

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
:
: Case No. PERA-U-16-173-W
:
PENNSYLVANIA STATE UNIVERSITY :

PROPOSED ORDER OF DISMISSAL

On June 27, 2016, Teamsters Local Union No. 8 (Union) filed with the Pennsylvania Labor Relations Board (Board) a petition for unit clarification pursuant to the Public Employee Relations Act (PERA or Act) seeking to accrete all full-time and regular part-time nonprofessional Information Technology Support Specialists (ITSS), levels one through four, employed by the Pennsylvania State University (University), at its main and satellite campuses, into an existing bargaining unit of nonprofessional technical-service employees.

On July 11, 2016, the Secretary of the Board issued an Order and Notice of Hearing directing that a hearing be held on Friday, November 4, 2016, in Harrisburg. At the request of the parties, the matter was continued indefinitely to facilitate settlement discussions. By letter dated January 18, 2017, counsel for the Union represented that settlement discussions had been unsuccessful, and he requested a new hearing date. Consequently, I scheduled a hearing for August 23, 2017, in Harrisburg. By mutual request of the parties, the hearing was again continued and rescheduled for December 6th, 7th and 8th, 2017, but only the first two dates were necessary. During the hearing on those dates, both parties were afforded a full and fair opportunity to present testimonial and documentary evidence and to cross-examine witnesses. On March 8, 2018, the Union filed its post-hearing brief. On May 22, 2018, the University filed its post-hearing brief.

The hearing examiner, on the basis of the evidence presented at the hearing and from all other matters of record, makes the following:

FINDINGS OF FACT

1. The University is a public employer within the meaning of Section 301(1) of PERA. (N.T. 11)
2. The Union is an employe organization within the meaning of Section 301(3) of PERA. (N.T. 11)
3. The Union is the exclusive representative of a unit of technical service employees employed by the University. (Petitioner Exhibits 1, 2)
4. Initially the bargaining unit was a "grandfathered" unit established prior to the passage of PERA. (N.T. 21)

5. Subsequently, the Union was certified by an Order of the Board in Case No. PERA-R-11,403-C, dated July 21, 1978, as the exclusive collective bargaining representative of a unit defined as follows:

[A]ll regular technical-service employees wherever employed by the University in the Commonwealth of Pennsylvania, guards and other security employees located at the University Park campus, excluding employees working in an executive, administrative, academic, supervisory, professional or clerical capacity, domestics in the residence of the University's President, student employees, non-regular employees, guards at all locations other than the University Park campus, management level employees, and confidential employees as defined in the Public Employee Relations Act.

(Petitioner Exhibit 1)

6. The Union and the University are parties to a post-certification collective bargaining agreement, effective July 1, 2014, through June 30, 2017, wherein the parties incorporated the Board's unit description which provides that the Union is the exclusive bargaining representative of nonprofessional, "regular technical-service employees." (N.T. 14, 22-23; Petitioner Exhibits 1 & 2)

7. The University's records, as of November 28, 2017, indicate that there were 2,643 employees in the existing bargaining unit which include a variety of technical service positions, including heating and ventilating technicians, groundskeepers, airport attendants, carpenters, food service workers, utility and maintenance workers, emergency systems workers, water treatment workers and more. (Respondent Exhibit 18)

8. A 1975 University document from the Office of Personnel Administration, at the time, defines the term "Technical Service" as follows:

A Technical-Service employee is one who performs unskilled, semi-skilled, or skilled work usually referred to as manual. Duties require the use of tools, and/or machinery, and/or equipment and involve one or more of the following:

- a. the fabrication of apparatus, equipment, machinery, buildings, tools,
- b. the supply of materials, apparatus, machinery, equipment, tools,
- c. the operation of apparatus, machinery, equipment, vehicles,
- d. the maintenance of apparatus, machinery, equipment, vehicles, livestock, buildings, grounds, fields.

In addition to performing such duties, a Technical-Service employee may be required to lead and give direction to employees performing the same or similar work.

