

## **Employee Choice of Bargaining Representative**

The Board and the Supreme Court have addressed the issue of whether the same union can represent employees of the same employer in separate bargaining units. Both the Board and the Court concluded that the same union could represent both full-time and adjunct faculty of the Vermont State Colleges.<sup>1</sup>

The principle that employees have the right to freely choose their bargaining representative is firmly rooted in labor law and is recognized under the State Employees Labor Relations Act.<sup>2</sup> While a conflict of interest that makes "good faith bargaining impractical" may disqualify a bargaining representative, the employer has the burden of showing a "clear and present danger" to the collective bargaining process.<sup>3</sup> Conflicts among union members are inevitable, and the existence of such conflicts does not disqualify a bargaining representative.<sup>4</sup> In the event that employees experience difficulty with the union's representation, they can at an appropriate time vote to decertify the union.<sup>5</sup>

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<sup>1</sup> Vermont State Colleges Faculty Federation, Local 3180, AFT, AFL-CIO and Vermont State Colleges, 14 VLRB 52 (1991). *Affirmed*, 159 Vt. 619 (1992).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.