

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

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IN THE MATTER OF  
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RHODE ISLAND BOARD OF GOVERNORS  
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FOR HIGHER EDUCATION (RIC)  
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:  
-AND-  
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:  
PROFESSIONAL STAFF ASSOCIATION @ RIC  
:  
LOCAL 3302, AFT, AFL-CIO  
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CASE NO: EE-2087  
**(REMAND)**  
Unit Clarification:  
Director, User  
Support Services

**DECISION AND ORDER ON REMAND**  
**COMMUNITY OF INTEREST**

The above-entitled matter is before the Rhode Island State Labor Relations Board (hereinafter "Board") on Remand, after the Rhode Island Superior Court's decision in PSA @RIC, Local 3302 vs Rhode Island State Labor Relations Board and Rhode Island Board of Governors for Higher Education (RIC), PC, 05-1243, wherein the Court reversed the Board's Decision and Order that found that the Director of User Support Services was ineligible for collective bargaining. (Judgment entered October 21, 2013, cert denied April 16, 2014) The Court determined that the position of Director - User Support Services was not supervisory and could not be excluded from collective bargaining on that basis.

In the Board's original decision and order dated February 10, 2005, the Board ruled that the position's eligibility for collective bargaining was a threshold question and since the Board determined that the position was supervisory, there was no need to reach the question of whether or not the position shared a community-of-interest with other positions in the subject bargaining unit. In light of the Superior Court's reversal of the Board's original Decision and Order and in accordance with the order of remand, the Board must now issues findings-of-fact on the issue of whether the position shares a community-of-interest, sufficient to warrant its inclusion within the bargaining unit.

**FINDINGS OF FACT AS TO COMMUNITY OF INTEREST**

- 1) As of the time of the formal hearing, the position of Director of User Support Services was a Board of Governors' pay-grade 17, with a minimum salary of 57,498.00 and a maximum salary of \$114,000.00.
- 2) The petitioning Union's bargaining unit has two (2) other grade 17 positions: Assistant Controller - Accounting Office and Director - Office of Research and Grants Administration. (Petitioner's Exhibit # 3)

- 3) As of the time of the formal hearing, the incumbent holding the position of Director of User Support Services had a base salary of \$65,000.00.
- 4) Within the proposed bargaining unit, there were twenty-one (21) employees having a base salary of \$65,000.00 or above.
- 5) As of the time of the formal hearing, the position of Director of User Support Services required the successful candidate to have a Master's degree. (Petitioner's Exhibit # 7)
- 6) There are other positions within the bargaining unit that require a Master's degree. (TR. pg. 16)
- 7) As of the time of the formal hearing, the position of Director of User Support Services worked a non-standard work-week of thirty-five (35) hours. (TR. pg. 17)
- 8) The work-week for all members of the subject bargaining unit is a non-standard work-week of thirty-five (35) hours. (Petitioner's Exhibit # 3) (TR. pg. 17)
- 9) As of the time of the formal hearing, the position of Director of User Support Services reported to an Assistant Vice President (TR. pgs. 17-18)
- 10) As of the time of the formal hearing there were eleven (11) positions that reported to an Assistant Vice President or equivalent. (TR. pg. 41)
- 11) The job description for the position of Director User Support Services included job functions similar to other professional positions within the bargaining unit including, "promote, implement, plan, maintain, evaluate, specify and procure, manage and participate in committees, develop grants and collaborate." (TR. pg. 39)
- 12) As of the time of the formal hearing there were two (2) positions that were required to report to the position of Director User Support Services. (TR. pg. 44) This reporting hierarchy is not unusual for the college in that there are many directors and managers that have bargaining unit positions reporting to them. Id.
- 13) As of the time of the formal hearing the incumbent in the position of Director of User Support Services served as a resource for and had frequent interaction with other members of the bargaining unit, for problems with equipment. In the course of her work, the Director of User Support Services frequently visited departments and work spaces of other bargaining unit members. (TR. pg. 49)
- 14) As of the time of the formal hearing the work space for the Director of User Support Services was located on the technology center in Horace Mann Hall. (TR. pg. 50)
- 15) As of the time of the formal hearing a number of other bargaining unit positions were located within the same suite of offices in Horace Mann Hall.

### CONCLUSION OF LAW

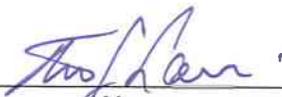
1) The position of Director User Support Services shares a community-of-interest with the bargaining unit represented by the Union herein, because:

- a) There is a similarity in scale and manner of determining earnings;
- b) There is a similarity in hours of work;
- c) There is a similarity in the educational qualifications of employees;
- d) There is a frequency of contact or interchange among employees;
- e) There is a geographic proximity for work location between the subject position and the members of the bargaining unit;
- f) The subject position and the members of the bargaining unit are accounted for on the Employer's chart of positions.

### ORDER

1) The Position of Director of User Support Services is hereby accreted into the bargaining unit, in accordance with the Court's decision in PSA @RIC, Local 3302 vs. Rhode Island State Labor Relations Board and Rhode Island Board of Governors for Rhode Island, PC 05-1243 and in accordance with the conclusion of law herein, pertaining to the community-of-interest.

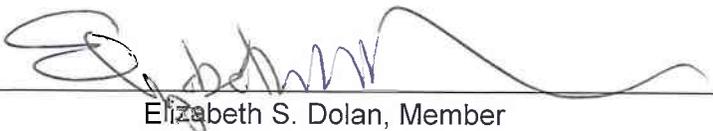
RHODE ISLAND STATE LABOR RELATIONS BOARD



Walter J. Lanni, Chairman



Frank J. Montanaro, Member

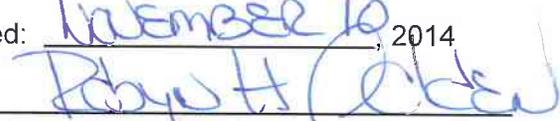


Elizabeth S. Dolan, Member

**NOTE:** Current Board Members, Marcia B. Reback, Scott G. Duhamel, Bruce A. Wolpert, and Peder A. Schaefer, did not participate in this matter.

Entered as an Order of the  
Rhode Island State Labor Relations Board

Dated: November 10, 2014

By:   
Robyn H. Golden, Administrator

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BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

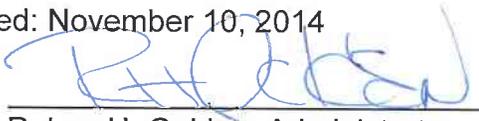
IN THE MATTER OF	
RHODE ISLAND BOARD OF GOVERNORS FOR HIGHER EDUCATION (RIC)	CASE NO: EE- 2087 <b>(REMAND)</b> Unit Clarification Director, User Support Services
-AND-	
PROFESSIONAL STAFF ASSOCIATION, (RIC), LOCAL 3302, AFL-CIO	

**NOTICE OF RIGHT TO APPEAL AGENCY DECISION  
PURSUANT TO R.I.G.L. 42-35-12**

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of Case No. EE-2087, dated November 10, 2014, may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **November 10, 2014**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

Dated: November 10, 2014

By:   
Robyn H. Golden, Administrator