

Number 6.3 - BARGAINING UNIT DESIGNATION

Effective Date: March 1, 1996

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to define the bargaining unit designations of employees in the Executive Branch of Vermont State Government, and to establish applicable policies and procedures for making these designations.

Under the provisions of Chapter 27 of 3 VSA (annotated) most employees within the classified service may bargain collectively and are eligible for union representation within separate and distinct collective bargaining units as established by the Vermont Labor Relations Board (VLRB).

It is the policy of the State that each position shall be designated to the appropriate collective bargaining unit, as defined herein.

By law, managerial, confidential, and certain other specified employees, are specifically excluded from collective bargaining and/or membership in a bargaining unit.

DEFINITIONS

COLLECTIVE BARGAINING UNIT - *"the employees of an employer, being either all of the employees, the members of a department or agency or such other unit or units as the board may determine are most appropriate to best represent the interest of employees."* See 3 VSA 902(3).

MANAGERIAL EMPLOYEE - *"an individual finally determined by the board as being in an exempt or classified position which requires him [or her] to function as an agency, department, or institution head, a major program or division director, a major section chief or director of a district operation."* See 3 VSA 902(18).

SUPERVISORY EMPLOYEE - *"an individual finally determined by the board as having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment."* See 3 VSA 902(16).

CONFIDENTIAL EMPLOYEE - *"an employee finally determined by the board as having responsibility or knowledge or access to information relating to collective bargaining, personnel administration or budgetary matters that would make membership in or representation by an employee organization incompatible with his official duties."* See 3 VSA 902(17).

STATE POLICE UNIT - the bargaining unit as determined by the VLRB which includes all non-supervisory personnel who are sworn members of the State Police at or below the rank of Sergeant.

CORRECTIONS UNIT - the bargaining unit as determined by the VLRB which includes all non-supervisory personnel employed by the Department of Corrections, with the exception of those employees with an official duty station located at the administrative central office.

DESIGNATION - the assignment of a classified position to a particular bargaining unit or other category in accordance with the statutory provisions and determinations of the VLRB.

GENERAL INFORMATION

The VSEA Recognition Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering this policy.

The Department of Personnel makes bargaining unit designation determinations when positions are created or reclassified, or when a designation review is warranted.

The criteria used to determine a **managerial** designation include:

- the extent to which a position has influence or makes decisions regarding policy, budget, and personnel; and
- the organizational structure of a particular agency or department into divisions or major sections.

The criteria used to determine a **supervisory** unit designation include:

- the number of employees supervised;
- the degree and type of supervisory discretion exercised; and
- the extent to which supervision is a significant component of the individual's job duties.

The criteria used to determine a **confidential** designation include:

- access and relationship to information regarding employees' compensation, job classification, grievances, or personnel records.

- extent to which the position exercises influence on personnel administration, personnel policy, or budgetary matters within the organization.
- non-routine access to policy and personnel matters affecting the outcome of matters subject to collective bargaining or grievances.

Personnel designated as managerial or confidential are not assigned to a bargaining unit.

Supervisory personnel who are not determined to be confidential shall be assigned to the Supervisory Bargaining Unit. Non-supervisory personnel and positions not determined to be confidential shall be assigned to the Non-Management Bargaining Unit or, if applicable, to the State Police or Corrections Bargaining Unit.

Class title or position classification are not the sole determinants of the designation. There are limited instances where employees may be allocated to the same class but designated to a different bargaining unit. For example, one employee may be designated non-management while another employee in the same class is designated supervisory.

COLLECTIVE BARGAINING AGREEMENT

The State of Vermont recognizes the VSEA as the exclusive representative of Vermont State employees in the following bargaining units: Non-Management, Supervisory, Corrections, and State Police.

The Department of Personnel shall notify the VSEA of all changes in bargaining unit designations and the designations of newly created positions. The Department of Personnel will mail a copy of the *Notice of Action* form denoting a change in bargaining unit designation to the VSEA fifteen (15) days before notifying an affected employee. This notice is necessary for: new classes created as managerial, confidential, or supervisory; or for filled positions whose designation changes without a change in classification. In these two (2) instances the notice includes copies of the documents used to make the determination, such as:

- organizational charts;
- class specifications, if available, and not previously provided.
- An employee whose designation changes for reasons other than a reclassification will be notified with a brief explanation of the decision and a statement explaining the employee's right to appeal the change to the VLRB.

The classification review of a position sometimes requires a change in its bargaining unit designation. Moving an employee from one bargaining unit to another affects which collective bargaining unit agreement will apply to that position. An employee designation will not be changed to the Supervisory Bargaining Unit unless there has been a change of duties.

APPEAL

A bargaining unit designation decision may be appealed to the VLRB in accordance with the rules of the Board.