

**UNIVERSITY OF SASKATCHEWAN, Applicant v ADMINISTRATIVE AND SUPERVISORY PERSONNEL ASSOCIATION, Respondent**

LRB File No. 043-25; April 23, 2026

Vice-Chairperson: Patricia Warwick; Board Members: Amanda Freistadt and Curtis Talbot

Citation: *University of Saskatchewan v. Administrative and Supervisory Personnel Association*, 2026 SKLRB 21

Counsel for the Applicant, University of Saskatchewan: David Stack, K.C.

Counsel for the Respondent, Administrative and Supervisory Personnel Association: Keir Vallance

**Application for Amendment – New position – Scope of Certification Order – Position not included within scope of Union Certification Order.**

**REASONS FOR DECISION**

**Background:**

**[1] Patricia Warwick, Vice-Chairperson:** The University of Saskatchewan (“Employer” or “University”) has created two new positions at the Saskatoon Campus and has applied for an amendment of the Administrative and Supervisory Personnel Association’s (“Union” or “ASPA”) Certification Order pursuant to Section 6-104(2)(g) and (i) of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 (“Act”). The Employer is requesting that the position of Director, Executive Education at Edwards School of Business be excluded from the Certification Order based on the managerial and confidentiality exclusions and the position of Analytical Chemist at the Global Institute for Food Security (“GIFS”) be excluded from the Certification Order as the scope of the Certification Order does not cover the position. The Union agrees that the Director, Executive Education should be excluded from the Certification Order but argues that the Analytical Chemist is included within the scope of the Certification Order.

**[2]** The Board agrees that the Director, Executive Education position is outside of the Union’s Certification Order and an appropriate Order shall issue in that respect. Also, the Board has determined that the Analytical Chemist position is outside the scope of the Union’s Certification Order for the reasons that follow.

**Facts and Evidence:**

[3] The Union is the certified bargaining agent of a certain group of employees at the University of Saskatchewan under a Certification Order dated November 1, 2001. The unit includes administrative and professional employees and technical officer employees of the Employer and is not an all-employees unit.

[4] The Certification Order dated November 1, 2001 in LRB File No. 108-01 is attached to these Reasons as Appendix "A".

[5] The Employer submitted an Affidavit of Colin Weimer, Director of Employee and Labour Relations for the University, which contained the following evidence:

- The University of Saskatchewan is a multi-bargaining unit workplace. There are members of six bargaining units, including the Union. Also, there are three groups or categories of out-of-scope employees – out of scope by virtue of their duties; out-of-scope senior administrators; and a group of non-unionized research employees ("non-unionized employee group"). The majority of the non-unionized employee group are engaged in research and many are hired by principal investigators of research projects funded by grants.
- The Employer holds jurisdictional review meetings with representatives of all the Employer's bargaining units when the Employer creates a new position or makes substantial changes to the duties of existing positions. Jurisdictional review meetings occurred for the new positions here. The Director, Executive Education at Edwards School of Business was discussed at the review meeting in October, 2024 and the creation of the Analytical Chemist position at GIFS was discussed at the review meeting in January, 2025. The Union was the only bargaining unit that indicated the new positions should be in-scope of its bargaining unit.
- The parties agreed that the Employer could post the positions and fill them and that the Employer would apply to the Board for a determination of whether the new positions should be in-scope of the Union's Certification Order.
- The Employer introduced an Employee Handbook for the non-unionized employee group which sets out the terms and conditions of employment for that group.

**[6]** The Employer submitted an Affidavit of Steven Webb, Executive Director and Chief Executive Officer for GIFS, which contained the following evidence:

- The GIFS has 40 employees. The majority of the employees are engaged in research activities and are part of the non-unionized employee group.
- One Research Associate position falls within the University's PSAC bargaining unit. Nine employees fall within ASPA – the Financial Officer, Business Leads, Business Development Coordinator, Communications Officer, Lead – R & D Operations, Operations Coordinator, Executive Assistant. These employees are not involved with research activities.
- The new Analytic Chemist position was created as a condition of the award of a Canada Foundation for Innovation grant for its Engineering Biology Platform.

