STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

In the Matter of:	)	
	)	
Association of Academic Professionals, IEA-NEA,	)	
	)	
Petitioner,	)	
	)	
and	)	Case No. 2005-RC-0007-S
	)	
Board of Trustees/University of Illinois,	)	
	)	
Employer.	)	

OPINION AND ORDER

On November 17, 2004, the Association of Academic Professionals, IEA-NEA ("Association") filed a representation petition. The Association sought to represent the following bargaining unit:

INCLUDED:

All full and part-time visiting academic professionals employed by the University of Illinois at Urbana-Champaign.

EXCLUDED:

Civil Service Employees, and Supervisory, Managerial, Confidential and Short-Term employees as defined by the Act.

On March 16, 2005, an Administrative Law Judge ("ALJ") issued a Recommended Decision and Order. The ALJ directed an election in the following bargaining unit:

Included: All full-time and part-time visiting academic professionals employed at the Urbana-Champaign campus of the University of Illinois.

Excluded: All other employees of the University of Illinois.

The election was conducted on April 18, 2005, and the ballots were impounded.

The Board of Trustees of the University of Illinois ("University") filed exceptions to the ALJ's Recommended Decision and Order, together with a supporting brief.[1] The Association filed a response to the University's exceptions, in which the Association incorporated its post-hearing brief to the ALJ.

[1] The University requested oral argument in this case. We deny the University's request. The Illinois Educational Labor Relations Board's rules concerning bargaining units at the University are clear. To conduct oral argument would delay the resolution of this case more than it would be helpful to the Illinois Educational Labor Relations Board in making our decision.

We have considered the ALJ's Recommended Decision and Order, the University's exceptions and the briefs of the parties. We have also considered the record and applicable precedents. For the reasons in this Opinion and Order, we affirm the ALJ's Recommended Decision and Order.

I.

We adopt the ALJ's findings of fact, as supplemented in this Opinion and Order. For the convenience of the reader, we set forth the facts to the extent necessary to decide the issues presented.

The University is an educational employer within the meaning of Section 2(a) of the Illinois Educational Labor Relations Act ("Act"). The Association is an employee organization within the meaning of Section 2(c) of the Act.

Academic professional employees are "those members of the academic staff whose positions have been designated by the president and the chancellor as meeting specialized administrative, professional, or technical needs…." They are non-faculty and non-Civil Service employees. Where academic professionals are designated as "visiting," their appointments are temporary. An appointment as a visiting academic professional may not exceed three years unless there are compelling circumstances. (Tr. 34). As of November 17, 2004, the University employed 4,127 non-visiting academic professionals and 391 visiting academic professionals.

Academic professionals have varying job functions, skills, wages, and other terms and conditions of employment. However, they are covered by common personnel practices and procedures. All academic professionals are paid a salary, rather than hourly wages. There is a common package of fringe benefits for all academic professionals, whether visiting or non-visiting. However, visiting academic professionals, unlike non-visiting academic professionals, are not eligible for leaves without pay. (Jt. Exh. 4). Eligibility for some benefits that may require a minimum level of employment is the same for visiting and non-visiting academic professionals.

The constituency group for academic professionals is the Council of Academic Professionals, which is empowered to consider grievances filed by both visiting and non-visiting academic professionals. All academic professionals have a contractual relationship with the University. Their contracts differ in length, but are generally for 9 or 12 months. No academic professional contract extends beyond 12 months. There are occasions when, in a particular department or program, visiting and non-visiting academic professionals are performing the same duties. (Tr. 56-57, 73).

Decisions about the work hours of academic professionals are made at the local level, and there is no distinction between decisions concerning the hours of visiting and non-visiting academic professionals. (Tr. 42). Academic professionals, as salaried employees, work as long or as little as their job duties require. (Tr. 42).

Both visiting and non-visiting academic professionals are hired at the department level. (Tr. 70, 102). A search or a search waiver is required for both (except for visiting academic professionals who are employed for less than .5 full-time equivalent). (Tr. 58, 61, 100). Visiting academic professionals might not have contact with visiting academic professionals in different units, but would have contact with other visiting academic professionals in the same unit. (Tr. 94-95).

