

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

PETITION

DO NOT WRITE IN THIS SPACE	
Case No. <b>26-UC-200</b>	Date Filed <b>June 30, 2009</b>

INSTRUCTIONS: Submit an original of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

The Petitioner alleges that the following circumstances exist and requests that the NLRB proceed under its proper authority pursuant to Section 9 of the NLRA.

1. PURPOSE OF THIS PETITION (if box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)

RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.

RM-REPRESENTATION (EMPLOYER PETITION) - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.

RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.

UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.

UC-UNIT CLARIFICATION - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one)  In unit not previously certified.  In unit previously certified in Case No. \_\_\_\_\_

AC-AMENDMENT OF CERTIFICATION - Petitioner seeks amendment of certification issued in Case No. \_\_\_\_\_ Attach statement describing the specific amendment sought.

2. Name of Employer: **Tennessee Education Association** Employer Representative to contact: **Richard L. Colbert, Attorney** Tel. No.: **615-790-6610**

3. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code): **801 Second Avenue North, Nashville, TN, 37201-1099** Fax No.: **615-790-6022**

4a. Type of Establishment (Factory, mine, wholesaler, etc.): **Education professional employees organization** 4b. Identify principal product or service: **Promotion and protection of public education** Cell No: **615-504-5211** e-Mail: **r.colbert@cw-attorneys.com**

5. Unit Involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.)

Included: **All full-time professional employees** Present: **44**

Excluded: **Executive Director, Assistant Executive Directors; one (1) confidential computer employee as determined by the Executive Director; Manager of Business Affairs; part-time professional employees** Proposed (By UC/AC): **38 (see attached supplement)**

6b. Is this petition supported by 30% or more of the employees in the unit?  Yes  No \*Not applicable in RM, UC, and AC

7a.  Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about (Date) \_\_\_\_\_ (If no reply received, so state).

7b.  Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (If none, so state.): **Tennessee Staff Organization (TSO)** Affiliation: **National Staff Org. (NSO)**

Address: \_\_\_\_\_ Tel. No.: **615-242-8392** Date of Recognition or Certification: \_\_\_\_\_ Cell No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ e-Mail: \_\_\_\_\_

9. Expiration Date of Current Contract. If any (Month, Day, Year): **June 30, 2009** 10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day and Year): **N/A**

11a. Is there now a strike or picketing at the Employer's establishment(s) Involved? Yes  No  11b. If so, approximately how many employees are participating? **N/A**

11c. The Employer has been picketed by or on behalf of (Insert Name) **N/A**, a labor organization, of (Insert Address) \_\_\_\_\_ Since (Month, Day, Year) \_\_\_\_\_

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state)

Name	Address	Tel. No.	Fax No.
None			
		Cell No.	e-Mail

13. Full name of party filing petition (If labor organization, give full name, including local name and number): **Tennessee Education Association**

14a. Address (street and number, city, state, and ZIP code): **801 Second Avenue North, Nashville, TN 37201-1099** 14b. Tel. No. EXT: **615-242-8392** 14c. Fax No.: \_\_\_\_\_ 14d. Cell No.: \_\_\_\_\_ 14e. e-Mail: \_\_\_\_\_

15. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (to be filled in when petition is filed by a labor organization)

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print): **Bryan K. McCarty** Signature:  Title (if any): **Ass't. Executive Director and General Counsel**

Address (street and number, city, state, and ZIP code): **801 Second Avenue North, Nashville, TN 37201-1099** Tel. No.: **615-242-8392** Fax No.: \_\_\_\_\_