**[7]** The job description for the Analytic Chemist position was attached to the Affidavit of Steven Webb and submitted into evidence and outlines the following requirements for the position:

- Specialized scientific work including the operation and maintenance of highly specialized scientific equipment and application of findings to IT software and systems.
- Independent development and adaptation of specialized scientific procedures.
- Leading a team and training others in the operation and maintenance of highly specialized scientific equipment and the application of specialized scientific procedures.<sup>1</sup>

**[8]** The Union submitted an Affidavit of Shayne Meggs, Membership Services Officer for the Union which contained the following evidence:

- ASPA has over 1600 members with a diverse membership in a wide variety of jobs including research officers.
- ASPA members who are involved directly in research activities are research officers, research assistants, research analysts, and laboratory managers.

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<sup>1</sup> Copy of Analytic Chemist position is attached as Appendix "B".

- ASPA members who are involved in research and laboratory work fall in the “job family” of Specialist/Professional

**[9]** The following steps have been taken at the Board to date:

- The Employer brought the application to amend on February 27, 2025.
- The Union filed its Reply on April 17, 2025.
- The Board ordered the matter would be heard by way of written submissions on September 5, 2025.
- The Employer filed its evidence and Brief of Law on November 3, 2025.
- The Union filed its evidence and Written Submissions on November 18, 2025.
- The Employer filed its Reply to the Union’s Submissions on November 20, 2025.

**Argument on behalf of the Employer:**

**[10]** The Employer argues that it has followed the correct procedure in the amendment application. The Employer cites the case of *Saskatchewan Polytechnic v. Saskatchewan Government and General Employees’ Union*, 2022 CanLII 45399 (SK LRB) (“*Saskatchewan Polytechnic*”) which outlines the procedure to be followed in amendment applications and argues that it complied with the required procedure.

**[11]** The Employer also argues that there has been a material change in circumstances with the creation of the new positions. The Employer says the Board has confirmed that the creation of a new position constitutes a material change on several occasions including in the case of *University of Regina Faculty Association v. Canadian Office and Professional Employees Union, Local 397*, 2022 CanLII 111251 (SK LRB) (“*University of Regina*”).

**[12]** The Employer further argues that the Director, Executive Education at Edwards School of Business is excluded from the Union’s Certification Order as the position falls outside the definition of employee found within *The Saskatchewan Employment Act*, SS 2013, c S-15.1, (“Act”).

**[13]** The Employer argues that the position of Analytical Chemist falls outside the parameters of the Union’s Certification Order. The basis of this argument is simply that the Analytical Chemist position falls outside the scope of the ASPA bargaining unit and falls within the non-unionized employee group.

[14] The Employer says that the test to determine scope of the Analytical Chemist position is akin to the test applied by the Board in multi-bargaining unit workplaces and cites the case of *Polytechnic v. Saskatchewan Institute of Applied Science and Technology Faculty Association and Saskatchewan Government and General Employees' Union*, 2015 Can LII 43770 (SK LRB) (*SaskPoly #1*).

[15] The Employer argues that the onus is on the Union to demonstrate that the Analytical Chemist position falls within the bargaining unit. The Employer acknowledges that this is different from a typical "all-employee" bargaining unit situation where it would be up to the Employer to prove the exclusion of the Analytical Chemist position. The Employer argues that the distinction is because ASPA is not an all-employee bargaining unit and its Certification Order is not a "catch-all" unit subject only to exclusions from other units. The Employer argues that the Union's "plumbers and pipefitters" example is not much different from the situation at hand and the Union bears the onus to demonstrate to the Board that the Analytical Chemist position falls within its Certification Order.