An employee may be hired on a visiting rather than a non-visiting basis for several reasons, including uncertainty as to whether the hiring unit will be able to obtain permanent funding for the position, a need to prove the value of the employee, limited duration of the project for which the individual is being hired, visa restrictions (in the case of a foreign employee), and the desires of the employee. At the end of a visiting academic professional's three years of employment, there are three possibilities: 1) the position may be terminated; 2) the position may be converted to a non-visiting position (not an automatic occurrence); or 3) the hiring unit may convince the Academic Human Resources office that there is compelling justification for an additional "visiting" year. There was testimony concerning academic professionals converting from visiting to non-visiting appointments. (Tr. 49-55). In some situations, visiting academic professionals have served more than three years when the hiring unit has failed to monitor the appointment.

When the University wishes to terminate an academic professional, it is required to issue a notice of non-reappointment or a terminal contract only if the individual is a full-time and non-visiting academic professional. Most department heads, however, will keep their staff informed. (Tr. 148). There is also a relocation program for long-term employees. Thus, for example, if the contract of a five-year employee is not renewed for reasons other than performance, the employee is entitled to be interviewed for vacant positions. A long-term employee may also be eligible for career counseling and other assistance in obtaining another University position. These relocation rights are not available to visiting academic professionals or part-time non-visiting academic professionals.

The parties stipulated as follows, to the extent consistent with the testimony and documents in the record, concerning the National Center for Supercomputing Applications, the Institute of Aviation, and the Department of Computer and Information Technology and Educational Services. There is extensive interaction between visiting

and regular academic professional employees within each of these units. Visiting employees in each of these units have substantially similar duties and working conditions as regular academic professional employees in these units. There is virtually no interaction between visiting employees in these units and visiting employees in any other unit. Each of these units hires visiting academic professionals because 1) the units have limited permanent funding available; 2) the projects for which the employees are being hired are for a limited duration; and 3) visiting appointments give the unit the opportunity to evaluate the visiting employees' abilities in order to decide whether to convert them to regular positions.

The only petition that has been filed seeking representation for academic professionals is the one involved in this case. (Tr. 65). There is no collective bargaining agreement between the University and any union covering academic professionals, whether visiting or non-visiting, or whether full-time or part-time.

II.

The ALJ concluded that the Association had established by clear and convincing evidence that a bargaining unit of full-time and part-time academic professionals employed by the University at its Urbana-Champaign campus was appropriate. She found that the visiting academic professionals shared at least a minimal community of interest among themselves as to certain terms and conditions of employment which differed from those of non-visiting academic professionals, and that an identifiable community of interest existed among the University's visiting academic professionals so that the employees should be able to choose in an election whether they want to be represented by the Association. She determined that the failure of the Illinois Educational Labor Relations Board ("IELRB") to include visiting academic professionals within its rules setting forth presumptively appropriate bargaining units at the University constituted a special circumstance and compelling justification that made it appropriate for the IELRB to establish a unit different from those listed in the rules. She also determined that any proliferation of bargaining units that would occur was contemplated by the IELRB's rules.

III.

The University argues that the petition should be dismissed. The University contends that the petitioned-for unit is inappropriately narrow within the meaning of Section 7(a) of the Act. The University argues that the petitioned-for unit is arbitrary because it excludes non-visiting academic professionals. The University asserts that, even assuming that the differences between visiting and non-visiting academic professionals cited by the ALJ would justify a separate unit of visiting professionals outside of the University, they do not amount to "clear and

convincing evidence." The University contends that the Association failed to supply "clear and convincing evidence" of "special circumstances and compelling justifications" for establishing a bargaining unit limited to visiting academic professionals. The University asserts that the "legislative history" of the rules establishes that there was never an intent to permit the establishment of more than one unit of academic professionals at each campus. In addition, the University contends that the Association failed to supply "clear and convincing evidence" that proliferation of bargaining units would not occur if the petitioned-for unit was certified.

The Association argues that it has established by "clear and convincing evidence" the appropriateness of the unit, the lack of proliferation of bargaining units and the necessary "special circumstances." The Association contends that the University's argument that only a unit of all academic professionals is appropriate must be rejected. The Association asserts that, notwithstanding the similarity of wages, hours and terms and conditions of employment between visiting and non-visiting academic professionals, the visiting academic professionals have some substantial unique conditions of employment. The Association argues that the proposed unit is not arbitrary or artificial. The Association contends that the IELRB's rules deliberately excluded visiting academic professionals, and that the IELRB must give effect to the clear and unambiguous language of the rules. The Association argues that the IELRB should give deference to the weight the ALJ gave to the evidence. The Association asserts that the rule requiring "special circumstances and compelling justifications" violates employee rights under the Act. The Association also argues that ensuring that employees intentionally not covered by the rules receive the right to representation guaranteed all other employees under the Act constitutes "special circumstances and compelling justifications".

