

STATE OF IOWA  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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IN THE MATTER OF:CEDAR RAPIDS AIRPORT COMMISSION,  
Public Employer,

and

CEDAR RAPIDS AIRPORT PROFESSIONAL  
FIREFIGHTERS ASSOCIATION, LOCAL  
2607, INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS,  
Petitioner/Certified Employee  
Organization.CASE NO. 102240

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## DECISION AND ORDER

On September 14, 2018, the Cedar Rapids Airport Professional Firefighters Association, Local 2607, International Association of Fire Fighters (Local 2607), filed a petition for determination of public safety unit status with the Public Employment Relations Board (PERB or Board) pursuant to PERB subrule 621—6.4(6). Local 2607 represents a bargaining unit of safety officers and senior safety officers employed by the Cedar Rapids Airport Commission (Commission). The petition seeks PERB’s determination whether this bargaining unit is a public safety unit within the meaning of PERB subrule 621—6.4(3). Local 2607 asserts the safety officers are “police officers” and “fire fighters” as contemplated by Iowa Code section 20.3(11) (section 20.3(11)) and thus are public safety employees. The Commission disputes the unit’s public safety status and asserts the safety officers are not “police officers” or “fire fighters” and thus are not public safety employees under section 20.3(11).

Pursuant to notice, an evidentiary hearing was held before the Board on November 1, 2018. Local 2607 was represented by Charles Gribble and Christopher Stewart. The Commission was represented by Aaron Hilligas. Both parties filed post-hearing briefs, which were received on December 7, 2018.

Based upon the record before us and having considered the parties' arguments, the Board makes the following findings of fact and conclusions of law.

#### FINDINGS OF FACT

The Cedar Rapids Airport Commission is a public employer within the meaning of Iowa Code section 20.3(10).<sup>1</sup> Local 2607 is an employee organization within the meaning of Iowa Code section 20.3(4) and is certified to represent the following bargaining unit of Cedar Rapids Airport Commission employees:

INCLUDED: All safety officers and senior safety officers employed by the Cedar Rapids Airport Commission.

EXCLUDED: The Airport Director, Assistant Airport Director, chief safety officer, clerical employees, maintenance employees, and all other employees excluded by Section 4 of the Act.

The unit was determined in 1979 in PERB case number 1206 and its composition has remained unchanged. Since 1979, Local 2607 has been the unit's certified exclusive bargaining representative.

The Cedar Rapids Airport Commission was established by the City of Cedar Rapids pursuant to Iowa Code chapter 330 to control and manage the Eastern Iowa Airport (Airport) located in Cedar Rapids, Iowa. The Commission has all

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<sup>1</sup> "Public employer" means the state of Iowa, its boards, Commission s, agencies, departments, and its political subdivisions including school districts and other special purpose districts. Iowa Code § 20.3(10)(2017).

powers in relation to airports granted to cities and counties under state law except the authority to sell the airport.

The Commission consists of five Commissioners who are appointed by the mayor of the Cedar Rapids (City). The Commission is an independent political subdivision and operates independently from the City. The City, including its police and fire departments, does not participate in the operations of the Commission and has no authority over any of the Commission's employees. The Commission's Public Safety Department, however, listens and communicates with the City's dispatch radio traffic.

The Commission's organizational structure, as updated on January 22, 2018, reveals the Commission delegates authority directly to the Airport Director to implement the direction provided by the Commission. The Commission employees ultimately report to the Airport Director. The Airport Director has three directors who have responsibility over different areas of the airport – Director of Operations, Director of Marketing and Communications, and Director of Finance and Administration.

The part of the organizational structure relevant here is the Director of Operation's area of responsibility, which consists of the Airport Maintenance Department and the Airport Public Safety Department. Up until about 2006, the Public Safety Department was called the "Police, Fire and Safety Department" before its name was changed to the "Public Safety Department".

The Airport Public Safety Department consists of a public safety commander, three senior safety officers and nine safety officers. The public safety

commander receives direction and guidance from the director of operations, but the commander is the direct supervisor to the safety officers and provides daily guidance for the Public Safety Department.