[16] The Employer points to the wording of the Union's Certification Order and argues that the Analytical Chemist position does not fall within any of the groups "administrative and professional persons and technical officers". Again, the Employer points to the cases of *University of Regina Faculty Association v. Canadian Office and Professional Employees Union, Local 397*, 2022 CanLII 111251 (SK LRB), *SaskPoly #1* and *Saskatchewan Polytechnic, v. Saskatchewan Government and General Employees' Union*, 2017 CanLII 85453 (SK LRB) ("*SaskPoly #2*"). The Employer relies on the factors the Board applies in assigning positions in multi-unit workplaces as described in *SaskPoly #1* and *#2*. Ultimately, the Employer says that when applying these factors, the conclusion is that the Analytical Chemist does not fall within the scope of the ASPA Certification Order.

[17] The Employer says that the Union's interpretation of the Certification Order is too broad and that the Union has not demonstrated that the Analytical Chemist position fits within the scope of its Certification Order.

**Argument on behalf of the Union:**

[18] The Union argues that the Analytical Chemist position is in scope of its Certification Order and that the "community of interest" test as per the test from *SaskPoly #1* does not apply as there are not multiple bargaining units competing for the same position in the case at hand. The Union

points to the case of *University of Saskatchewan v. ASPA*, 2007 CanLII 68769 (SK LRB) (“*U of S 2007*”) to support its argument. The Union argues that the University was making the same argument there and it was rejected. The Union argues that the “community of interest” test and list of factors can only be used where the Board is dealing with an application for certification, an application to add-on a group of employees to a certification order or an application to determine in which bargaining unit of a multi-unit bargaining setting a position belongs.

**[19]** The Union says the only question for the Board is whether the Analytical Chemist is properly within the scope of the ASPA certification order and bargaining unit. The Union argues that the Analytical Chemist position *prima facie* falls within the Union’s bargaining unit as the position is one of an administrative person, a professional person or a technical officer. The Union argues that this is not a situation where they have a “plumbers and pipefitters” union and they are trying to have “electricians” included. Rather, this position fits under one of the broad categories of employees found in its Certification Order.

**[20]** Respecting the Analytical Chemist position being an administrative person, professional person or technical officer under the Certification Order, the Union provides dictionary definitions of these categories and then compares the definitions to the job description of the Analytical Chemist. The Union says any of the definitions of administrative, professional or technical officer would apply to the Analytical Chemist. The Analytical Chemist is a professional insofar as they are a scientist. The Analytical Chemist is a technical officer given the various qualifications and requirements in the job description and the Analytical Chemist would be administrative due to the management and administration elements of the job description. The Union presents evidence that ASPA members who are involved directly in research activities are research officers, research assistants, research analysts, and laboratory managers. ASPA members who are involved in research and laboratory work fall in the “job family” of Specialist/Professional.

**[21]** The Union counters the Employer’s argument that the Analytical Chemist work is not work that has been performed by members of ASPA or any other bargaining unit at the University by simply arguing that this is a new position with new duties. Also, the Union argues that the physical location of the employee in the new position does not impact the analysis as Analytical Chemist is an employee of the University full stop.

**[22]** The Union says that neither the managerial nor the confidential exclusion apply to the Analytical Chemist position.

[23] The Union relies on the *Battlefords and District Co-operative Ltd. (Re)*, 2015 CanLII 19983 (SK LRB) (“*Battlefords*”) case and argues that the Employer bears the burden of proof to justify the exclusion of the Analytical Chemist position from the bargaining unit. The Union says that the general rule from *Battlefords* is applicable because, while this is not an all-employees bargaining unit, it is still a “broad bargaining” unit with employees under three broad categories and a long list of inclusions. The Union says this makes the *Battlefords* situation, where the Employer bore the onus, analogous to this situation. The Union says the Employer created the position and has the knowledge of and control over the duties assigned to the position and so should bear the onus as is usual in all-employee unit situations.

[24] The Union states that it is not seeking to add a group of previously unrepresented employees to the bargaining unit. The Union argues that this is a new position with new responsibilities.

