547, IAFF, and Volusia County,* 31 FPER ¶ 208 (2005).**

In conformance with recent practice, the Commission stayed impasse proceedings pending resolution of unfair labor practice charges alleging bad faith bargaining and/or improper declaration of impasse. Commission noted that hearing officers do not have the authority to rule upon a motion to stay impasse proceedings.

***Communication Workers of America, Local 3178 v. City of Miami Beach,* 31 FPER ¶ 213 (2005).**

City committed an unfair labor practice when it refused to supply, at actual copying cost plus a reasonable labor cost, documents relevant to issues of collective bargaining for which the union made a proper request. City had argued that it could charge flat fee of \$0.15 per copy plus labor cost of the salary of the person making the copies.

***Thompson v. School District of Palm Beach County,* 31 FPER ¶ 225 (2005).**

Commission affirmed General Counsel's summary dismissal of unfair labor practice charge alleging that the employer refused to discuss a grievance in good faith. The charge was deficient

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because the employee failed to provide a copy of the grievance at issue and the complete collective bargaining agreement under which the grievance was filed, the employee failed to demonstrate that he attempted to move his grievance through the formal grievance process, and the employee failed to file the charge within the six month statute of limitations period.

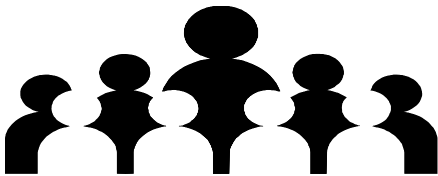
***United Faculty of Florida v. Florida State University Board of Trustees,* Case No. AF-2005-002 (Nov. 30, 2005); *State Employees Attorneys Guild, FPD, NUHHCE, AFSCME, AFL-CIO v. Jeb Bush, as Governor of the State of Florida,* Case No. AF-2005-003 (Nov. 30, 2005).**

Appellate attorney's fees awarded to prevailing unions.

***Coastal Florida Police Benevolent Association, Inc. v. City of Oviedo,* Case No. CA-2005-070 (Dec. 13, 2005).**

Commission affirmed General Counsel's summary dismissal of unfair labor practice which alleged that City increased employee health insurance contributions without negotiating with the union. The charge was factually deficient in that it failed to establish the City's prior and new practice with respect to health insurance.

Representation Cases



***International Union of Painters & Allied Trades, AFL-CIO, Local Union 1010, An Affiliate of District Council 78 v. Village of Biscayne Park,* 31 FPER ¶ 209 (2005).**

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

***Coastal Florida Police Benevolent Association, Inc. v. St. Lucie County Sheriff's Office,* 31 FPER ¶ 212 (2005).**

Consent election agreement seeking to represent a unit of rank-and-file full-time deputy sheriffs approved.

***Service Employees International Union v. Orange County Corrections Department,* Case No. RC-2005-056 (Oct. 10, 2005).**

Representation-certification petition dismissed where the petitioner was not registered, a list of all classifications to be included in the proposed unit was not provided, and the unit sought was inappropriate.

***Manatee Education Association, FEA, AFT (Local 3821), AFL-CIO v. School Board of Manatee County,* Case No. UC-2005-011 (Oct. 10, 2005).**

Unit clarification petition seeking to include in the bargaining unit employees in the classifications of administrative parent liaison I and II granted.

***Florida Regional Council of Industrial and Public Employees, United Brotherhood of Carpenters and Joiners of America v. City of Ocala,* 31 FPER ¶ 214 (2005).**

Representation-certification petition seeking to represent a wall-to-wall unit of non-professional, non-supervisory employees granted.

***Florida State Lodge, Fraternal Order of Police, Inc. v. Orange County Board of County Commissioners,* 31 FPER ¶ 217 (2005).**

Consent election agreement seeking to represent a unit of corrections lieutenants approved. Corrections administrative lieutenants were excluded as managerial employees.

