

## **Excerpt from Education Code 88029. Exclusion from overtime provisions**

“Notwithstanding Sections 88026 and 88027, a personnel commission, when applicable, or a governing board of a community college district, may specify certain positions or classes of positions as **supervisory, administrative, or executive and exclude the employees serving in those positions and the positions from the overtime provisions.** To be excluded from the overtime provisions, the positions or classes of positions must clearly and reasonably be **management positions...**”

## **Excerpts from the Educational Employment Relations Act (<http://www.perb.ca.gov/laws/EERA.aspx>)**

### **3540.1 Definitions**

(c) “Confidential employee” means an employee who is **required to develop or present management positions with respect to employer-employee relations** or whose **duties normally require access to confidential information that is used to contribute significantly to the development of management positions.**

(g) “Management employee” means an employee in a position having **significant responsibilities for formulating district policies or administering district programs.** Management positions shall be designated by the public school employer subject to review by the Public Employment Relations Board.

(m) “Supervisory employee” means an employee, **regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend that action,** if, in connection with the foregoing functions, the exercise of that authority is not of a merely routine or clerical nature, but **requires the use of independent judgment.**

### **3543.4. Management position; confidential positions; representation**

**A person serving in a management position, senior management position, or a confidential position may not be represented by an exclusive representative.** Any person serving in such a position may **represent himself or herself individually or by an employee organization whose membership is composed entirely of employees designated as holding those positions,** in his or her employment relationship with the public school employer, but, in no case, shall such an organization meet and negotiate with the public school employer. A representative may not be permitted by a public school employer to meet and negotiate on any benefit or compensation paid to persons serving in a management position, senior management position or a confidential position.

### **3545. Appropriateness of unit; basis**

(a) In each case where the appropriateness of the unit is an issue, the board shall decide the question on the basis of the community of interest between and among the employees and their established practices including, among other things, the extent to which such employees belong to the same employee organization, and the effect of the size of the unit on the efficient operation of the school district.

(b) In all cases:

(1) A negotiating unit that includes classroom teachers shall not be appropriate unless it at least includes all of the classroom teachers employed by the public school employer, except management employees, supervisory employees, and confidential employees.

(2) Except as provided in subdivision (c), a negotiating unit of supervisory employees shall not be appropriate unless it includes all supervisory employees employed by the district and shall not be represented by the same employee organization as employees whom the supervisory employees supervise.

(3) Classified employees and certificated employees shall not be included in the same negotiating unit.

(c) In the case of a district which employs 20 or more supervisory peace officer employees, a negotiating unit of supervisory employees shall be appropriate if it includes any of the following:

(1) All supervisory nonpeace officer employees employed by the district and all supervisory peace officer employees employed by the district.

(2) All supervisory nonpeace officer employees employed by the district, exclusively.

(3) All supervisory peace officer employees employed by the district, exclusively.

A negotiating unit of supervisory employees shall not be represented by the same employee organization as employees whom the supervisory employees supervise.