#### **Relevant Statutory Provisions:**

[25] The Board has the authority to amend previous orders of the Board, including certification orders, under s. 6-104 of the Act as follows:

##### ***Board powers***

...

(2) *In addition to any other powers given to the board pursuant to this Part, the board may make orders:*

...

*(f) rescinding or amending an order or decision of the board made pursuant to clause (b), (c), (d) or (e) or subsection (3), or amending a certification order or collective bargaining order in the circumstances set out in clause (g) or (h), notwithstanding that a motion, application, appeal or other proceeding respecting or arising out of the order or decision is pending in any court;*

*(g) amending a board order if:*

- (i) the employer and the union agree to the amendment; or*
- (ii) in the opinion of the board, the amendment is necessary;*

...

*(i) subject to section 6-105, determining for the purposes of this Part whether any person is or may become an employee or a supervisory employee as defined in clause 6-1(1)(o) of this Act as that clause read before the coming into force of The Saskatchewan Employment Amendment Act, 2021.*

**Analysis and Decision:*****Exclusion of Director, Executive Education Position***

[26] The parties agree that the Director, Executive Education at Edwards School of Business should be excluded from the Union's Certification Order as the position falls outside the definition of employee found within the *Act*.

[27] The Board agrees with the parties and an Order shall issue to that effect. The Certification Order will be amended accordingly.

***Exclusion of Analytic Chemist Position***

[28] The Board finds that the Employer has followed the proper procedure as per the Board decision in *Saskatchewan Polytechnic* and many other Board decisions. The Employer notified the Union of the new Analytical Chemist position (and the Director, Executive Education position) and advised of its need to fill the position(s) and obtained the Union's agreement to fill the position(s) as out of scope pending the Employer's application to the Board.

[29] The Board finds that creation of the Analytical Chemist position (and the Director, Executive Education position) is a material change as per the decision of *University of Regina* and many other Board decisions.

***Onus***

[30] The Board finds that the Union bears the onus of proving that the Analytical Chemist position is included in its Certification Order.

[31] This is not a case where the Board is determining an exclusion in an all-employee bargaining unit. In that situation, it is well established that the Employer bears the onus of proving a management or confidentiality exclusion. Rather here, we are dealing with a question of whether a newly created position falls within the parameters of a limited Certification Order in a workplace with multiple bargaining units and multiple groups of out-of-scope employees. In this circumstance, the Union bears the onus of demonstrating that the Analytical Chemist position fits within the parameters of its Certification Order. Conducting the inquiry in any other way could lead to an unintended misinterpretation of the Certification Order at issue. It could lead to coverage for a position or positions where the employee or employees did not have the opportunity to choose representation for themselves.

[32] However, in this case, the onus question is not all that important. The Employer has presented evidence and argument that the Analytical Chemist position is outside the scope of the Union's Certification Order on a *prima facie* basis. The Employer has brought evidence which shows that the Analytical Chemist performs duties similar to those performed by positions which are outside of the Union's Certification Order – the non-unionized employee group. If the onus was placed on the Employer, the Employer has met the onus.

[33] The Union presented limited evidence that there are other employees in the bargaining unit who perform research duties but did not present evidence to show that other employees in the bargaining unit perform duties the same or similar to the Analytical Chemist position. Rather, the Union argues that the new Analytical Chemist position fits in the broad categories of the Certification Order. The Board does not agree as will be explained.

#### ***Scope of Certification Order***

[34] The Union uses dictionary definitions and then argues that the Analytical Chemist position could be any of an administrative person, professional person or technical officer as those positions are intended in the Certification Order.

[35] First, the Analytical Chemist position is clearly not an administrative employee as intended in the Certification Order. While the Analytical Chemist performs what could be argued as a small amount of administrative duties, this category of employee is clearly meant to cover "Administrative Assistants", "Departmental Assistants", "Publications Assistants", "Secretary" and the like. The organization chart of the GIFS, included as exhibit "A" with the Affidavit of Steven Webb is helpful here as it shows that there is a position at the GIFS titled "Executive Assistant" that is in-scope the ASPA Certification Order. The Board finds that this is the type of administrative position that is in-scope of the ASPA Certification Order rather than the position of Analytical Chemist.