The Airport is required to maintain an operating certificate issued by the Federal Aviation Administration (FAA). The Airport has fulfilled the requirements to become a certificated airport operator under 14 C.F.R. Part 139 (Part 139), a set of federal regulations setting certain safety and operational standards for certification of airports. In order to achieve and maintain its status as an FAA certificated airport, the Commission must comply with the requirements set out in Part 139, Certification of Airports, and requirements outlined in 49 C.F.R. Part 1542 (Part 1542), Airport Security, a set of federal regulations promulgated by the U.S. Department of Homeland Security specifically pertaining to requirements related to law enforcement at airports.

Under Part 1542 guidance, the Commission is required to have at least one law enforcement officer (LEO) with arrest authority on duty 24 hours daily/7 days a week. The LEO is required to be able to respond to the terminal checkpoint within 10 minutes. Under Part 139 guidance, the Commission is required to maintain a firefighting and rescue force on duty during scheduled air carrier operations, which start at 5:00 a.m. and generally end by midnight. The fire and rescue force must be able to respond to the furthest point of the airport runway within three minutes in the event of an aircraft emergency. The regulations also require the response force to have specialized training in aircraft rescue which focuses on extraction of passengers from an aircraft in the event of an accident.

The Commission's safety officers are required to be peace officers certified by the Iowa Law Enforcement Academy (ILEA). As such, any applicants for the position of a safety officer must be able to meet the minimum law enforcement standards set by the ILEA. The hiring process requires applicants to submit to fingerprinting, drug testing, and a background check. Applicants are also required to satisfactorily complete the Police Officer Selection Test (POST), take the Minnesota Multiphasic Personality Inventory (MMPI) test, and participate in interviews with the hiring authority. Upon an offer of employment, the candidates submit to a health examination and complete a set of physical qualification tests. Based on the outlined selection tests, the candidate list is narrowed. The hiring decision is made by the Commission with recommendation from the Airport Director.

If a candidate is not ILEA certified upon hire, the safety officer is sent by the Commission to attend and complete the 16-week ILEA program. Upon completion of training in accordance with the rules of the ILEA, the safety officers become sworn peace officers with the same arrest powers as any other peace officer in the state. As certified law enforcement, the safety officers are trained and authorized to use firearms. Safety officers are also required to undergo annual training and recertification for use of primary duty weapons, which are handguns and shotguns.

In addition to law enforcement training, safety officers receive extensive training in aircraft rescue firefighting, emergency medical services, and airport operation services. The Airport's Certification Manual, as approved by the FAA,

reveals that the airport rescue and fire fighters receive initial training and annual training in the following areas: use of fire hoses, nozzles, turrets, and other appliances required; firefighting operations; adapting and using structural rescue and firefighting equipment for aircraft rescue; and firefighting. Upon hire, all safety officers complete a 40-hour course in firefighting that focuses on aircraft rescue and firefighting, and are required to complete a live fire drill prior to performance of firefighting and rescue duties. The safety officers are also required to complete ongoing, hands-on training. Part 139 regulations require an annual live fire drill in aircraft firefighting and rescue. The safety officers are not currently certified to fight structural fires, however, they are training to become certified structural fire fighters. At this time, the safety officers are initial responders to structural fires at the airport until the City's fire department arrives on scene.

The safety officers also receive training on other operational aspects of the airport, including self-inspection, wildlife management, field condition reporting, and fuel farm inspections. The safety officers perform the general operational duties about 20 percent of their time on duty, and dedicate about 80 percent of their time to law enforcement or firefighting and rescue duties.

The airport safety officers work a 24-hour shift followed by 48 hours off duty. Shifts are typically staffed with three safety officers and one senior safety officer. The senior safety officer on duty determines the responsibilities of the three safety officers during their 24-hour shift.

During any given shift, at least one safety officer is designated as the LEO on duty and will work in that capacity no longer than eight hours out of a 24-hour

shift. The LEO performs law enforcement duties at the terminal checkpoint. All safety officers have the power to make an arrest and issue citations.

Similarly, during any given shift, one safety officer is assigned to firefighting and rescue force duties. If not fulfilling the LEO or firefighting role during a shift, the third safety officer is on downtime or performing general operational duties at the airport, general duties can include processing criminal background checks and security threat assessments, running the secured area badge program that includes training airport population on security procedures, conducting inspections of equipment, monitoring runway conditions during inclement weather, managing curbside congestion and being a general presence at the terminal.