IV.

The IELRB has adopted rules setting forth presumptively appropriate bargaining units for employees employed by the University. 80 Ill. Adm. Code 1135.20. With respect to educational employees employed at the University's Urbana-Champaign campus or employed in units outside Urbana-Champaign that report administratively to the Urbana-Champaign campus, those units include three units of faculty, four units of Civil Service employees, and one unit of academic professionals. The academic professionals unit consists of "all full-time non-visiting academic professionals exempted as Principal Administrative Employees from Section 36e of the State Universities Civil Service Act [110 ILCS 70/36e], who have a .50 or greater appointment in that position."

None of the bargaining units set forth in the rules includes visiting academic professionals at the Urbana-Champaign campus who are exempt from the State Universities Civil Service Act.

The rules provide for bargaining units other than the presumptively appropriate bargaining units to be established. Section 1135.30(a) of the rules, 80 Ill. Adm. Code 1135.30(a), provides for other bargaining units to be established

> only if the petitioner can show the following by clear and convincing evidence:
> 1) that the unit is otherwise appropriate under Section 7 of the Illinois Educational Labor Relations Act;
> 2) that special circumstances and compelling justifications make it appropriate for the Illinois Educational Labor Relations Board to establish a unit different from those set forth above;
> 3) that establishment of a different unit will not cause undue fragmentation of bargaining units or proliferation of bargaining units. Undue fragmentation of bargaining units or proliferation of bargaining units means that the number of bargaining units is such as to threaten to interrupt services, cause labor instability, and cause continual collective bargaining and a multitude of representation proceedings.

Here, there is "clear and convincing evidence" that the petitioned-for unit is otherwise appropriate under Section 7 of the Illinois Educational Labor Relations Act ("IELRA"). Section 7 provides that the IELRB decide the appropriate unit

> based upon but not limited to such factors as historical pattern of recognition, community of interest, including employee skills and functions, degree of functional integration, interchangeability and contact among employees, common supervision, wages, hours and other working conditions of the employees involved, and the desires of the employees.

Under this analysis, the bargaining unit proposed by the Association is appropriate. Visiting academic professionals have the function of meeting the University's "specialized administrative, professional or technical needs." They have contact with other visiting academic professionals in the same unit. They are paid a salary, rather than hourly wages. They work as long or as little as their job duties require. They share a common package of fringe benefits.[2] They are represented by the same constituency group, which is empowered to consider their grievances. They have a contractual relationship with the University. They are hired at the department level. They are appointed on a temporary basis—their appointments may not exceed three years unless there are compelling circumstances. They are not entitled to a notice of non-reappointment or a terminal contract and do not have relocation rights.

The desires of the visiting academic professionals, as reflected in the showing of interest supporting the petition, favor the establishment of the petitioned-for bargaining unit. *See Chicago Board of Education*, 18 PERI

[2] As noted above, some benefits may require a minimum level of employment.

1158, Case No. 2002-RS-0008-C (IELRB, October 17, 2002); *Harlem School District No. 122*, 18 PERI 1126, Case No. 2002-RS-0004-C (IELRB, July 26, 2002). In *SEDOL Teachers Union v. IELRB*, 276 Ill.App.3d 872, 658 N.E.2d 1364 (1st Dist. 1995), the court relied on the IELRB's finding that at least 30% of the bargaining unit employees desired to be represented by the union in concluding that a proposed bargaining unit would be appropriate. As the court stated in *Black Hawk College Professional Technical Unit v. IELRB*, 275 Ill.App.3d 189, 655 N.E.2d 1054, 1060 (1st Dist 1995), "the desires of the employees is an important consideration because the goal in determining the appropriateness of a bargaining unit is to ensure employees the fullest freedom in exercising the rights guaranteed by the Act for the purpose of collective bargaining." There is no historical pattern of recognition.

The University argues that the proposed bargaining unit is arbitrary because it excludes non-visiting academic professionals. The University cites *Thornton Township High School District No. 205*, 2 PERI 1103, Case No. 85-UC-0008-C (IELRB, August 20, 1986) for the proposition that the relative community of interest among the petitioned-for group of employees must be compared with that which they share with others who are excluded from the petition. However, the result that the IELRB rejected in *Thornton* was "[t]o allow a group 'A' of employees to be added to bargaining unit 'B'—when the group 'A' employees have a closer coherence and community of interest with the employees in bargaining unit 'C' than with the employees in bargaining unit 'B'," 2 PERI 1103 at VII-303. That is not what the Association proposes here—rather, what is proposed is for unit "A" to be separately represented.