Cell No.: \_\_\_\_\_ e-Mail: \_\_\_\_\_

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD**

**TENNESSEE EDUCATION ASSOCIATION**

**Petitioner,**

**and**

**Case No. \_\_\_\_\_**

**TENNESSEE STAFF ORGANIZATION**

**Respondent.**

**SUPPLEMENT TO PARAGRAPH 5 OF UNIT CLARIFICATION PETITION**

The Petitioner, the Tennessee Education Association, submits this supplement to Paragraph 5 of its Unit Clarification petition to provide a description of the proposed clarification, the job classification of the employees as to whom the issue is raised and the number of employees in that classification, a statement setting forth the reasons why the Petitioner desires clarification of the unit, and other relevant facts, in accordance with Section 102.61 of the Board's Rules and Regulations:

5. The proposed clarification of the unit represented by the Tennessee Staff Organization (TSO) is as follows:

All professional employees, excluding those employed part-time, of the Tennessee Education Association, and excluding those employed as division managers or supervisors. Specifically excluded are the Executive Director, Assistant Executive Directors, and one (1) confidential computer employee as determined by the Executive Director.

The Petitioner currently employs six (6) individuals as division managers in the following positions: Manager of Research; Manager of Government Relations; Manager

of Communications; Manager of Instruction and Professional Development; and two Managers of UniServ. Job descriptions for these specific division managers, as well as a general statement of position requirements for all division managers, are attached as collective Exhibit A. The division managers “assign” and “responsibly direct” the employees in their divisions and exercise “independent judgment” as those terms are used in Section 2(11) of the Act and as explained by the Board in *Oakwood Healthcare, Inc.*, 348 NLRB No. 37 (2006). The Petitioner therefore seeks a clarification of the unit to exclude these supervisors from the unit.

On or about December 1, 2008, Susan Ogg, a professional employee and member of the unit represented by the TSO, filed two charges arising out of the roles played by division managers in the TSO. In Case No. 26-CA-23243, Ms. Ogg alleged that the Tennessee Education Association violated Section 8(a)(1) and (2) of the Act by the participation of managers and supervisors as officers of the TSO. In Case No. 26-CB-5018, Ms. Ogg alleged that the TSO violated Section 8(b)(1)(A) of the Act by allowing managers and supervisors to serve as officers of the TSO. At the time of Ms. Ogg’s charges, two division managers were serving as officers of the TSO and members of the TSO executive committee, and one division manager was serving as a member of the TSO’s negotiating team. As a result of Ms. Ogg’s charge, the Petitioner proposed the postponement of scheduled negotiations with the TSO for a new collective bargaining agreement until concerns about managers’ roles in the TSO were resolved. At about the same time that this notification was given by the Petitioner, the TSO met on December 15, 2008, and accepted the resignation of these division managers from their positions as officers of the TSO and, in one case, as a member of the TSO negotiating team. The

resignation of division managers from union office was “without prejudice and without agreeing or disagreeing.”

The Petitioner and the TSO commenced collective bargaining negotiations. The parties engaged in collaborative bargaining, and one of the issues that the Petitioner raised in that process was the continued presence of division managers in the bargaining unit. Because the parties could not agree on a resolution of that issue in negotiations, the Petitioner notified the TSO that it intended to file this Unit Clarification Petition at the conclusion of negotiations. Those negotiations have now concluded. The Petitioner seeks clarification of the unit to exclude division managers from the unit, effective upon the June 30, 2009, expiration of the current collective bargaining agreement, because said division managers are “supervisors” under the Act. Such clarification will not undermine or interfere with the TSO’s ongoing representative status or its majority support by the non-supervisory unit members and is not sought for any improper purpose.

### J.1. Job Description for Manager of Research and Information

**Melissa Brown**

The Manager of the Research and Information Division has the overall managerial responsibility for planning, developing, implementing, and evaluating the staff operations of this division. The manager is also responsible for coordinating the activities of the Research and Information Division with the other activities of the Association.