The Public Safety Facility building is the centralized location for the safety officers during their shift unless they are performing other duties at the terminal or other locations of the airport. The building provides a kitchen area, dormitory, and watch rooms. During their downtime of the 24-hour shift, safety officers prepare and eat meals in the facility's kitchen area and sleep in the provided dormitory.

The Commission provides the safety officers with uniforms and necessary safety and response equipment. When on duty as the designated law enforcement officer, the safety officers wear uniforms and ballistic vests that identify them as "police." They are provided with other equipment such as a tactical belt, duty weapons, extra magazines and a radio for communication. The patrol vehicles used by safety officers similarly identify them as the Eastern Iowa Airport Police.



The other multi-function response vehicles and trailers identify the safety officers as the Eastern Iowa Airport Police, Fire and Rescue.

The clothing worn while on duty as the fire and rescue officer identify the safety officers as the Eastern Iowa Airport Fire Department. The fire response vehicles identify them as the Police, Fire and Rescue or as Airport Rescue and Firefighting (ARFF). Although not required to wear it at all times while on duty, safety officers are provided with firefighting gear such as that worn by fire fighters across the state. The fire trucks provided by the Commission contain all the equipment necessary to provide aircraft fire and rescue response as required by Part 139 of the federal regulations.

As sworn peace officers, safety officers are authorized to arrest individuals at the airport. Examples of arrest have included public intoxication, trespass and possession of prohibited items. Upon arrest, the Cedar Rapids police department will be contacted to transport the arrested individual to jail for processing. The safety officers work with the County Attorney and the City Attorney in prosecuting the arrests made by the safety officers.

The City of Cedar Rapids dispatch center occasionally dispatches the safety officers to calls for assistance outside of the airport. The dispatches are to locations in proximity to the airport and have included responses to reports of domestic abuse, suicide attempts, and activation of burglar alarms. These calls for assistance outside of the airport are within the responsibility of the Cedar Rapids police and fire departments. The Commission has communicated its concerns to the City about its safety officers being dispatched to the City's area of



responsibility. The Commission's concern is based on potential misuse of federal funding when safety officers are dispatched to respond outside of the Commission's authority as the Commission is required to give assurances that such federal funds are used for the specific purposes for which the grant was funded. The City's operations manager sent an email recently to the City's dispatch center regarding this issue:

Do not dispatch Airport Police for any call off the premises of the CR Airport unless a public safety employee (CRPD/CRFD/CRAA etc.) needs Code 1 or 2 backup. They are unable to respond off the premises for any other call for service.

As evidenced by this October 2018 email, the City and the Commission continue to have a relationship of mutual aid and protection when backups are needed for Code 1, officer in distress and needing assistance, and Code 2, emergency situation exceeding responding officer's ability.

For the purpose of overtime compensation, the Commission has received a section 29 U.S.C. Section 207(k) (Section 207(k)) exemption under the Fair Labor Standards Act (FLSA) for the public safety officers. Only certain law enforcement and fire protection employees are covered by the section 207(k) exemption. The Commission is utilizing the maximum hours worked limitations available for fire protection employees pursuant the definition of "fire protection services" in 29 USC Section 207(y). To be eligible for a section 207(k) exemption as a fire protection employee, the following definition must be met:

(y) "Employee in fire protection activities" means an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—

(1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State; and

(2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

29 USC Section 207(y)

In seeking the section 207(k) overtime exemption for its safety officers, the Commission has affirmatively indicated to the Department of Labor (DOL), and still maintains, that its safety officers meet the definition of “fire protection employees” as defined above.

In terms of retirement benefits, the safety officers are included in the special services membership class of the Iowa Public Employees Retirement System that also includes sheriffs and deputy sheriffs.

#### CONCLUSIONS OF LAW

Iowa Code chapter 20, the Public Employment Relations Act (PERA), was amended effective February 17, 2017 with the passage of 2017 Iowa Acts, House File 291. The amendments enacted by H.F. 291 created two separate categories of public employees—those who are “public-safety employees” and the rest who are considered non-public-safety employees. Section 20.3(11) provides that a “public safety employee” is a public employee who is employed as one of the following:

*a.* A sheriff's regular deputy.