(Respondent Exhibit 17)

9. The existing bargaining unit includes a variety of technical-service jobs including group leaders for various jobs. (N.T. 24-26; Petitioner Exhibit 4; Respondent Exhibit 18)

10. Employees included in the existing bargaining unit positions perform duties that include installation, maintenance, troubleshooting and repair of equipment that is necessary to support the University's functions. This includes sophisticated electronic equipment. (N.T. 27-33; 44-45; Petitioner Exhibits 5, 6, 7 and 8)

11. The existing bargaining unit also includes jobs whose function is the installation, maintenance, troubleshooting and repair of audio visual equipment, including computer controlled audio visual equipment, utilized for the benefit of the students and faculty of the University. (N.T. 34-28; Petition Exhibits 9, 10, 11, 12)

12. The existing bargaining unit includes jobs that are responsible for the installation, maintenance, troubleshooting and repair of computers or computer related systems utilized by faculty, students and staff. (N.T. 39-46; Petitioner Exhibits 13, 14, 15, 16, 17 and 18)

13. The University employs ITSS personnel. That job title contains five (5) levels. There is a University created "job profile" for this position and each of its levels. (Petitioner Exhibit 22)

14. The University job profile indicates a Level 5 position exists. There are no employees currently employed at that level. There are approximately 177 ITSS employees. (N.T. 56-57; 268-269; Petitioner Exhibit 22; Respondent Exhibit 20)

15. The ITSS personnel, Levels 1-4, are nonprofessional. (N.T. 14, 269; Respondent Exhibit 20)

16. The ITSS employees work on the main campus of the University as well as its various satellite campuses. (Petitioner Exhibit 24)

17. The job profile summary provides that the ITSS positions are in a job category titled "Support". The definition of this job category is as follows:

This specialty covers planning and delivery of customer support services including installation, troubleshooting, user assistance and training. Functions may include diagnosing and resolving problems in response to customer reported incidents, planning and analysis of work processes, researching and reporting trends and patterns of problems, developing training materials and performing computing/information system training sessions, developing and maintaining problem tracking databases, installing, troubleshooting, and maintaining hardware and software, performing backup and recovery operations, consulting with users to identify needs and requirements, conducting feasibility studies and trade-off analyses, preparing business cases, and ensuring the rigorous application of information security/information assurance policies, principles and practices.

(Petitioner Exhibit 22)

18. The University job profile summary defines the position of ITSS as follows:

The Information Technology Specialist performs analytical, technical, and administrative work in the planning, design, and installation of new and existing personal computer systems, workstations, or servers; diagnoses and resolves problems in response to customer reported incidents; confers with end users to determine types of hardware and software required; installs new hardware and software and maintains existing components; trains end users in the use of equipment and software; performs general maintenance tasks; troubleshoots and resolves issues with computer systems and peripheral equipment located throughout the organization; prepares progress reports for all work performed; evaluates products for compatibility, expandability, and ease of use and support; recommends to management the support or nonsupport of evaluated products. *Duties are performed at various levels within the defined title.*

(Petitioner Exhibit 22) (emphasis in original)

19. The eligibility of the ITSS for inclusion in the bargaining unit has not been previously litigated. The duties of the ITSS are like the duties performed by bargaining unit jobs in that both provide technical service in the form of installing, repairing, maintaining, and troubleshooting equipment necessary to support the operations of the University. For the ITSS, that equipment consists of personal computers, peripherals and computer related audiovisual equipment. For bargaining unit positions, the focus is generally on other but similar types of equipment. (N.T. 53-56, 114, 129-147, 167-176, 180-183; Petitioner Exhibits 34, 35, 36; Respondent Exhibit 13)

20. The work of the ITSS is equivalent to the work performed by bargaining unit positions such as the Classroom Equipment Technician A and a Computer Lab Support Technician. (N.T. 114-16, 207-211, 229-234; Petitioner Exhibits 14, 15, 16)