Specific duties include the responsibility to:

1. Direct, supervise, and evaluate the work of research assistants who report to the Manager of the Research and Information Division
2. Design and manage research projects to support TEA programs
3. Provide information and field training in school finance
4. Provide field assistance as requested in bargaining dispute resolution and fact-finding/advisory arbitration hearings
5. Supervise and participate in the design and delivery of research-oriented training
6. Develop a program of research information release on selected topics for distribution to local association leadership and other appropriate parties
7. Coordinate with appropriate TEA staff and outside agencies the development of research-oriented computer programs and the acquisition of computer hardware and software needed by the Research and Information Division
8. Provide liaison with governmental agencies and other data producing organizations as needed to provide necessary information and/or data for TEA research programs
9. Provide liaison with the National Education Association research staff for the support of TEA research programs
10. Attend meetings of the Board of Directors and Management Team and appropriately brief the staff assigned to the Research and Information Division
11. Accept such other responsibilities as may be reasonably requested by the Executive Director or his/her designee.

**COLLECTIVE EXHIBIT A**

## D.1. Job Description for Manager of Government Relations

**Jerry Winters**

The Manager of the Government Relations Division has the overall managerial responsibility for planning, developing, implementing and evaluating the staff operations of this division. The manager is also responsible to coordinate the activities of the Government Relations Division with the other activities of the Association.

Specific duties include the responsibility to:

1. Organize and coordinate all the government relations activities of TEA
2. Supervise and evaluate the work of the professional and support staff assigned to the Government Relations Division
3. Make day-to-day assignments to staff who are performing lobbying
4. Plan the Association government relations thrust and make recommendations for implementation
5. Work with the managers of other divisions to carry out the goals of the Government Relations Division
6. Work with the managers of other divisions to assist in the accomplishment of the objectives of their respective divisions
7. Coordinate the Association's lobbying activities and lead in the development of legislative strategy
8. Be the lead staff consultant to the TEA Legislative Committee
9. Work with the Communications Division to publish the weekly Legislative Report during the legislative session
10. Work with the Legal Services Division in the drafting of legislation
11. Track legislation and compile legislative voting records
12. Oversee the political action activities (especially T-PACE and The NEA Fund for Children and Public Education Fund) and make appropriate recommendations
13. Develop and recommend relevant training in the area of government relations
14. Request through other managers the essential services to carry out the mission and role of Government Relations
15. Attend meetings of the Board of Directors and Management Team and appropriately brief the staff assigned to this division
16. Accept other responsibilities as may be reasonably requested by the Executive Director or his/her designee

## **C.1. Job Description for Manager of Communications**

### **A. L. Hayes**

The Manager of the Communications Division has the overall managerial responsibility for planning, developing, implementing and evaluating the staff operations of this division. The manager is also responsible for coordinating the activities of the Communications Division with the other activities of the Association.

Specific duties include the responsibility to:

1. Develop projects designed to improve the image of the profession
2. Develop a positive and effective relationship with other organizations interested in education
3. Develop the best possible relationship with the news media
4. Provide local associations and their committees practical suggestions and aids for communicating the Association message
5. Supervise and evaluate the work of the professional and support staff assigned to the Communications Division
6. Monitor assignments, duties, and work loads of staff under his/her management and assign, reassign, or realign work loads in consultation with appropriate staff in such manner as to most efficiently and effectively fulfill the mission of the division
7. Work with the managers of other divisions to carry out the goals of the Communications Division and assist in the accomplishment of the objectives of their respective divisions
8. Respond to requests for communications involvement and assistance and manage the total communications operation of TEA
9. Attend meetings of the Board of Directors and Management Team and appropriately brief staff assigned to this division
10. Accept such other responsibilities as may be reasonably requested by the Executive Director or his/her designee
11. Be primarily responsible to the Executive Director as shown on the Staff Organizational Chart

### **Job Description for Manager of Instruction and Professional Development**

The Manager of the Instruction and Professional Development Division has the overall managerial responsibility for planning, developing, implementing, and evaluating the staff operations of this division. The Manager is also responsible to coordinate the activities of the Instruction and Professional Development Division with the other activities of the association.