***Florida Police Benevolent Association, Inc. v. Okeechobee County Sheriff's Office,* 31 FPER ¶ 218 (2005).**

Consent election agreement seeking to represent a unit of full-time sworn law enforcement personnel in the classifications of deputy sheriff and corporal approved.

***Pearson v. Teamsters Local Union No. 385 v. City of Winter Garden,* 31 FPER ¶ 219 (2005).**

Petition seeking to revoke certification of incumbent union granted.

***Teamsters Local Union No. 385 v. City of Daytona Beach,* 31 FPER ¶ 223 (2005).**

Consent election agreement seeking to represent a unit of supervisory law enforcement officers in the classification of lieutenant approved.

***SEIU, Local 8 v. Orange County Corrections Department,* Case No. RC-2005-061 (Nov. 1, 2005).**

Representation-certification petition dismissed where proposed unit of administrative/secretarial personnel would constitute overfragmentation of the workforce.

***Palm Beach County Police Benevolent Association, Inc., Chartered by Florida Police Benevolent Association, Inc. v. Town of Jupiter v. International Union of Police Associations, AFL-CIO,* 31 FPER ¶ 226 (2005).**

Consent election agreement seeking to represent a unit of law enforcement lieutenants approved.

***Florida Police Benevolent Association, Inc. v. City of Okeechobee,* 31 FPER ¶ 227 (2005).**

Representation-certification petition seeking to represent a unit of patrol officers and detectives granted.

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***Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO v. City of Chipley,* Case No. RC-2005-064 (Nov. 8, 2005).**

Representation-certification petition dismissed where petition failed to list all classifications to be included in the proposed unit.

***Metro-Broward Professional Firefighters, Local 3080, IAFF, Tamarac, District 4 v. City of Tamarac,* Case No. UC-2005-016 (Nov. 14, 2005).**

Unit clarification petition seeking to include the classifications of driver/ engineer, fire inspector, logistics specialist, and captain in a fire suppression unit granted.

***West Central Florida Police Benevolent Association v. City of Zephyrhills,* Case No. RC-2005-046 (Nov. 16, 2005).**

Consent election agreement seeking to represent a unit of rank-and-file law enforcement officers approved.

***Hillsborough County Police Benevolent Association, Inc., D/B/A West Central Florida Police Benevolent Association v. City of Haines City,* Case No. RC-2005-052 (Nov. 18, 2005).**

Consent election agreement seeking to represent a unit of rank-and-file sworn law enforcement officers approved. The Commission rejected the portion of the consent election agreement in which the parties deleted preprinted election information and substituted their own language to the effect that the election would be held on-site. It is the function of the Commission, not the parties, to determine the best method of conducting representation elections.

***Florida State Lodge, Fraternal Order of Police, Inc. v. Charlotte County Sheriff's Office v. Florida Police Benevolent Association, Inc.,* Case No. RC-2005-057 (Nov. 18, 2005).**

Representation-certification petition seeking to represent a unit of supervisory law enforcement personnel granted. The PBA's request to disclaim interest in representing the unit was granted and its certification was revoked.

***Florida Police Benevolent Association, Inc. v. Orange County Sheriff's Office v. Florida State Lodge, Fraternal Order of Police, Inc.,* Case No. RC-2005-058 (Nov. 28, 2005).**

Consent election agreement seeking to represent a unit of supervisory law enforcement officers in the classifications of sergeant and corporal approved.

***Office and Professional Employees International Union v. City of Ormond Beach,* Case No. RC-2005-044 (Nov. 29, 2005).**

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

***University of Central Florida Board of Trustees v. United Faculty of Florida,* Case No. UC-2005-018 (Nov. 29, 2005).**

Unit clarification petition seeking to include the newly-created classification of specialist, social work services, into a bargaining unit of faculty and professional employees granted.

***South Walton Professional Firefighters Association, Local 3516, IAFF v. South Walton Fire District,* Case No. UC-2005-014 (Nov. 30, 2005).**

Unit clarification petition seeking to include the position of communication operator (dispatcher) in a rank-and-file unit of firefighters and emergency medical personnel granted.