While the visiting and non-visiting academic professionals share a certain community of interest, that community of interest does not render a unit consisting only of visiting academic professionals inappropriate.[3] There is a significant distinction between visiting and non-visiting academic professionals in the temporary nature of

---

[3] In *Peoria School District 150*, 5 PERI 1132, Case No. 89-RC-0023-S (IELRB, July 17, 1989), *adopting* 5 PERI 1086 (IELRB Hearing Officer, April 28, 1989), and in *Tri-County Special Education Cooperative*, 2 PERI 1144, Case No. 85-RC-0025-S (IELRB, October 29, 1986), the IELRB found petitioned-for units to be inappropriate due to similarities with a broader group of employees. *Peoria* and *Tri-County* are distinguishable from this case, however, in that here the temporary nature of the visiting academic professionals' employment is a significant distinction that makes a unit limited to visiting academic professionals appropriate. *Fraternal Order of Police Lodge No. 109 v. ILRB*, 189 Ill.App.3d 914, 545 N.E.2d 1042 (2nd Dist. 1989) is distinguishable on the same basis. In addition, the University cites several cases decided by the Illinois State Labor Relations Board. *City of Rolling Meadows*, 16 PERI 2022 (ISLRB 2000); *Village of Schaumburg*, 8 PERI 2046 (ISLRB 1992); *City of Calumet City*, 4 PERI 2037 (ISLRB 1988); *Village of Bartlett*, 3 PERI 2010 (ISLRB 1986); *DuPage County Board*, 1 PERI 2003 (ISLRB 1985). Those cases differ from this case in that, in this case, the temporary nature of the visiting academic professionals' employment creates "a unique and distinct community of interest separate from that of the broader unit such that the exclusion of other employees is neither illogical or artificial," *Rolling Meadows*, 16 PERI 2022 at X-88.

the visiting academic professionals' appointments. In this connection, it is significant that visiting academic professionals are not entitled to a notice of non-reappointment or a terminal contract and do not have relocation rights. Moreover, visiting academic professionals, unlike non-visiting academic professionals, are not eligible for leaves without pay. Section 7 of the IELRA does not require that the proposed bargaining unit be the most appropriate unit; rather, it merely requires that the proposed unit be appropriate. *SEDOL*; *Black Hawk*. As the ALJ noted, the IELRB stated in *Downers Grove Community High School District No. 99*, 1 PERI 1105, Case No. 84-RC-0067 (IELRB, April 19, 1985), *quoting* Section 7(a) of the Act, that to refuse to find a bargaining unit appropriate because of the possible existence of a more appropriate alternative unit would not serve the statutory purpose in bargaining unit determinations of "ensur[ing] employees the fullest freedom in exercising the rights guaranteed by this Act." This is especially true where, as here, the possible alternative unit would itself be contrary to the IELRB's rules on bargaining units at the University.

For the above reasons, we conclude that there is "clear and convincing evidence" that the petitioned-for bargaining unit "is otherwise appropriate under Section 7 of the Illinois Educational Labor Relations Act."[4] The first part of the test for establishing a unit at the University other than a presumptively appropriate unit has been met.

There is also "clear and convincing evidence" that "special circumstances and compelling justifications make it appropriate for the Illinois Educational Labor Relations Board to establish a unit different from [the presumptively appropriate units]." The presumptively appropriate unit for academic professionals at the Urbana-Champaign campus includes only non-visiting employees. None of the presumptively appropriate bargaining units set forth in the IELRB's rules includes visiting academic professionals at the Urbana-Champaign campus who are exempt from the State Universities Civil Service Act. Thus, unless a bargaining unit not provided for in the rules is established, those employees will be deprived of their statutory right to be represented by a union. A unit combining visiting and non-visiting academic professionals would be equally contrary to the rules as a unit limited to visiting academic professionals.

Another factor supporting a finding of "special circumstances and compelling justifications" is the fact that the only petition that has been filed seeking representation for academic professionals is the one involved in this case. The IELRB has determined that the fact that there are no other petitions pending which seek the same employees in a unit presumptively appropriate under the rules is a factor toward establishing "special circumstances

[4] This case is distinguishable from *Board of Trustees of University of Illinois*, Case No. 85-RC-0047-S, cited by the University, on the basis that, here, the petitioned-for unit is broader in scope.

and compelling justifications." *University of Illinois (Chicago)*, 6 PERI 1126, Case Nos. 89-RS-0012-C et al. (IELRB, March 8, 1990).