21. Many of the existing bargaining jobs require the use of various tools. (N.T. 45-46)

22. The ITSS utilize tools in the performance of their duties. (N.T. 137, 172, 210, 232-233)

23. The ITSS are often called upon to receive, deliver and install computer equipment to various work sites at the University. Many are dispatched in the field to provide repair and troubleshooting services. (N.T. 134, 157-159, 174, 185, 210-211, 231-232)

24. There are other information technology (IT) type positions employed by the University represented by the Union. The ITSS position is separate from those other IT positions. The ITSS employees work with the Union represented technical employees. (T. 140-143, 150, 159-160, 173-190)

25. For each of the non-bargaining unit staff job titles at the University, there is a unique job profile which include various levels. The University assigns salary bands to each job profile and each level within that job profile. (T. 267-268; 281)

26. When a job at the University is posted, the posting identifies the particular job title and salary band of the position. Those postings are reviewed by the University's Human Resources. This same review process applies to ITSS positions. (N.T. 279-280, 317, 331-332; Respondent Exhibits 23 and 24)

27. A job responsibility worksheet (JRW) describes the duties for each non-Union staff position at the University, including the ITSS positions. Those worksheets are written by the employee, approved by the supervisor and reviewed by Human Resources on an annual basis (N.T. 312-314, 328-331)

28. Jobs within the existing bargaining unit are paid according to a system negotiated with the Union which goes from Grade 11 (the lowest level) to Grade 1 (the highest level). For example, a Computer Lab Technician in the bargaining unit is at Grade 6 and makes approximately \$51,000 a year. A Grade 1 bargaining unit job earns approximately \$68,000 a year. (N.T. 27, 59-60, 62-63; Petitioner Exhibit 25)

29. The ITSS employees are paid according to the staff salary bands established by the University. The ITSS Level 1 is paid at salary band E. Level 2 is paid at salary band F. Level 3 is paid at salary band H and Level 4 is paid at salary band I. (N.T. 61-62; Petitioner Exhibits 22, 26)

30. The midpoint of the salary band for an ITSS Level 3 is \$50,616 a year. David Horner, an ITSS Level 3, makes approximately \$43,000 a year. Charles Halcomb, an ITSS Level 3, makes approximately \$52,000 a year. Vincent Mitchell, an ITSS Level 3, makes approximately \$47,000 a year after 15 years of service. (N.T. 155, 167-168, 180-182)

31. When Joseph Bloom was reclassified from an ITSS position into the bargaining unit performing the same duties he performed as an ITSS, he received an increase in pay. As a Computer Laboratory Support Technician in the bargaining unit, Mr. Bloom is at Grade 6 and is paid approximately \$52,000 a year. (N.T. 202, 213; Petitioner Exhibit 14)

32. The IT Support Specialists work a 40-hour work week as do all members of the existing bargaining unit. (N.T. 59, 153, 167, 180)

33. The medical benefits for the ITSS employees are similar to those for bargaining unit employees. Both have PPO plans through Highmark Blue Shield (N.T. 65-67; Petitioner Exhibits 27, 28)

34. Except for variations in deductibles and concomitant premiums, the benefits enjoyed by the ITSS employees are similar to those provided to the employees in the existing bargaining unit. (N.T. 66-70; Petitioner Exhibits 27, 28)

35. Other working conditions for the ITSS employees are similar to those provided to the employees in the existing bargaining unit. For example, the provisions are the same for vacation time, sick time, funeral/bereavement leave and holiday pay. (N.T. 70-74; Petitioner Exhibits 29, 31, 32)

36. The ITSS employees utilize the same University software application for tracking employee time and benefits known as the ESSIC system. (N.T. 74)

37. During the performance of their duties, ITSS employees often work in the same buildings as represented employees and are required to coordinate their

work with Union represented employees. (N.T. 143-147, 151-152, 161, 176-177, 187-188, 216-219, 234-237, 278, 286, 324-326, 334)

38. Through an internal reclassification process established under the collective bargaining agreement, a group of ITSS employees were reclassified into the bargaining unit. These employees became Campus Classroom Technicians A but were formerly ITSS employees. (N.T. 46-52; Respondent Exhibit 4)