Specific duties include the responsibility to:

1. Organize and coordinate all the instruction and professional development activities of TEA
2. Plan the association's instruction and professional development thrust and make recommendations for implementation
3. Supervise and evaluate the work of the professional and support staff assigned to the Instructional and Professional Development Division
4. Monitor assignments, duties, and work loads of staff under his/her management and assign, reassign, or realign work loads in consultation with appropriate staff in such manner as to most efficiently and effectively fulfill the mission of the division
5. Work with the managers of other divisions to carry out the goals of the Instruction and Professional Development Division
6. Work with the managers of other divisions to assist in the accomplishment of the objectives of their respective divisions
7. Coordinate and assist in the development of organizational positions, position papers and testimonies on issues of current educational concern
8. Coordinate and assist in the development and delivery of workshops and conferences on the local, regional and state levels on instructional innovations, and educational issues
9. Coordinate the provision of assistance to affiliates in the planning and implementation of workshops, conferences, and inservice programs in the areas of instruction and professional development, and educational issues
10. Provide administrative assistance and advice to the IPD Commission
11. Provide for liaison between the State Department of Education, State Certification Commission, Appalachia Educational Laboratory, and other agencies and organizations that have an impact on educational policy making and the TEA
12. Oversee and assist in the monitoring of educational activities of government agencies and other agencies that have impact on instruction and professional development
13. Develop and maintain cooperative relationships with the State Department of Education, State Certification Commission and State Board of Education
14. Coordinate and assist in assessments to determine the instruction and professional development concerns of members
15. Supervise and assist in the designing, researching, piloting, recommendation and evaluation of IPD programs and activities

16. Coordinate and assist in the provision of current information on teacher licensure requirements, Career Ladder certification requirements and adjustments, instruction and educational issues and concerns and interpretations of instruction related minimum rules and regulations to TEA staff and members
17. Attend meetings of the Board of Directors and Management Team and appropriately brief the staff assigned to the Instruction and Professional Development Division
18. Coordinate TEA's participation in the activities of agencies and organizations that have an impact on professional development, pre-service teacher education, educational policy research, and educational policymaking
19. Accept other responsibilities as may be reasonably requested by the Assistant Executive Director for Program Services, and Executive Director or his/her designee

## K.2. Job Description for Manager of UniServ

**Donna Cotner**

The Manager of UniServ is responsible to coordinate the assigned activities of the UniServ division with the other activities of the Association. Specific duties include the responsibility to:

1. Direct the work of the assigned District UniServ Coordinators
2. Insure adequate reports from the assigned District UniServ Coordinators relative to their field service
3. Schedule periodic meetings of the assigned District UniServ Coordinators
4. Insure the assigned UniServ staff requests for central staff assistance are promptly arranged
5. Arrange for prompt mailing of all materials requested and all letters dictated by the assigned District UniServ Coordinators
6. Arrange for the assigned District UniServ Coordinators to receive all TEA and NEA publications related to their activities
7. Evaluate the work of the assigned District UniServ Coordinators and discuss the evaluations with individual District UniServ Coordinators and with the Executive Director or his/her designee
8. Notify the appropriate management staff of any problems related to the work of assigned District UniServ Coordinators which need attention of other staff members
9. Supervise the work of the assigned support staff
10. Respond to requests for UniServ involvement in other areas and manage the assigned portion of the UniServ operation of TEA
11. Attend meetings of the Board of Directors and Management Team and appropriately brief assigned staff
12. Assume the duties of the Manager of the UniServ Division during his/her absence
13. Assume other reasonable duties as may be reasonably requested by the Manager of the UniServ Division, Executive Director or his/her designee
14. Be responsible primarily to the Manager of the UniServ Division
15. Assume other reasonable duties as may be reasonably requested by the Manager of the UniServ Division, Executive Director or his/her designee
16. Be responsible primarily to the Manager of the UniServ Division