The University argues that the "legislative history" of the rules establishes that there was never an intent to permit the establishment of more than one unit of academic professionals at each University campus. However, the "legislative history" that was submitted in this case, with one exception, does not refer to visiting versus non-visiting academic professionals. That exception is in an August 15, 1986 letter from Edwin L. Goldwasser that the University attached to its February 11, 1988 response to the statements of position submitted by the American Federation of State, County and Municipal Employees and the Illinois Federation of Teachers, together with the relocation plan attached to that letter. (Petitioner's Exhibit 9). The relocation plan provides that "[f]ulltime, <u>non-visiting</u> academic professional employees with one or more years of full-time service to the University on the Urbana-Champaign campus will be considered for relocation within the campus as specified below if they are being released from their current positions due to lack of funds." (Emphasis added). That reference in the "legislative history" implies that the IELRB was aware of the distinction between visiting and non-visiting academic professionals as consistent with the record in this case and deliberately chose not to include visiting academic professionals in the same unit as non-visiting academic professionals.

In connection with its discussion of the "legislative history," the University argues that the IELRB could have intended "visiting" to mean someone who is employed by another college or university and who is merely "visiting" the University for a short period of time or to merely refer to short-term employees. These are merely speculations as to what the IELRB could have meant and are not supported by any references to the "legislative history." It is the "plain and ordinary meaning" of the term "visiting," as reflected in the record of this case, that must be applied. *See M.A.K. v. Rush-Presbyterian-St.-Luke's Medical Center*, 198 Ill.2d 249, 764 N.E.2d 1 (2001).

For the above reasons, we conclude that there is "clear and convincing evidence" that "special circumstances and compelling justifications make it appropriate for the Illinois Educational Labor Relations Board to establish a unit different from [the presumptively appropriate units]." This part of the test for establishing a unit at the University other than a presumptively appropriate unit has been met.

In addition, there is "clear and convincing evidence" that "establishment of a different unit will not cause undue fragmentation of bargaining units or proliferation of bargaining units." The rules define "undue fragmentation of bargaining units or proliferation of bargaining units" as meaning that "the number of bargaining

units is such as to threaten to interrupt services, cause labor instability, and cause continual collective bargaining and a multitude of representation proceedings." The establishment of a unit consisting of all full and part-time visiting academic professionals at the University's Urbana-Champaign campus would not tend to "threaten to interrupt services, cause labor instability, and cause continual collective bargaining and a multitude of representation proceedings." Indeed, the proposed bargaining unit is in some ways broad in scope: it combines full-time and part-time visiting academic professionals and combines visiting academic professionals with a variety of different functions. The number of visiting academic professionals also suggests that the separate representation of those employees would not result in undue fragmentation or proliferation—there were 391 employees in the proposed unit as of November 17, 2004. In addition, assuming arguendo that proliferation would result from approving the unit petitioned for in this case, any such proliferation is, as the ALJ noted, contemplated by the IELRB's rules, because the rules do not provide for representation for this group of employees.

We conclude that there is "clear and convincing evidence" that "establishment of a different unit will not cause undue fragmentation of bargaining units or proliferation of bargaining units." We conclude that all the requirements for establishing a bargaining unit other than the presumptively appropriate units set forth in the IELRB's rules have been met. The unit in which the ALJ directed the election is proper.

V.

The ALJ's Recommended Decision and Order is affirmed. The Executive Director is directed to count the ballots that have been impounded and issue the appropriate certification.

VI.

This Opinion and Order is not a final order that may be appealed under the Administrative Review Law. *See* 5 ILCS 100/10-50(b); 115 ILCS 5/16(a). Under Section 7(d) of the Act, an Order of the IELRB certifying the results of an election is a final order. Accordingly, aggrieved parties may seek judicial review of this Opinion and Order in accordance with the provisions of the Administrative Review Law upon certification of the results of the election. However, pursuant to Section 7(d) of the Act, such review must be taken directly to the Appellate Court of a judicial district in which the IELRB maintains an office (Chicago or Springfield). "Any direct appeal to the

Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision," 115 ILCS 5/7(d).

Decided: July 12, 2005
Issued: July 14, 2005
Chicago, Illinois

/s/ Lynne O. Sered
Lynne O. Sered, Chairman

/s/ Ronald F. Ettinger
Ronald F. Ettinger, Member

/s/ Michael H. Prueter
Michael H. Prueter, Member

/s/ Jimmie E. Robinson
Jimmie E. Robinson, Member

Illinois Educational Labor Relations Board
160 North LaSalle Street, Suite N-400
Chicago, Illinois 60601
Telephone: (312) 793-3170

Member Lamont, dissenting

I do not concur with my colleagues' conclusion that the unit in which the Administrative Law Judge directed the election is proper. Therefore, I respectfully dissent.