[36] Second, the Analytical Chemist position is not a professional employee as was intended by the Certification Order. The Board acknowledges that this is the category under which the Union has the best argument for inclusion, but even here, the Union does not make a strong case in support of inclusion. Being a highly qualified scientist, the Analytical Chemist position could be considered a "professional" outside the context of the actual Certification Order. However, again, in reviewing the Certification Order, it is clear that the category of "professional persons" was meant to cover positions such as "Director of Engineering", "Manager", "Architect", "Accountant",

“Social Worker”, “Pharmacist”, “Research Engineer” and the like. It is specifically noted that there are no positions like “Scientist”, “Specialized Scientist” or “Analytical Scientist” listed in the Certification Order. As this is not an all-employee unit, this means that positions not included in the enumerated categories of employees or the specifically enumerated positions outlined in the Certification Order, are excluded from the bargaining unit. After all, it is the scope of the Certification Order that is being examined by the Board here. It would not be appropriate for the Board to inadvertently expand the scope of the Certification Order by squeezing employees into categories or positions when that was not the original intent of the Certification Order. Including the Analytical Chemist position under the “professional persons” category would have that effect.

**[37]** Finally, the Analytical Chemist position is not a technical officer as those positions are intended in the Certification Order. The Union argues that this is the most apt category under which the Analytical Chemist position would fall and points to various duties in the Analytical Chemist job description in support of its argument. Again, the Board does not agree with the Union’s argument. A review of the Certification Order shows that the category “technical officer” was meant to cover positions like “lab demonstrator”, “research officer”, “research analyst”, “medical illustrator”. The Board does not find this category and these positions analogous to the highly specialized Analytical Chemist position. This category and positions appear to be what are commonly known as technicians. Here, the Analytical Chemist position at the GIFS is not a technician position, rather it is a highly specialized, analytical scientific position responsible to lead a complex research project. This position does not fall into the same category as a technical officer or technician included in the Union’s bargaining unit.

**[38]** Also, a close review of the specifically enumerated included positions reveals that there are no positions the same or similar to the Analytical Chemist position. The Union brought limited evidence in the form of an affidavit from Shayne Meggs which stated that other positions in the bargaining unit conduct research activities including research officers, research assistants, research analysts and laboratory managers. There was no evidence presented that these positions perform the same duties as the Analytic Chemist position which, based on the job description, is a highly specialized scientific position.

**[39]** Also, the Union did not present any evidence, apart from the Affidavit of Shayne Meggs, that any of the specifically enumerated in scope employees are similar or the same as the new Analytical Chemist position. This kind of evidence would have assisted the Board in considering the scope of the Certification Order – particularly inclusion of the Analytical Chemist position. The Board was left almost entirely with the evidence of the Employer which was not challenged by the

Union. The Employer's evidence supported the exclusion of the Analytical Chemist position from the Union's Certification Order as being outside of the categories or enumerated included positions outlined therein due to the duties performed by the Analytic Chemist as a highly specialized scientific position.

**[40]** The Board finds that the Analytical Chemist is a scientific position with highly specialized scientific duties. This is not the same as an administrative person, a professional person or a technical officer as contemplated by the Certification Order and is therefore not included in the scope of the Union's Certification Order.

**[41]** The Union uses the example of an "electrician" not being included in a "plumbers and pipefitters" unit. The Board found this analogy to be helpful as the Board views the Analytical Chemist position to be the "electrician" here and not included in the Union's Certification Order which covers the positions of "plumbers and pipefitters" in the Union's analogy. While the Union's Certification Order does cover three broad categories of employee groups and contains a long list of inclusions, the Board finds that neither the categories nor the specific inclusions would apply to the position at issue. Rather, it is a category or position which is outside the parameters of the Union's Certification Order.