*b.* A marshal or police officer of a city, township, or special-purpose district or authority who is a member of a paid police department.

*c.* A member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming

enforcement officer, who has been duly appointed by the department of public safety in accordance with section 80.15.

*d.* A conservation officer or park ranger as authorized by section 456A.13.

*e.* A permanent or full-time fire fighter of a city, township, or special-purpose district or authority who is a member of a paid fire department.

*f.* A peace officer designated by the department of transportation under section 321.477 who is subject to mandated law enforcement training.

Iowa Code section 20.3(11).

A unit can achieve public safety status if thirty percent of the unit's employees are "public safety employees" within the meaning of section 20.3(11).

### **Issue before the Board**

The specific question before the Board is whether "safety officers" and "senior safety officers" employed by the Cedar Rapids Airport Commission are either "police officers" or "fire fighters," or both, within the meaning of Iowa Code sections 20.3(11)(b),(e).

The instant case is only the second public safety status petition the Board has considered following the enactment of the amendments to Iowa Code chapter 20 that created a distinction between public-safety employees and non-public-safety employees. The first public safety status determination this Board made was in *Scott County and IBEW Local 204*. 18 PERB 102131 (Feb. 5, 2018). The dispute in *Scott County* was whether the County's bailiffs were effectively employed as sheriff's regular deputies and thus "public safety employees" under section 20.3(11)(a). The Board reached its conclusion the bailiffs were not sheriff's deputies because they did not have the required certification, training or authority to perform the functions and duties of a sheriff's deputy.

In resolving the issue before us, the Board again finds it appropriate to utilize the same analytical approach employed in *Scott County*, which involves considering whether the safety officers employed by the Commission have the training, certification requirements and authority expected of police officers and fire fighters, and whether they function in those capacities in performing their duties at the Airport.

The instant case raises issues of first impression before the Board regarding the meaning of “police officer” and “fire fighter” under the section 20.3(11) designations and the meaning of “paid police department” and “paid fire department.”

### **Position of the Parties**

Much like the argument the union made in *Scott County*, Local 2607 argues the safety officers are effectively employed as “police officers” and “fire fighters” and are thus public safety employees. Local 2607 highlights that, unlike the facts in *Scott County* where the Board found the bailiffs did not have the same required certification, training, or even authority as the County’s sheriff’s deputies, this case presents a different set of facts. Local 2607 argues the safety officers at issue here have the same hiring process, arrest authority, required certifications and training as other police officers and fire fighters, and they are hired to perform the duties and functions of police officers and fire fighters. It urges the Board to look beyond the label chosen by the Commission to describe their job title and department, and, instead, consider the duties and responsibilities the safety officers actually perform. Such consideration, Local 2607 argues, reveals the

safety officers are police officers and fire fighters and the Commission has a fire and police department.

The Commission does not dispute the airport safety officers perform some law enforcement and firefighting functions and duties. It argues, however, such performance is not sufficient to bring them within the meaning of “police officers” and “fire fighters” under sections 20.3(11)(b),(e). Additionally, the Commission contends the airport safety department is neither a fire or police department as contemplated by the same statutory language. The Commission contends the legislature expressed its intent to restrict the inclusion of public employees within this narrow category of “public safety employees” by enacting a very specific list of job designations. The Commission further contends that because the legislature chose not to adopt broader statutory language to include jobs such as those of airport safety officers, it is not PERB’s role to expand that category of “public safety employees” by finding the safety officers are either police officers of a paid police department or fire fighters of a paid fire department.

#### **Relevant Statutory Language**

We begin our analysis by reviewing the statutory language at issue. As fully quoted above, the list of “public safety employee” designations includes employees who are employed as:\*\*\*

*b.* A marshal or police officer of a city, township, or special-purpose district or authority who is a member of a paid police department.

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*e.* A permanent or full-time fire fighter of a city, township, or special-purpose district or authority who is a member of a paid fire department.

See Iowa Code sections 20.3(11)(b) and (e).