***Charles E. Brookfield Lodge, #86, Fraternal Order of Police v. Orange County,* Case No. UC-2005-017 (Dec. 1, 2005).**

Unit clarification petition seeking to clarify a rank-and-file bargaining unit of correctional officers granted.

***Palmieri v. Federation of Public Employees, A Division of the National Federation of Public and Private Employees, AFL-CIO v. City of Lighthouse Point,* Case No. RD-2005-011 (Dec. 7, 2005).**

Petition seeking to revoke certification of incumbent union granted.

***In Re Petition of Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO, To Amend Certification Nos. 730, 731, 732 and 733,* Case Nos. AC-2005-005, AC-2005-006, AC-2005-007 and AC-2005-008 (Dec. 14, 2005).**

AFSCME sought to reflect a change in the public employer listed on four certifications from the Florida Board of Education to the Florida Board of Governors. The Commission concluded that AFSCME could amend its certifications to reflect the successor employer, each institution's board of trustees, by filing individual amendment to certification petitions for each unit at each institution. Otherwise, to obtain certifications of units that are either more or less comprehensive than the units described in the four certifications, AFSCME must resort to one of the representation procedures set forth in Section 447.307, Florida Statutes.

***Coastal Florida Public Employees Association v. St. Lucie County Sheriff's Office,* Case No. RC-2005-041 (Dec. 14, 2005).**

Consent election agreement seeking to represent a bargaining unit of nonsupervisory administrative, maintenance, and technical employees (civilian support employees) granted.

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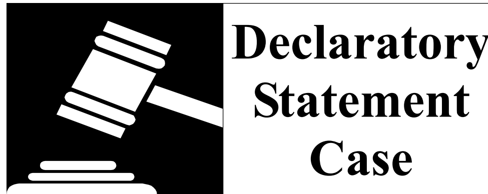
Commission included part-time employees over objection of the employer.

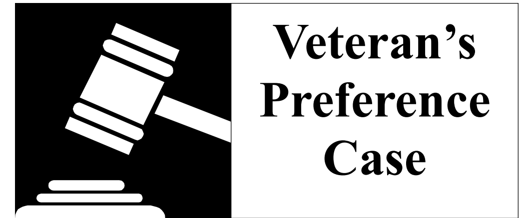
***Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees through its Division, Public Employees Union v. Sheriff of Palm Beach County,* Case No. RC-2005-066 (Dec. 21, 2005).**

Representation-certification petition dismissed without prejudice where the petitioner was not registered as a employee organization with the Commission.



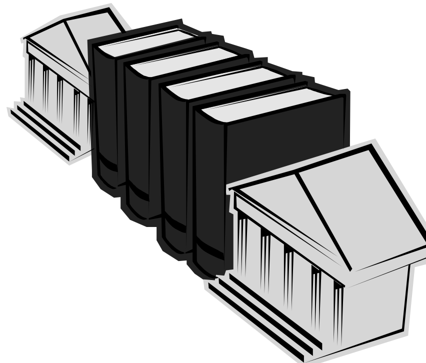
***In re Transport Workers Union of America, Local 291, AFL-CIO,* 31 FPER ¶ 228 (2005).**

Petitioner sought a declaratory statement from the Commission as to particular applications of Section 447.207(7), Florida Statutes, which requires an employee organization to maintain and keep open for inspection accurate accounts of income and expenses. The Commission dismissed the petition because it was apparent that a dispute already existed regarding disclosure of the union's financial records, and declaratory statements may not be utilized for cases which have already ripened into an actual case or controversy.



***Wood v. University of Central Florida,* 31 FPER ¶ 210 (2005).**

Where employer's job application failed to notify preference-eligible veterans of timeframe for filing complaint with DVA or correct DVA mailing address, Commission directed employer to correct application to comply with statute and rules. Complaint dismissed where veteran waited unreasonable amount of time after filing his application to determine whether position had been filled and file complaint with DVA.



