

Request for Appearance Status
Case Number 16PCE0644
October 14, 2016

We, the undersigned, are members of the regular tenured and tenure-track faculty of the University of Minnesota. We request appearance status in Case Number 16PCE0644 that is currently before the Bureau of Mediation Services. Additionally, we wish to submit as part of the record of the case the following statement.

Regular faculty members like us who are currently assigned to Unit 8 (as described in Minn. Stat. 179A.11, Subd. 1, subpart 8) do not share a community of interest with employees classified as Lecturer, Senior Lecturer, Teaching Specialist, or Senior Teaching Specialist. The latter group should remain part of Unit 11 under the Minnesota statutes.

A community of interest can be established if there is similarity of job function, earnings, benefits, hours, required skills, and supervision. Also, there should be geographic proximity, significant interaction between groups, and some bargaining history. In the current case, there are important differences between tenured and tenure-track faculty in Unit 8 and instructors in Unit 11 with respect to many of these requirements. A major source of the differences is the requirement of tenure for promotion of Unit 8 faculty, which implies different required skills, job functions, and supervision, and ultimately impacts compensation and working conditions.

A key mission of the University of Minnesota is "to generate and preserve knowledge, understanding, and creativity by conducting high-quality research." Tenure-track faculty are required to conduct original research that meets this goal or they will be denied tenure. Candidates for tenure must submit their record of accomplishments for review by external internationally-recognized leaders, primarily on the basis of research and scholarly output. In many cases, candidates for tenure are denied promotion and must leave the University. This tenure process is consistent with other leading U.S. research universities. In the case of tenured faculty, there are reviews for promotion to Associate Professor and to Full Professor and annual faculty reviews that depend on producing high-quality academic research. This is unsupervised work that is entrepreneurial in nature; success in research is typically compensated through retention packages in response to outside offers at other research universities.

Another important aspect of the job of the regular faculty is training and working with graduate students, who will also have to produce high-quality research. Some training is done in the classroom, but a significant amount is done outside of the classroom. For example, in many departments, professors work jointly with graduate students on research projects that they intend to publish. They also train students to take the lead on their own research projects, which is a necessary skill if the students pursue academic careers.

The primary function of Unit 11 employees is the instruction of undergraduates, and in this way there is overlap with one of the functions of Unit 8 employees. The reason for this overlap is a budgetary consideration. The University hires regular faculty to accomplish its research mission and its graduate teaching mission. While regular faculty also contribute substantially to the

undergraduate teaching mission, there are simply not enough regular faculty to teach all the required undergraduate courses. Hiring lecturers is a cost-efficient solution to meet the shortfall because not only is lecturer pay significantly less than regular faculty pay, but in addition lecturers teach many more undergraduate courses per semester than regular faculty (as the latter must also spend time on research and graduate teaching). The substantial pay differential between the two units reflects the fact that regular faculty are being hired for their skills to produce leading research, and the University competes nationally and internationally with other leading research universities to attract faculty with these skills. In contrast, lecturers are not hired nor evaluated for raises based on their ability to produce research, and so the University can hire from a wider pool of candidates, often available locally. This vast difference in function between regular faculty and lecturers precludes a community of interest between these employee groups. Moreover, the employment relationship with the University is significantly different, as lecturers have no tenure review. This major difference in working conditions limits the community of interest between these groups. We emphasize these differences are not ones of degree; rather there is a bright line of core differences in function and working conditions between the two groups. This sharp distinction between regular faculty and lecturers is common across research universities and there is precedent in NLRB case decisions to treat these two employee groups as not having a community of interest. Finally, we note there is no obvious need for interaction between Unit 8 regular faculty and Unit 11 employees, nor is there any history of bargaining involving the two groups.

We recognize that Unit 8 includes faculty with term appointments. Term faculty make up 18.4% of Unit 8 according to the Bureau of Mediation Services Unit Determination Order dated September 20, 2016. These term faculty, by definition, have short-term appointments, are not eligible for tenure, and do not perform all of the teaching, mentoring, research, and service roles that the rest of Unit 8 faculty must fulfill. They are typically hired to fill short-term teaching needs or to perform research on a short-term basis. Because of the nature of their appointments, the lack of a rigorous tenure evaluation, and the type of work they perform, these faculty with term appointments have a closer community of interest with the Unit 11 instructors and should be included with them in the same bargaining unit. This can be accomplished when their contracts are renewed.

Thus, in our view, given the differences outlined above, combining regular tenured and tenure-track faculty in Unit 8 with Unit 11 instructors or Unit 8 faculty with term appointments does not meet most of the criteria of an "appropriate unit" under the Public Employee Labor Relations Act. That is, these units do not share "the principles and the coverage of uniform comprehensive position classification and compensation plans of the employees, professions and skilled crafts, and other occupational classifications, relevant administrative and supervisory levels of authority, geographical location, history, extent of organization, the recommendation of the parties, and other relevant factors." (2016 Minnesota Statutes, 179A.09, Subd. 1).

Douglas N. Arnold
McKnight Presidential Professor
School of Mathematics

127 Vincent Hall
206 Church St. SE
University of Minnesota
Minneapolis, MN 55455-0488
arnold@umn.edu
612 626-9137

Philippe Buhlmann
Director of Graduate Studies in Chemistry
Professor of Chemistry and Chemical Physics
325 Smith Hall, Department of Chemistry, University of Minnesota
207 Pleasant St. SE
University of Minnesota
Minneapolis, MN 55455
buhlmann@umn.edu
(612) 624-1431

Graham Candler
McKnight Presidential Professor and Russell J. Penrose Professor
Department of Aerospace Engineering & Mechanics
College of Science and Engineering
University of Minnesota
110 Union Street SE
Minneapolis, MN 55455
candler@umn.edu
612-625-2364

Thomas J. Holmes
Curtis L. Carlson Professor of Economics
Department of Economics
College of Liberal Arts
4-135 Hanson Hall
1925 Fourth Street South,
University of Minnesota
Minneapolis, MN 55455
holmes@umn.edu
612-625-4512

David L. Kohlstedt
College of Science and Engineering Distinguished Professor
Gibson Chair in Earth and Planetary Sciences
Department of Earth Sciences
University of Minnesota
310 Pillsbury Dr. SE, Minneapolis, MN 55455
dlkohl@umn.edu
612-626-1544

Sally Gregory Kohlstedt
Professor
Department of Earth Sciences/Program of History of Science and Technology
College of Science and Engineering
108 Pillsbury Hall
University of Minnesota
Minneapolis, MN 55455
sgk@umn.edu
612-624-9368

Ellen McGrattan
Professor and Director of Heller-Hurwicz Economics Institute
Department of Economics
College of Liberal Arts
4-161 Hanson Hall
University of Minnesota
Minneapolis, MN 55455
erm@umn.edu
612-625-6714

J. Myles Shaver
Professor and Pond Family Chair
Carlson School of Management
3-428 Carlson School
University of Minnesota
Minneapolis, MN 55455
mshaver@umn.edu
612 625 1824

Joel Waldfogel
Frederick R. Kappel Chaired Professor
Department of Strategic Management and Entrepreneurship
Carlson School of Management
3-177 Carlson School
University of Minnesota
Minneapolis, MN 55455
jwaldfog@umn.edu
612-626-7128