39. A job posting describes the duties that these ITSS employees performed prior to being reclassified. The Union filed a grievance seeking reclassification for this group. In 2014, the University agreed to reclassify this group of ITSS employees into the bargaining unit. The incumbents were given a new job description and job title, "Computer Lab Support Technician." The duties of the Computer Lab Support Technician are the same as the duties previously performed by these employees when classified as non-bargaining unit ITSS. (N.T. 49-51, 207-211, 214-216, 264-265, 283; Petitioner Exhibits 14, 15, 19, 20, 21)

40. Cory Rideout was an IT Specialist in a non-Union staff position at the University. In that position, he installed, maintained and troubleshooted equipment in technology classrooms, including computer and related equipment at the podiums in those classrooms. Subsequently, he was reclassified into the bargaining unit with a job title of Classroom Equipment Technician A. In that position, he did the same work that he had performed as an IT Specialist. (N.T. 229-234; Petitioner Exhibit 16)

41. As of October 2017, the information technology jobs at the University consist of 17 non-bargaining unit classifications/positions that include 1,574 employees performing information technology work at the main campus and 21 satellite campuses. (N.T. 320; Respondent Exhibit 20)

42. These information technology classifications include the following: Database Specialist, Instructional Designer, Multimedia Specialist, Programmer/Analyst, Systems Developer, IT Manager, IT Project Manager, Business Process Analyst, IT Consultant, IT Generalist, IT Support Specialist, IT Trainer, Instruction Production Specialist, Network Systems Specialist, Systems Administrator, System Design Specialist and Systems and Network Security Specialist. (Respondent Exhibit 20)

43. Of the 1,574 information technology positions, approximately 611 employees in 9 classifications are nonprofessional. These classifications are as follows: Multimedia Specialist, Programmer/Analyst, IT Consultant, IT Generalist, IT Support Specialist, Instruction Production Specialist, Network System Specialist, Systems Administrator, System Design Specialist. (Respondent Exhibit 20)

44. The job duties of an ITSS, in Centralized Finance and Business IT, substantially overlaps with the duties of IT Consultants. ITSS employees share job duties with IT Generalists, IT Consultants, System Administrators and Network System Specialists. (N.T. 112, 274-275)

45. IT personnel in the College of Engineering, including ITSS, perform a variety of job duties that overlap with the duties of IT personnel from different job classifications. Those different classifications of IT personnel work with each other on projects, imaging computers and troubleshooting. (N.T. 293-300; Respondent Exhibits 27-29)

46. The Union President believes that any non-management, non-clerical position should be included in the bargaining unit. (N.T. 84-85)

47. Article 21.6 of the parties' CBA provides a procedure for University review of employee classifications for inclusion in the bargaining unit. Pursuant to this provision, the Union has continuously sought the inclusion of lists of classifications of employees to be included in the bargaining unit in addition to the ITSS position. (N.T. 103-112; Petitioner Exhibit 2; Respondent Exhibits)

48. In March 2010, the Union sought review of all Engineering Aide positions for inclusion in the bargaining unit. Again, in October 2013, the Union sought the review of a list of 21 non-unit positions to be included in the bargaining unit, of which approximately 13 were related to information and computer technology. (N.T. 98-102); Respondent Exhibits 2, 3)

49. On October 7, 2014, the Union submitted a list to the University for approximately 12 positions to "immediately be reviewed and put into the bargaining unit," which included ITSS and Information Technology Operations Specialist. (N.T. 102-103; Respondent Exhibit 5)

50. Also on October 7, 2014, the Union sent an additional letter to the University requesting that 6 other positions be reviewed and placed in the bargaining unit, including the position of Information Resources and Support Specialist. (N.T. 103; Respondent Exhibit 6)

51. On October 7, 2014, the Union sent another letter to the University memorializing discussions between the University and the Union and stating that it would not pursue, at that time, 10 positions that it previously pursued to be included in the bargaining unit. (N.T. 104; Respondent Exhibit 7)

52. In December 2014, the Union again sent a list of 19 non-unit positions that it sought to have included in the bargaining unit which included several information and computer technology positions. (Respondent Exhibit 8)