### **SaskPoly #1 and #2 Factors**

**[42]** Another way to approach this scope review is to apply the list of factors from *SaskPoly #1* and *#2* to the Analytical Chemist position. This list of factors or "community of interest test" is most commonly used when two or more bargaining units are involved and the Board is trying to decide upon the most appropriate unit for a position or positions. The Union says this test should not be applied and relies on the case of *U of S 2007* where an earlier version of the list of factors was not applied by the Board.

**[43]** In *U of S 2007*, ASPA specifically argued that the list of factors did not apply because the question before the Board there was whether positions should be excluded from the bargaining unit rather than included in the bargaining unit. Here, of course, the question before the Board is whether the Analytical Chemist position should be included in ASPA's bargaining unit so is the exact opposite scenario to what was before the Board in the *U of S 2007* case.

**[44]** Moreover, in *U of S 2007*, the Board describes three scenarios where the list of factors or "community of interest" test can be applied. At paragraphs 30 – 32, the Board says:

**[30]** We agree with the interpretation advanced by the Union. The community of interest factor has been utilized by the Board to determine, on applications for certification or applications to “add-on” a group of employees to an existing certification order, whether the position in question should be included in the proposed or established bargaining unit (see for example, *Centre of the Arts*, *supra*, and *St. Thomas More College*, *supra*, cited by the University, both of which involved add-on applications). In *Arch Transco*, *supra*, the Board stated at 637:

*[18]* The concept of community of interest among employees is a tool that can be used to assess the viability of a proposed bargaining unit. In *Southern Ontario Newspaper Guild Local 87 v. Harlequin Enterprises Ltd.*, OLRB Rep. 226, the Ontario Labour Relations Board described this relationship, at 232:

*The question is not “is there a community of interest amongst the employees for whom the union seeks certification?” but “is there a sufficient community of interest amongst those employees for whom certification is sought that the resulting unit is viable for collective bargaining purposes?”. The Board, in effect, assesses whether the bargaining unit sought is viable and viability reflects a sufficient community of interest nexus amongst the employees to sustain collective bargaining. Thus, community of interest is not an independent, mechanical exercise but with rather, goes to the issue of viability.*

**[31]** In addition, the factor of community of interest may be used by the Board to determine, on an application for amendment or a determination under s. 5(m), in which bargaining unit a disputed position belongs where the workplace has more than one bargaining unit. The test utilized by the Board in determining whether a disputed position properly belongs in the CUPE or ASPA bargaining units is a form of the community of interest consideration. That test involves an examination of the history of the position to determine whether the duties and responsibilities of that position can be traced back to either of the bargaining units and whether there are similarities between the new position and ones currently assigned to each of bargaining units (see for example, *University of Saskatchewan*, LRB File No. 218-98, *supra*). In *Canadian Union of Public Employees, Local 21 v. City of Regina and Regina Civic Middle Management Association*, [2005] Sask. L.R.B.R. 274, LRB File Nos. 103-04 & 222-04, the Board was required to determine in which bargaining unit certain disputed positions should be placed and described the relevant test as follows at 330 and 331:

*[134]* In assessing community of interest, we are guided by a number of factors including educational qualifications, the general nature of the duties performed, lateral mobility, and the similarity of the positions to those in one of the competing bargaining units. Different cases have placed a different emphasis on each of these factors, as the circumstances require. For the purposes of this case, the most determinative factor is the similarity of the positions to positions in one of the competing bargaining units, however, we will examine each in turn.

**[32]** In the present case, we are not dealing with an application for certification, an application to add-on a group of employees to an certification order or an application to determine in which of the bargaining units in a multi-bargaining unit setting a disputed position belongs. As such, the community of interest consideration is irrelevant to our inquiry.