The Petitioner has not presented clear and convincing evidence that the petitioned-for unit is otherwise appropriate under Section 7 of the Illinois Educational Labor Relations Act. There is a sufficient community of interest between visiting and non-visiting academic professionals that a unit limited to visiting academic professionals is not appropriate. There are occasions when, in a particular department or program, visiting and non-visiting academic professionals perform the same duties. Both visiting and non-visiting academic professionals are paid a salary, rather than an hourly wage. There is a common package of fringe benefits for all academic professionals, whether visiting or non-visiting. Eligibility for some benefits that may require a minimum level of employment is the same for visiting and non-visiting academic professionals. There is no distinction between decisions concerning the hours of visiting and non-visiting academic professionals. There are occasions when the appointments of academic professionals are converted from visiting to non-visiting. Both visiting and non-visiting academic professionals are hired at the department level. A search or search waiver is required for both.[5] The constituency group for academic professionals is the Council of Academic Professionals, which is empowered to consider grievances filed by both visiting and non-visiting academic professionals. All academic professionals have a contractual relationship with the University.

Within the National Center for Supercomputing Applications, the Institute of Aviation, and the Department of Computer and Information Technology and Educational Services, there is extensive interaction between visiting and non-visiting academic professional employees. Visiting and non-visiting academic professionals in each of these units have substantially similar duties and working conditions.

My colleagues state that the temporary nature of the visiting academic professionals' appointments is a significant distinction between visiting and non-visiting academic professionals. They find it significant that visiting academic professionals are not entitled to a notice of non-reappointment or a terminal contract and do not have relocation rights. They also note that visiting academic professionals, unlike non-visiting academic professionals, are not entitled to leaves without pay. These differences are not of great significance when compared to the

[5] This requirement does not apply to visiting academic professionals who are employed for less than .5 full-time equivalent.

extensive community of interest shared by the two groups. Moreover, because visiting academic professionals generally are notified of their non-reappointment by their department heads, the fact that they are not entitled to formal notice is not significant. In addition, part-time non-visiting academic professionals also are not entitled to receive a notice of non-reappointment or a terminal contract and do not have relocation rights.

In two previous cases, this Board found proposed bargaining units inappropriate due to the community of interest that employees in the proposed units shared with broader groups of employees. *Peoria School District 150*, 5 PERI 1132, Case No. 89-RC-0023-S (IELRB, July 17, 1989), *adopting* 5 PERI 1086 (IELRB Hearing Officer, April 28, 1989); *Tri-County Special Education Cooperative*, 2 PERI 1144, Case No. 85-RC-0025-S (IELRB, October 29, 1986), *affirming* 2 PERI 1046 (IELRB Hearing Officer, February 27, 1986). In *Tri-County*, a separate unit of certificated employees at one location (the Anna Center) was found to be inappropriate in spite of the fact that certain positions were unique to that location, that there was little contact between employees at that location and at other locations within the cooperative, that cooperative employees at that location worked the same hours and calendar year as employees of the Center itself, that there was a separate agreement between the cooperative and the Center regulating the operations of the special education program, that the students served at the Center were more profoundly disabled than those served at other locations, and that the Center was geographically separated from the cooperative's central office. Taken as a whole, these differences are more significant than the differences between visiting and non-visiting academic professionals at the University of Illinois. Thus, in this case as in *Tri-County*, the narrower unit should be held to be inappropriate.

For these reasons, the Petitioner has not presented clear and convincing evidence that the unit that it proposes is appropriate. Moreover, if the Petitioner is certified as the exclusive representative of the proposed unit, it will lead to undue fragmentation of bargaining units or proliferation of bargaining units. The result would be that the Employer's part-time non-visiting academic professionals would also be placed in a separate unit. Thus, there would be three sets of negotiations for employees whose duties and terms and conditions of employment are not significantly different.

Accordingly, the proposed bargaining unit does not satisfy the requirements of Section 1135.30(a) of this Board's rules, 80 Ill. Adm. Code 1135.30(a), for the establishment of a bargaining unit at the University of Illinois other than the presumptively appropriate units. Therefore, I respectfully dissent.

/s/ Bridget L. Lamont
Bridget L. Lamont, Member