53. As of September 2017, the Union and the University had 15 grievances pending for arbitration regarding the inclusion of a variety of positions into the Unit under Article 21.6 of the CBA. (Respondent Exhibit 12)

DISCUSSION

The Union seeks to accrete approximately 177 ITSS employees into an existing certified nonprofessional bargaining unit of approximately 2,643 technical-service employees. The University opposes the petition. The University posits that the petition does not seek to include other IT employees and classifications with whom the ITSS have a community of interest and which the Union has actively pursued to include in the unit in the past. Also, the University contends that ITSS are white collar employees and the bargaining unit is comprised of blue-collar employees. Furthermore, the University contends that the ITSS employees do not meet the University's long-standing definition of technical service.

The ITSS classification of employees, taken alone, is less than 10% of the existing bargaining unit. Absent further consideration of other classifications of employees, the accretion of ITSS employees would not involve an election, pursuant to Westmoreland Intermediate Unit, 12 PPER ¶ 12347 (Order and Notice of Election, 1981), and the focus of the Board's inquiry is limited

to whether the employees sought to be accreted share an identifiable community of interest and the effects of overfragmentization. Northeastern I.U. 19, 13 PPER ¶ 13264 (Final Order, 1982).

Section 604 of PERA provides, in relevant part, as follows:

The [B]oard shall determine the appropriateness of a unit which shall be the public employer unit or a subdivision thereof. In determining the appropriateness of the unit, the [B]oard shall:

(1) Take into consideration but shall not be limited to the following: (i) public employees must have an identifiable community of interest, and (ii) the effects of over fragmentation.

43 P.S. § 1101.604.

In determining whether employees share an identifiable community of interest, the Board considers such factors as the type of work performed, educational and skill requirements, pay scales, hours and benefits, working conditions, interchange of employees, grievance procedures, bargaining history, and employees' desires. West Perry School District v. PLRB, 752 A.2d 461, 464 (Pa. Cmwlth. 2000). An identifiable community of interest does not require perfect uniformity in conditions of employment and can exist despite differences in wages, hours, working conditions, or other factors. Id. at 464.

The Board maintains the policy that it will certify as appropriate blue-collar units, white-collar units, or blue and white-collar units together. To avoid the effects of overfragmentization, the Board has decided, however, that it will not certify different units of blue-collar employees but would require all the blue-collar employees to be in one unit. Upper Southampton Township Municipal Authority, 21 PPER ¶ 21080 (Order Directing Submission of Eligibility List, 1990) *citing* Methacton School District, 11 PPER ¶ 11040 (Decision and Order, 1980); Montgomery County Intermediate Unit No. 23, 11 PPER ¶ 11227 (Final Order, 1980). There is a classic distinction between white-collar workers, who perform administrative office work, and blue-collar workers, who perform manual labor. Upper Southampton Township Municipal Authority, *supra*. Accordingly, as long as all blue-collar employees are in one unit, there is no prohibition against including white-collar employees in a blue-collar unit. Id.

The certification by the Board does not limit the unit to blue-collar employees. Consequently, white collar employees are not excluded from the technical-services unit and the ITSS employees qualify for inclusion in the bargaining unit even if they were determined to be white collar. Also, the spectrum of duties of the ITSS personnel are not significantly administrative, clerical or office duties, and any such duties are ancillary at best. ITSS duties include the manual labor of transporting and carrying computers, servers and electronic equipment, cables and wiring; ITSS employees travel into the field to perform work at different locations and buildings. Their work is not confined to an office, nor is it confined to administrative or clerical work. ITSS employees use tools and equipment to transport, install, troubleshoot, dismantle and exchange computers and related equipment. Accordingly, ITSS employees qualify for a blue-collar designation.

Moreover, I disagree with the University's position that the ITSS duties do not meet the definition of "Technical-Service employee," as

defined by the University since 1975. Under that definition, a Technical-Service employee is one whose duties require the use of tools and/or equipment and is involved in supplying and maintaining materials and equipment. On this record, the ITSS employees clearly meet this definition. Also, it is not for the University to decide whether employees meet its own definition of Technical-Service employee. It is for the Board to decide which employees meet the Board's definition of Technical-Service employee as that term was used by the Board in its bargaining unit description when it certified the unit.