**[45]** The Analytical Chemist position and the positions which are similar to it as per the organizational chart of the GFIS are not and have never been included in the Union's Certification Order. Rather, these positions are part of a non-unionized employee group separate from any managerial/confidential exclusions and separate from out-of-scope leadership and academics at the University. To bring this position in scope would be to add-on a position or positions to an existing certification order. Given that the Board is considering an inclusion into a bargaining unit and whether to add-on a position or positions to the Union's Certification Order, the Board decides that it is appropriate to consider the list of factors from *SaskPoly #1* and *#2* here.

**[46]** The most recent articulation of the list of factors can be found in the Board decision of *Saskatchewan Polytechnic v SPFA and SGEU*, 2026 SKLRB 18 as follows:

*[27] ...The Board will now consider the factors from SaskPoly #1 and SaskPoly #2 in the context of the case before the Board. For clarity, the Board views the combined factors as follows:*

- a. Similarities of the disputed position and other positions in the competing bargaining units,*
- b. Community of Interest,*
- c. History of the Disputed Position/Bargaining Unit,*
- d. Industrial Stability,*
- e. Economy and efficiency,*
- f. Broader more inclusive units,*
- g. Safety, and*
- h. Employer Preference.*

**[47]** Consideration of these factors follows.

**a. Similarities of the disputed position and other positions in the competing bargaining units.**

**[48]** The Board has been presented with evidence of the duties of the Analytical Chemist position. The Board finds that the Analytical Chemist position is a highly specialized scientific position. The job description of the Analytical Chemist position (see Appendix "B") supports this finding.

**[49]** The Board has not been presented with evidence that would demonstrate that any of the positions included in the Union's Certification Order would perform the same kind of highly specialized scientific duties conducted by the Analytical Chemist. Rather, the Union has argued that the Analytical Chemist position fits within its Certification Order based on dictionary definitions of the categories of positions within the Certification Order. The limited evidence presented by the

Union about in scope members performing research activities does not assist the Board with the analysis.

**[50]** The Employer has presented limited evidence that the Analytical Chemist position is similar to other positions in the non-unionized employee group in an Affidavit of Steven Webb. The Affidavit contained an organizational chart of the work unit at GIFS. The evidence and argument from the Employer is that the majority of employees at GIFS are engaged in research activities and that since its creation in 2012, GIFS research employees have been part of the non-unionized employee group.

**[51]** Clearly, the Analytical Chemist is engaged in highly specialized scientific research; however, neither party has presented evidence which would answer whether other in-scope positions also do this work. From the broad categories of inclusions and the job titles of specific inclusions found in the Certification Order, it can be inferred that other positions do not do this work. Notably, when explaining similarities between the Analytical Chemist position and categories of inclusions from its Certification Order, the Union did not argue that the scientific duties found within the Analytical Chemist job description matched any duties of included positions in any of the included categories or included specific positions. Also, the Affidavit of Shayne Meggs did not contain any information which would support this. Rather, the Union argued that the Analytical Chemist is a new position with new duties so should be included. This leads to the conclusion that there are not similarities between the included positions and the Analytical Chemist position.

**[52]** Weighing all of this, the Board finds that the Analytical Chemist has greater similarity to the non-unionized employee group. However, this factor does not strongly support inclusion given the lack of evidence presented by the parties.

**b. Community of Interest**

**[53]** Again, based on the evidence presented in the form of the job description of the Analytical Chemist position, and the evidence from Steven Webb that research positions at the GIFS have not been included in the Union's bargaining unit but have instead been part of the non-unionized employee group, the Employer argued that the Analytical Chemist position has a greater community of interest with the non-unionized employee group.

**[54]** The Union's only argument was that the *SaskPoly #1 and #2* factors were not applicable to this fact scenario at all as the Board is not deciding placement in one bargaining unit or another.

However, again, the Board will note that the Union did not argue that the Analytical Chemist had any common interest with any of the positions included in its Certification Order apart from the Union's analysis based on dictionary definitions and the limited evidence of Shayne Meggs.

