

Law alters makeup of ESP units

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During the last few days of last spring's legislative session, the Oklahoma Legislature amended the statute dealing with the composition of education support professional bargaining units. The amendment was included in the so-called "Charter School Bill," Senate Bill 2100, which ultimately passed the legislature without some of the more problematic charter school provisions that were contained in earlier versions of the bill. However, the amendment to the bargaining statute is substantive and will likely result in some change to the existing composition of local support professional bargaining units.

The amendment does not change the existing language defining bargaining units for non-supervisory certified employees or for certified supervisory employees. The recent changes to the support professional bargaining unit are as follows (additions are underlined):

3. All employees who are not required by their job description to be a principal, licensed or certified teacher, superintendent or other certified or non-certified administrator shall constitute a separate bargaining unit. Provided that, employees with access to confidential, labor relations information of the school district, or managerial employees whose responsibilities include making employment recommendations to the superintendent and for which their position does not require a certificate, shall be excluded from this or other bargaining units. Also excluded is any employee position agreed to be excluded from the bargaining unit by the employee organization and the school district. Okla. Stat. tit. 70, § 509.2 (A)(3).

The most significant change in the statute defining support professional bargaining units is that the new amendment now excludes any employee who has access to confidential or labor relations information of the school district. The new amendment also excludes any non-certified managerial employee who is responsible for making an employment recommendation to the superintendent. Finally, the new amendment acknowledges any local agreements between school districts and support professional bargaining units where the parties have mutually agreed for specific positions to be excluded from the bargaining unit.

While it is too early to gauge the impact of these changes on the composition of local support professional bargaining units, it does appear as if the Oklahoma Legislature attempted to incorporate some of the bargaining unit exclusions typically found in the private sector into the support professional bargaining unit definition. Private sector bargaining units normally exclude any "confidential" or "managerial" employee and the new definitions in the support professional bargaining unit, while not identical in nature, appear to mirror the exclusions that are commonly required in the private sector.

If you have more questions about the recent change in the definition of the support professional bargaining unit or need help in dealing with this issue during bargaining, you can contact your regional Advocacy Specialist for additional assistance.