The ITSS employees are nonprofessional blue-collar employees who work with tools to perform manual labor involving transportation, carting, installing, repairing, maintaining and dismantling of equipment, as do the employees already included in the technical-services unit. The unit consists of technical-service jobs, and the ITSS are also technical-service positions. Specifically, both the ITSS employees and the bargaining unit positions perform duties that include installation, maintenance, troubleshooting and repair of electronic equipment integral to the functions and needs of the University. The existing bargaining unit includes positions, the functions of which are the installation, maintenance, troubleshooting and repair of audio visual equipment, including computer controlled audio visual equipment, utilized for the benefit of the students and faculty of the University. Indeed, non-unit ITSS employees, like Cory Rideout, have been reclassified as bargaining unit employees and perform the same work as they did in the ITSS classification, installing, maintaining, troubleshooting and repairing computer and related equipment.

In addition, the ITSS employees work a 40-hour week like employees in the unit and work in the same buildings as the employees in the unit. The ITSS employees also have similar pay, benefits and working conditions. Although the bargaining unit employees are paid on a negotiated contractually provided salary scale, the ITSS employees are also paid by a separate salary scale and earn comparable compensation for their technical services.

Moreover, the medical benefits enjoyed by the ITSS employees are comparable to those provided to the bargaining unit employees. Both bargaining unit employees and ITSS employees have PPO plans through Highmark Blue Shield. Except for variations in deductibles and concomitant premiums, the medical benefits enjoyed by the ITSS employees are similar to those provided to the employees in the existing bargaining unit. Other working conditions for the ITSS employees are similar to those provided to the employees in the existing bargaining unit. For example, both bargaining unit and ITSS employees enjoy the same or similar benefits regarding vacation time, sick time, funeral/bereavement leave and holiday pay. The ITSS employees utilize the same University software application for tracking employee time and benefits known as the ESSIC system. Although some differences exist between the ITSS employees and the bargaining unit employees, regarding wages, hours and working conditions, the Board permits some differences without destroying an identifiable community of interest. In the Matter of the Employees of the City of Bethlehem, 22 PPER ¶ 22094 (Final Order, 1991). Accordingly, ITSS employees share an identifiable community of interest with the technical-service employees in the existing bargaining unit as certified by the Board.

In further opposing the petition, the University argues that the petition for unit clarification is inappropriate because "the Union cannot simultaneously assert that more than a thousand unrepresented non-professional employees at Penn State should be added to its 2,643-person unit—as it has done in multiple fora and which it admitted at the hearing is still its position—while only pursuing a single classification of 177 employees through the Board's formal procedures in order to avoid triggering Westmoreland's requirements for a showing of interest and an election." (University's Brief at 17-18).

In City of Bethlehem, supra, the Board dismissed the public employer's argument that a petition for unit clarification is inappropriate where it seeks to accrete certain positions and not others. The Board stated that "[t]he Union is making no representation claims on those additional employees and the exclusion of those employees does not make the existing units inappropriate. Accordingly, a petition for unit clarification is an appropriate vehicle to accrete this limited number of employees to the existing unit." 22 PPER at 218.

In North Hills School District, 32 PPER ¶ 32132 (Final Order, 2001), the public employer also argued that the petition for unit clarification should be dismissed for violating the requirements of Westmoreland. In North Hills, the hearing examiner made a finding of fact that the union had previously filed a petition for unit clarification seeking to include various other positions in the bargaining unit. The Secretary of the Board dismissed the unit clarification petition because the number of employees sought to be accreted was more than 15% of the bargaining unit and would require a representation petition under Westmoreland instead of a unit clarification petition. The union in North Hills subsequently abandoned certain positions limiting its focus to a smaller number of employees for unit clarification, obviating the need for a showing of interest and election under the requirements of Westmoreland.