The terms “police officer,” “fire fighter,” “paid police department” or “paid fire department” are not defined by Iowa Code chapter 20. In support of its position that the “public safety employee” is intentionally narrow and excludes airport safety officers, the Commission highlights other statutory definitions available but not adopted by the legislature to define a “public safety employee” for the purposes of collective bargaining. Those referenced provisions include Iowa Code chapter 80F, Rights of Peace Officers and Public Safety and Emergency Personnel, which defines an “officer” as:

**80F.1. Peace officer, public safety, and emergency personnel bill of rights.**

1. As used in this section, unless the context otherwise requires:

*e. “Officer”* means a certified law enforcement officer, fire fighter, emergency medical technician, corrections officer, detention officer, jailer, probation or parole officer, communications officer, or any other law enforcement officer certified by the Iowa law enforcement academy and employed by a municipality, county, or state agency.

Iowa Code § 80F.1

Additionally, Iowa Code chapter 801, Iowa Code of Criminal Procedures, defines a “peace officer” as:

**801.4. Definitions**

For the purposes of Title XVI, unless the context otherwise requires:

11. “*Peace officers*”, sometimes designated “law enforcement officers”, include:

- a.* Sheriffs and their regular deputies who are subject to mandated law enforcement training.
- b.* Marshals and police officers of cities.

- c. Peace officer members of the department of public safety as defined in chapter 80.
- d. Parole officers acting pursuant to section 906.2.
- e. Probation officers acting pursuant to section 602.7202, subsection 4, and section 907.2.
- f. Special security officers employed by board of regents institutions as set forth in section 262.13.
- g. Conservation officers as authorized by section 456A.13.
- h. Such employees of the department of transportation as are designated “peace officers” by resolution of the department under section 321.477.
- i. Employees of an aviation authority designated as “peace officers” by the authority under section 330A.8, subsection 16.
- j. Such persons as may be otherwise so designated by law.

Iowa Code § 801.4.

The Commission asserts such broad statutory language covering public-safety-related job duties was readily available to the legislature to adopt for the purpose of collective bargaining. The Commission reasons that the legislature’s decision to include only a subset of those “peace officers” listed in section 801.4(11) clearly indicates it intended to exclude the positions held by the airport safety officers in this case.

Absent a legislative definition on the words at issue here – “police officer,” “fire fighter,” “paid police department” and “paid fire department” – the Board must turn to rules of statutory construction to determine the legislature’s intent in enacting the specific language. *Carolán v. Hill*, 553 N.W.2d 882, 887 (Iowa 1996) (internal citations omitted).

### **Inclusion of “Police Officers” and “Fire Fighters” under Iowa Code section 20.3(11)**

Iowa Code section 20.3(11) does not define “public safety employee” in the ordinary sense. Rather, Iowa Code section 20.3(11) lists public employees



employed in six different categories or capacities, such as “[a] sheriff’s deputy,” as those considered public safety employees. We agree with the Commission that the legislature’s listing of specified categories or capacities limits the field of public safety employees. As the Commission points out, the list of categories of public safety employees is further limited when compared to what the legislature considers an “[o]fficer” to be for the purposes of the Peace Officer Rights Bill where a jailer or parole officer is included in the listed positions. Nonetheless, we are not persuaded that the field of public employees who are considered public safety, pursuant to Iowa Code section 20.3(11), is as restrictive as what the Commission advocates.

Our determination is guided by principles of statutory interpretation. We do not resort to rules of statutory construction unless the statute is ambiguous:

When a statute or rule is plain and its meaning is clear, the rules of statutory construction do not permit courts to search for meaning beyond its express terms. ... Courts only resort to rules of statutory construction when the explicit terms of a statute or rule are ambiguous. A statute or rule is ambiguous if reasonable minds could differ or be uncertain as to the meaning.

*Office of Consumer Advocate v. Iowa Utils. Bd.*, 744 N.W.2d 640, 643-44 (Iowa 2008).

In the absence of an established meaning of “public safety employee,” and where reasonable minds can differ whether a particular job classification is considered a public safety employee, we look to legislative intent to resolve the ambiguity of Iowa Code section 20.3(11). *See Schroeder v. Pub. Emp’t Rel. Bd.*, No. 09-MA-03, *aff’d* No. CVCV008391, 2012 WL 2128018 at \*4 (Iowa Ct. App. 2012) (looking to legislative intent in the absence of a definition of “professional staff”

and where reasonable minds could differ on its meaning). In giving effect to the legislative intent behind Iowa Code section 20.3(11):

We cannot, under the guise of construction, enlarge or otherwise change the terms of the statute as the legislature adopted it. We will not construe a statute in a way that would produce impractical or absurd results, and we should not speculate as to the probable legislative intent apart from the wording used in the statute.

