

## The State Contract Series

For use in understanding the state employees' contract

### Bargaining Unit Work

*(This handout deals specifically with the agreement between OCSEA and the State of Ohio.)*

#### What is it?

In 1985, the State Employee Relations Board determined what duties properly belong to a bargaining unit. Certain other classifications with other duties have been added over the years to certain units; such as the IC staff hearing officers and the correctional sergeants/counselors. Specific classifications were excluded often because of their supervisory, managerial, confidential, or fiduciary nature. Positions of fiduciary nature as defined by ORC 124.11 are resolved by formal agreement between the Office of Collective Bargaining and the Executive Director of OCSEA. If no agreement is reached, the dispute will go to an arbitrator for final resolution. Once the status of the position is resolved, a joint petition will be filed with the State Employment Relations Board. SERB will decide disputes between the parties about whether an employee is a supervisor, confidential employee or a managerial employee. (See Arbitration #472.)

Article 1.05 of the contract is a further protection of the union's ownership of bargaining unit work.

However, it should be noted, that while there are duties that are distinctly bargaining unit and duties that belong solely to exempt personnel, there is also a gray area. Some duties are not so neatly divided. As a result, it is important to examine the amount of time being spent on duties in the bargaining unit. These duties need to be done on a regular basis and in a significant amount. It is also important to examine the position description and classification specification of the individuals both in and out of the bargaining unit to ascertain the extent of harm.



Article 1.02 provides that if we believe an existing exempt position (for other than judiciary duties) now performs only bargaining unit duties, we can petition SERB to change the unit to include the position(s). We can do this by filing a petition with or without agreement of OCB. If you come across such circumstances, please contact your assigned OCSEA staff representative.

Further, if bargaining unit duties are unilaterally assigned outside the bargaining unit by the employer, the action may constitute an unfair labor practice in violation of ORC 4117.01(A).

Article 1.05 has two important provisions. The first is that the amount of bargaining unit work that has been done by supervisors shall not increase -- in fact, it should decrease. This concept is extended by language later in the section to include new and revised classifications. To calculate this, the position description, actual work duties and classification duties in effect in July 1989 must be examined. In Arbitration #498, this argument was effectively used to protect work being done by a supervisor after the class modernization study.

The second provision is the delineation of when, in fact, supervisors can do bargaining unit duties. Some of these are logical supervisor tasks like instruction, cases of emergency, and for providing leave for bargaining unit employees. However, there are two situations when management can do bargaining unit work. The first is to avoid mandatory overtime and to release employees for union activities. The second is when the supervisor has some of these duties as part of his/her classification specification. The Union has four successful arbitration cases where the supervisor was doing bargaining unit work not in his/her classification specification. (See Arbitration #156; Arbitration #142, Arbitration #406 and

(Continued)

Arbitration #498.) In each case, the amount of bargaining unit work done by exempt personnel was substantial.

We take the position that 1.05 does not only apply to supervisors doing bargaining unit work, but also, our work being done by other bargaining units, i.e., other unions.

## **Overtime and bargaining unit work**

Overtime opportunities are to be first offered to bargaining unit members before non-bargaining unit members work.

## **What tools are useful in evaluating a bargaining unit case?**

To evaluate a bargaining unit work case, the following information is needed:

- a copy of the involved employees' (in and out of the bargaining unit) position description;
- a copy of the involved employees' classification specification;
- a table of organization -- past and present;
- testimony about the involved people's duties -- how often and under what circumstances do they perform the bargaining unit work in question.

NOTE: This leaflet is for explanatory purposes only and is not an intent statement of the union.

## **REFERENCES**

Article 1.05  
ORC 124.11  
Arbitration 142; 156; 406; 472; 498

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Revised 04/09

Printed In-House by  
OCSEA