The North Hills Board dismissed the argument that there were other employees with a community of interest that should have been included and subject to Westmoreland. The Board held that where the union makes no present representational claim to the other positions and where "there can be a myriad of reasons why the [union] determined to drop its claim" to those positions, the question of representation of those positions is simply not before the Board and that a unit clarification of the positions sought, which were numerically less than 15% of the existing bargaining unit, is appropriate. North Hills, 32 PPER at 324.

The University here distinguishes both City of Bethlehem and North Hills. The University emphasizes that the clear and convincing evidence of record in this case, contrary to North Hills and Bethlehem, establishes that the Union is actively and currently seeking to represent many other non-unit positions and that the Union is trying to avoid the requirements of Westmoreland by filing unit clarifications for smaller groups of employees. (University's Brief at 19-20). The University argues that the Union President told University representatives that the Union planned to file future unit clarification petitions for other positions, exposing a plan to systematically file unit clarification petitions to avoid Westmoreland. (University Brief at 20-22).

The University also contends that permitting the Union to file piecemeal unit clarifications, evidenced by its pursuit of many other

employees not included in the present petition, would violate the Act and waste the Board's resources. (University's Brief at 24-26). The University asserts that "the Union's plan to keep the number of petitioned-for employees artificially below the 15 percent threshold by filing multiple unit clarification petitions instead of a single petition for all the positions it believes should be added to the bargaining unit illegitimately deprives those employees of the right to vote on whether they wish to join the unit." (University Brief at 24-25). The University also adds that the expense and discord in labor relations resulting from multiple unit clarification litigation would grow if the Board permitted the Union to file multiple unit clarification petitions in its attempt to circumvent Westmoreland and the strain on the Board's limited resources would be "enormous." (University Brief at 26-27).

The record supports the University's position that the petition for unit clarification in this instance is inappropriate. The salient factor distinguishing this case from North Hills and City of Bethlehem is that the Union is actively pursuing many other technical-service employees, which could result in an abuse of the Board's resources. Indeed, permitting the Union's approach here would require the Board to entertain possibly double-digit unit clarification petitions, straining resources, as well as a deprivation of the statutory right to vote for large numbers of employees.

There are another 611 employees in nonprofessional information-technology positions at the University that presumably share an identifiable community of interest with the ITSS employees and the technical-service employees already in the bargaining unit. Indeed, ITSS employees share job duties with IT Generalists, IT Consultants, System Administrators and Network System Specialists. The Union President believes that all nonprofessional, non-clerical positions should be included in the bargaining unit and has systematically sought the inclusion, at different times, of over 20 different positions, including many other information and computer technology positions. Moreover, there are at least 15 grievances pending for arbitration under Article 21.6 of the CBA wherein the Union is seeking the inclusion in the bargaining unit of a variety of non-professional technical service positions.

Given the clear evidence demonstrating the Union's recent past and current interest in representing many more employees than just the ITSS employees, many of whom are in other information and computer technology related positions, the Union has improperly invoked the Board's unit clarification process which, if permitted, would deprive many other employees, who eventually will be targeted for inclusion into the unit, of their right to choose whether they want representation, in violation of Westmoreland and the policies of PERA, and which would burden the Board with the processing of many unit clarification petitions. Consequently, the petition for unit clarification in this case is dismissed. The Union is required to obtain a proper showing of interest from all unrepresented, nonprofessional technical-service employees instead of cherry picking one classification at a time.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record, concludes and finds as follows:

1. The University is a public employer within the meaning of Section 301(1) of PERA.
2. The Union is an employee organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties.
4. The ITSS employees have an identifiable community of interest with the technical-service employees in the bargaining unit.
5. The Petition for Unit Clarification violates the requirements of Westmoreland, and is properly dismissed.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the Petition for unit clarification filed by the Union is dismissed.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall be and become absolute and final.

SIGNED, DATED AND MAILED this twenty-seventh day of August 2018.

PENNSYLVANIA LABOR RELATIONS BOARD

JACK E. MARINO, Hearing Examiner