**[55]** Based on the evidence and argument, the Board finds that community of interest factor supports exclusion of the Analytical Chemist position from the bargaining unit.

**c. The history or origins of the disputed position and bargaining units**

**[56]** While this specific position is new, the evidence from the Employer was that positions like it, namely research positions, are not new at GFIS and similar positions have always been part of the non-unionized employee group.

**[57]** This was not countered by the Union except to assert that this is a new position with new responsibilities as admitted by Steven Webb in their evidence. This must be considered along with the evidence that similar positions have always been part of the non-unionized employee group.

**[58]** In addition to the history of the position, the Board considers the history of the overall bargaining structure. Here, the evidence before the Board which was not countered by the Union, is that the ASPA Certification Order has never included scientific positions like the Analytical Chemist position. As per *U of S 2007*, the ASPA bargaining unit has existed in excess of 25 years (at that time) and has not been amended. The categories of inclusions and list of enumerated inclusions have stayed constant and have not included highly technical scientific research positions like the Analytical Chemist position the Board is considering here. This points to contemplation that this type of position was never intended to be included in ASPA's Certification Order.

**[59]** Consideration of this factor supports the exclusion of the Analytical Chemist position from the bargaining unit.

**d. Industrial stability and viability of the bargaining relationship**

**[60]** There is only one position at issue. However, the evidence is that there are several other research positions at GFIS which are part of the non-unionized employee group.

**[61]** Bringing this position in scope without an expression of support could impact the labour relations of this employee and other employees with similar positions at the workplace.

[62] The Board finds industrial stability favours exclusion from the bargaining unit.

**e. Economy and Efficiency**

[63] This factor considers how the position will interact with other employees and how the position will take direction. As noted, the position is part of a blended work environment. The out-of-scope manager supervises other employees in the non-unionized employee group, members of ASPA and a member of the PSAC unit at the University, and the position would interact with employees in all of these units. This factor is neutral.

**f. Broader, More Inclusive Bargaining Units**

[64] As we are considering the scope of the Union's Certification Order here, this is not a factor with any impact and is therefore neutral in the analysis.

**g. Safety**

[65] There are no safety issues raised by inclusion or exclusion in the bargaining unit. This factor is neutral.

**h. Employer Preference**

[66] The University is asking that the Analytical Chemist position be excluded from the ASPA unit. The reasons appear to be grounded in valid labour relations and operational concerns as is the current requirement of the Board.<sup>2</sup>

[67] The Board has considered the Employer's preference in the usual course of assessing the evidence and argument of the parties and considers this factor to be neutral.

[68] To conclude, the Board finds that on consideration of the *SaskPoly #1 and #2* factors or the "community of interest" test, the Analytical Chemist position should not be included in the Union's Certification Order.

[69] Finally, the Union's argument that the Analytical Chemist position is a new position with new duties must be addressed by the Board. This argument ignores the question of whether there are others performing these types of duties who were/are not included in the bargaining unit. Based on the evidence and argument advanced by the Employer, the non-unionized employee

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<sup>2</sup> See *Saskatchewan Polytechnic v SPFA and SGEU*, *supra.* at para. 60

group appears to fit this description. That is, there are other researchers at the GFIS who are not included in the Certification Order of the Union and never have been. Therefore, to say the Analytical Chemist is not currently in the bargaining unit simply because it is a new position does not persuade the Board here. While the evidence was not comprehensive, the Board has considered that there are others excluded from the bargaining unit in the non-unionized employee group who may be conducting duties similar to the new Analytic Chemist position.

**[70]** As a result, with these Reasons, an amended Certification Order will issue excluding the Director, Executive Education at Edwards School of Business.

**[71]** The Board thanks the parties for the helpful submissions which were reviewed and considered in deciding this matter.

**[72]** This is a unanimous decision of the Board.

**DATED** at Saskatoon, Saskatchewan, this **23rd** day of **April, 2026**.

**LABOUR RELATIONS BOARD**

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Patricia Warwick  
Vice-Chairperson