Rerun Election continued from page 1

The Commission majority also determined that the scholarship offer significantly interfered with the employees' freedom of choice and had a substantial tendency to influence the outcome of the election. The advertisement for the lottery was contained in the campaign newsletter prepared specifically for the EMSA election and it was mailed to the home of every voter and distributed at various worksites. Thus, the Association intended for each voter to receive the newsletter prior to voting in the election. Moreover, the purpose of the newsletter was to convince the voters to vote in favor of the Association and the scholarship offer was the only benefit in the newsletter that mentioned a specific dollar amount. Therefore, the Commission majority directed that a rerun election be conducted. *International Association of EMT's and Paramedics, SEIU/NAGE, AFL-CIO v. Emergency Medical Services Alliance*, Case No. EL-2005-008 (Dec. 14, 2005).

Commissioner Kossuth dissented. He agreed with the hearing officer's reasoning that a new election was not warranted.

Elections Verified and Certifications Issued

Polk County Professional Firefighters, Local 3531, IAFF v. Polk County, Case No. EL-3005-030; Certification 1563.

Office and Professional Employees International Union v. Office of State Attorney, 17th Judicial Circuit, Case No. EL-2005-028; Election 10/12/2005; Union lost.

Morris v. National Conference of Firemen and Oilers, Local 1220, NCFO, SEIU, AFL-CIO, CLC v. Pinellas Suncoast Transit Authority, Case No. EL-2005-032; Election 9/27 - 10/18/2005; Union won.

Coastal Florida Police Benevolent Association, Inc. v. St. Lucie County Sheriff's Office, Case No. EL-2005-033; Election 9/28 - 10/18/2005; Union won; Certification 1564.

Local 1403 Metro Dade Fire Fighters, IAFF v. Miami-Dade County v. Dade County Police Benevolent Association, Inc., Case No. EL-2005-034; Election 10/6 - 10/27/2005; Local 1403 won.

Professional Firefighters of Marathon, Inc., Local 4396, IAFF v. City of Marathon, Case No. EL-2005-035; Election 10/18 - 11/09/2005; Union won.

International Union of Painters & Allied Trades, AFL-CIO, Local Union 1010, an Affiliate of District Council 78 v. Village of Biscayne Park, Case No. EL-2005-036; Election 10/26 - 11/16/2005; Union won; Certification 1565.

Coastal Florida Police Benevolent Association, Inc. v. St. Lucie County Sheriff's Office, Case No. EL-2005-037; Election 11/2 - 11/22/2005; Union won; Certification 1566.

Florida Regional Council of Industrial and Public Employees, United Brotherhood of Carpenters and Joiners of America v. City of Ocala, Case No. EL-2005-038; Election 11/29 - 11/30/2005; Union lost.

Florida State Lodge, Fraternal Order of Police, Inc. v. Orange County Board of County Commissioners, Case No. EL-2005-039; Certification 1567.

Florida State Lodge, Fraternal Order of Police, Inc. v. Orange County Board of County Commissioners, Case No. EL-2005-039; Election 11/10 - 12/01/2005; Union won.

Florida Police Benevolent Association, Inc. v. Okeechobee County Sheriff's Office, Case No. EL-2005-040; Election 11/10 - 12-01/2005; Union lost.

Jason Pearson v. Teamsters Local Union No. 385 v. City of Winter Garden, Case No. EL-2005-041; Election 11/17 - 12/08/2005; Union won.

Teamsters Local Union No. 385 v. City of Daytona Beach, Case No. EL-2005-042; Election 11/23 - 12/14/2005; Union won.

Florida Police Benevolent Association, Inc. v. City of Okeechobee, Case No. EL-2005-044; Election 11/30 - 12/21/2005; Union won.

Palm Beach County Police Benevolent Association, Inc., Chartered by Florida Police Benevolent Association, Inc. v. Town of Jupiter, Case No. EL-2005-043; Election 11/30 - 12/21/2005; Union won.

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