*Carolan v. Hill*, 553 N.W.2d 882, 887 (Iowa 1996) (internal citations omitted).

The legislature, in creating a separate category of public safety employees and giving them broader bargaining rights under Iowa Code chapter 20 compared to the remainder of the public employees, indicated the designated employees under section 20.3(11) perform a role distinct from the rest of the public employees. The goal sought to be attained with this definition is to identify the public employees who actually perform duties of a sheriff's deputy, police officer, fire fighter, etc. However, these designations are not defined and require us to analyze what work an employee actually performs. To implement the legislature's intent to provide broader bargaining rights to public employees who perform the work the legislature designated, we believe the analysis is not as simple as matching the employee's current job title or label to the list of designations under section 20.3(11). A job title or label, which is unilaterally determined by the employer, may not entirely or accurately reveal the work that an employee performs. Granted the designations listed under section 20.3(11) are limited in quantity, we are still required to consider whether an employee's work is effectively that of one of the designations under section 20.3(11). We believe this analysis is necessary when implementing the legislature's intent in order to avoid absurd

results where the legislature's intent can be avoided by merely changing a job title or label.

In the instant case, the Commission has chosen to call the employees within the Airport's Public Safety Department "senior safety officers" and "safety officers." The record reveals no significant distinction exists between the two job classifications except that the senior safety officers provide a certain extent of direction and guidance by virtue of their lengthy experience. As such, we will refer to both job classifications as safety officers.

In this case, both sides agree that safety officers are trained, certified, and hired to perform both law enforcement and firefighting functions. The record establishes the safety officers dedicate about 80 percent of their shift to law enforcement and firefighting. By operating an airport, federal regulations require the Commission to have staff with arrest powers on duty 24 hours daily/7 days a week and staff on duty that is trained in firefighting and rescue. Some of the requirements of part 1542 state:

a) Each airport operator must ensure that law enforcement personnel used to meet the requirements of § 1542.215, meet the following qualifications while on duty at the airport—

(1) Have arrest authority described in paragraph (b) of this section;

(2) Are identifiable by appropriate indicia of authority;

(3) Are armed with a firearm and authorized to use it; and

(4) Have completed a training program that meets the requirements of paragraphs (c) and (d) of this section.

....

(c) The training program required by paragraph (a)(4) of this section must—

(1) Meet the training standard for law enforcement officers prescribed by either the State or local jurisdiction in which the airport is located for law enforcement officers performing comparable functions.

49 C.F.R. § 1542.217.

The Commission maintains its status as a certificated airport because it employs ILEA certified peace officers with arrest authority and training that any other police officer in the state undergoes.

Similarly, the federal regulations governing the airport require the Commission to have a fire and rescue staff on duty during carrier operations. Safety officers are required to complete mandatory training in firefighting and undergo annual training in fire and rescue. The record clearly establishes the safety officers are hired to function as the airport's fire fighters.

The safety officers work a schedule commonly worked by law enforcement and firefighting operations. For that reason, the Commission has sought and received an exemption for overtime compensation based on the safety officers' firefighting duties.

The Commission maintains the exemption is still met and, based on the record before us, we agree. The safety officers are trained in fire suppression, they work for the equivalent of a "fire department" of the Commission, and are legally responsible to engage in fire suppression.

The safety officers perform law enforcement duties at the airport. In instances when a safety officer is dispatched off airport grounds, they are within authority to respond and answer the call for assistance. With the exception of concerns about misuse of federal funds by answering city calls for assistance, there is no other concern expressed that the safety officers do not possess the

authority or training to respond to calls that are also answered by the City's police officers.

**Members of a “paid police department” or “paid fire department”**

To come within the meaning of sections 20.3(11)(b),(e), a police officer must be a “member of a paid police department” and a fire fighter must be a “member of a paid fire department.” As neither term is defined in Iowa Code chapter 20, rules of statutory construction require words in a statute be “given their ordinary and common meaning by considering the context within which they are used.” *Teamsters Local Union No. 421 v. City of Dubuque*, 706 N.W.2d 709, 714 (Iowa 2005).