### K.3. Job Description for Manager of UniServ

#### **Ronny Clemmons**

The Manager of UniServ is responsible to coordinate the assigned activities of the UniServ division with the other activities of the Association. Specific duties include the responsibility to:

1. Direct the work of the assigned District UniServ Coordinators
2. Insure adequate reports from the assigned District UniServ Coordinators relative to their field service
3. Schedule periodic meetings of the assigned District UniServ Coordinators
4. Insure the assigned UniServ staff requests for central staff assistance are promptly arranged
5. Arrange for prompt mailing of all materials requested and all letters dictated by the assigned District UniServ Coordinators
6. Arrange for the assigned District UniServ Coordinators to receive all TEA and NEA publications related to their activities
7. Evaluate the work of the assigned District UniServ Coordinators and discuss the evaluations with individual District UniServ Coordinators and with the Executive Director or his/her designee
8. Notify the appropriate management staff of any problems related to the work of assigned District UniServ Coordinators which need attention of other staff members
9. Supervise the work of the assigned support staff
10. Respond to requests for UniServ involvement in other areas and manage the assigned portion of the UniServ operation of TEA
11. Attend meetings of the Board of Directors and Management Team and appropriately brief assigned staff
12. Assume the duties of the Manager of the UniServ Division

## General Duties and Expectancies of Management Staff

As the staff of TEA has grown, the need for a well-defined management structure and delineation of duties is increasingly important. It is impossible and impractical for this Association to operate without any management or to concentrate all the management duties within one or two persons. Consequently, the management duties are clearly defined, delineated, and assigned.

The executive management staff (Executive Director and Assistant Executive Directors) has the overall duties and responsibilities of general management, planning, implementation, and designing and recommending programs, objectives and policies of the Association.

The middle management staff (Managers) is responsible for the specific area which they are assigned to manage. The general managerial responsibilities of each manager are as follows:

### Association Policies

1. Be expertly versed on goals, programs, objectives, positions, and policies resulting from action of the Representative Assembly and Board of Directors as pertains to his/her area(s) of responsibility.
2. Periodically review each of these goals, programs, objectives, positions, and policies and make specific recommendations to the executive management for necessary changes, revisions, updates, deletions, or additions.

### Program Design and Implementation

Be responsible for designing, recommending and implementing the program(s) of his/her assigned area(s).

### Management of Staff

1. Assign broad areas, as well as short-term specific duties, to staff under his/her supervision.
2. Manage and supervise the staff under his/her responsibility by:
  - a. Designing and assigning specific duties
  - b. Checking and following up on duties and responsibilities assigned to individual staff members
  - c. Evaluating the staff under his/her jurisdiction at least as often as stipulated and in the manner included in the master negotiated contract, but in addition, evaluating as frequently as his/her managerial judgment dictates is necessary
  - d. Following up after evaluations to provide assistance, supervision, help, and guidance
  - e. Making appropriate recommendations based upon the evaluations
  - f. Being knowledgeable, assisting, and following up in the implementation of appropriate Association policies.

3. Make requests for personnel, services and/or assistance from other divisions that may be necessary to carry out the work of his/her division. These are to be made through the managers of the respective divisions.
4. Respond to requests from other managers for personnel, services, or assistance from his/her division to assist in carrying out the mission of other divisions.
5. Be a member of the Executive Director's Management Team and utilize this structure as a means of coordinating the work of his/her division with the other divisions, make requests for needed personnel, services, or assistance, and respond to the needs and demands upon his/her division as other programs are being planned, developed, and recommended.
6. Keep the executive management informed of significant plans, accomplishments, problems, and needs.
7. Plan, design, and implement the necessary training for his/her division and suggest the types of training other staff and local association leaders need in order to accomplish the mission of his/her division.
8. Plan, design, and recommend new programs, services, activities, and procedures relative to his/her division. Make recommendations regarding activities in his/her division which should be abolished, modified, or changed.
9. Assume those other duties which logically rest with or are assigned to the management of a division of the Association.