

STATE OF MAINE
MAKING A POSITION CONFIDENTIAL

A request for reclassification is first made to the Bureau of Human Resources and, if the reclass is approved, it is then sent to the Office of Employee Relations for a determination as to appropriate bargaining unit/confidential status. The Office of Employee Relations reviews these with an eye toward the requirements set forth in the State Employees Labor Relations Act (SELRA) and Maine Labor Relations Board (MLRB) decisions interpreting that law. The Office of Employee Relations unilaterally assigns bargaining unit status to these **newly-created classifications**, or determines that they should be "confidential" and excluded from coverage under SELRA, understanding that when the new classification is reviewed by the MLRB as part of a review of the entire department, the Office of Employee Relations will need to justify the decision to exclude the classification from bargaining unit status. If the MLRB does not agree with the initial unilateral determination it will be changed at that time.

The State cannot unilaterally remove **an existing classification** from a bargaining unit and "make it confidential." There are only two ways to change the bargaining unit status of an **existing classification**: The first requires agreement between the relevant union and the State that a position or positions in a classification be made confidential. The second way is to go through the unit clarification process of the MLRB. The State and MSEA have a signed agreement to review each department in the executive branch and, once a department goes through this review process, it may not go before the MLRB again seeking to make positions confidential until all executive branch departments have had their turn at the process.

Any questions may be directed to employee.relations@maine.gov.