In adopting the definition at issue here, the legislature did not limit the “police officer” or “fire fighter” designation to only those employed by a municipality, such as the City of Cedar Rapids. Instead, the legislature included townships and special-purpose districts or authorities as possible types of entities employing police officers and fire fighters. For that reason, the inclusion of “special purpose districts” in the definition indicates that the legislature contemplated a special purpose district, such as the Commission, may have a “police department” and a “fire department.” Whether such “department” exists will depend on the individual facts presented.

The record before the Board establishes that the Commission is a separate entity from the City of Cedar Rapids. The Commission was organized under Iowa Code chapter 330 and it is a “special-purpose district or authority” as contemplated by the language of section 20.3(11). By creation of the Commission

pursuant to 330, the citizens of Cedar Rapids voted to give management and control of the airport to the Commission. The Commission has all the power over the airport that the City would have except to sell the airport. Once the citizens voted to create the Commission, the city no longer has any involvement in matters regarding the airport unless and until the Commission is abolished. See Iowa Code § 330.21.

The record reveals there is a clear organizational structure in place with the Commission as the highest authority followed by the Airport Director. The structure reveals different departments that have defined duties pertaining to the functions of the airport. One of those departments is the Airport Public Safety Department. It consists of a public safety commander that has direct supervision over the safety officers that perform law enforcement and firefighting duties at the airport.

The label “Public Safety Department” is not determinative. While not called a “police department” or “fire department” any longer, the record clearly establishes the Department exists in order to provide both law enforcement and firefighting response. There is a clear hierarchy of authority within which the safety officers perform their duties.

The Commission asserts the issue whether the safety officers are members of a police or fire departments was already decided in an Iowa Supreme Court case from 1977. In *Airport Commission for City of Cedar Rapids v. Schade*, the Court considered whether the Commission’s safety officers are “police officers” or “fire fighters” within the meaning of the specific provisions relating to policemen and

firemen under Iowa Code chapter 400, civil service, or chapter 411, police officer and fire fighter retirement benefits. 257 N.W.2d 500 (Iowa 1977). After reviewing *Schade*, we do not find the Court's holding is determinative to the issue before us. The applicability of the specific provisions considered in *Schade* is limited to municipalities. No such limitation exists in the definition under consideration here. As indicated earlier, for the purpose of defining a "public safety employee" under Iowa Code chapter 20, the legislature expressly included townships and special purpose districts as possible employers of police officers and fire fighters.

The safety officers are employees of the Commission. And the definition we are interpreting here anticipates that police officers and fire fighters could be employed by employer entities like the Commission, as shown by the inclusion of township, and special purpose district and authority in the definition. This definition is not limited to municipalities, as the *Schade* court was in the applicability of Iowa Code chapters 400 and 411 to only City fire fighters and police officers. And, as stated earlier, the airport safety officers are in the same IPERS section with the sheriffs and deputies who are specifically named as public safety officers.

The express inclusion of other employer types, *i.e.*, townships and special purpose district and authorities, is direct evidence to include, not just municipal fire and police departments, but also those that exist as such in townships and special purpose districts and authorities. Under the facts of this case, we find the record establishes that the Commission has, as part of its organizational structure, a department dedicated to law enforcement and firefighting operations.



We think such department is a “police department” and “fire department” as contemplated by Iowa Code sections 20.3(11)(b),(e).

### CONCLUSION

For these reasons, we conclude the safety officers and senior safety officers employed by the Cedar Rapids Airport Commission are employed as “police officers” and “fire fighters” and thus are “public safety employees” within the meaning of Iowa Code section 20.3(11).

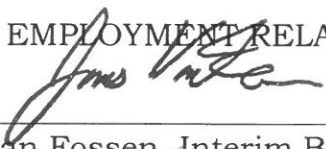
### ORDER

As such, the bargaining unit of safety officers is a public safety unit within the meaning of PERB rule 621—6.4.

DATED at Des Moines, Iowa, this 26th day of December, 2018.

PUBLIC EMPLOYMENT RELATIONS BOARD

By:

  
\_\_\_\_\_  
Jamie Van Fossen, Interim Board Chair

  
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Mary T. Gannon, Member

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