

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PERA-U-14-78-W
: :
ALLEGHENY INTERMEDIATE UNIT 3 :

PROPOSED ORDER OF UNIT CLARIFICATION

On March 20, 2014, the Allegheny Intermediate Unit 3, American Federation of Teachers, AFT Local 4394 (Union or AFT) 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 include Job Coaches at the Allegheny Intermediate Unit 3 (IU or Employer) in the nonprofessional unit. On April 22, 2014, the Secretary of the Board issued an Order and Notice of Hearing, designating a May 8, 2014 pre-hearing conference for the purpose of resolving the matters in dispute through mutual agreement of the parties, and assigning August 27, 2014, in Pittsburgh, as the time and place of hearing, if necessary.

The Union and Employer ultimately agreed to submit factual stipulations in lieu of participating in a hearing. On August 14, 2014, The Board received the jointly executed stipulations of fact between the parties.

The Examiner, based on all matters of record, makes the following:

FINDINGS OF FACT

1. The IU is a public employer within the meaning of Section 301(1) of PERA. (Stipulation 1)

2. The Union is an employe organization within the meaning of Section 301(3) of PERA. (See Petition for Unit Clarification)

3. The Union is the exclusive representative for the purpose of collective bargaining with respect to wages, hours of employment, and other terms and conditions of employment for a unit of all full-time and regular part-time nonprofessional employes including but not limited to a subdivision of the employer unit within the special services support group comprised of teacher aides, custodians, matrons, secretaries, cafeteria workers, driver custodians, maintenance custodians, physical therapy aides, physical therapy occupation aides, bus drivers, aides for brain injured and socially and emotionally maladjusted children, and interpreters/notetakers employed in the Deaf/Hearing Impaired Program; and excluding all professional employes, supervisors, first level supervisors, confidential employes and guards as defined in the Act. (Stipulation 2) (PERA-R-95-591-W)

4. The job description outlines the responsibilities of the Job Coach position. (Stipulation 3)

5. The Job Coach position is a nonprofessional position. (Stipulation 4)

6. The position description provides the following qualifications: (1) high school diploma/GED required; associates degree preferred; (2) a successful employment history is required; (3) good interpersonal and communication skills; (4) ability to work as part of a team; (5) strong analytical and problem solving skills; (6) ability to be flexible; (7) organizational skills, initiative, and an ability to work with limited supervision; and (8) skilled in the use of Microsoft Office Suite including Word, PowerPoint, Access, Excel and Outlook, and willingness to experiment and work with new technologies.

7. The Job Coach position reports to the Career Development Supervisor, Transition Coordinator. (Joint Exhibit 1)

8. The Job Coach position description provides the following Accountability Objective:

The Job Coach provides training and related supports to students in a volunteer, vocational assessment, employment or apprentice opportunity, in order to learn or maintain skills related to the job. Coaching may include learning job skills (such as job tasks, appropriate behaviors, how to work with co-workers and supervisors, how to travel to work, etc.), and teaching the employer or co-workers strategies of working with the consumer, advocating with the employer on behalf of the student, and developing natural supports. The Job Coach also teaches the student the interpersonal skills necessary to be accepted as a worker at the job site and in related community contacts.

(Joint Exhibit 1)

DISCUSSION

The Union has petitioned for the Job Coach position to be included in the nonprofessional unit. The parties have stipulated that the Job Coach position is nonprofessional in nature. As a result, the only question is whether the Job Coach position shares an identifiable community of interest with the positions in the nonprofessional unit.

Section 604(3) of PERA provides, in relevant part, as follows:

The board 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 board shall:

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

43 P.S. § 1101.604(3).

In determining whether employes 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 employes, grievance procedures, bargaining history, and employes' 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.

In this case, the record shows that the Job Coach position shares an identifiable community of interest with the positions in the nonprofessional unit. As set forth above, the parties stipulated that the Job Coach position is nonprofessional. Therefore, it has similar educational and skill requirements to the other positions in the nonprofessional unit. Likewise, the Job Coaches work for the same employer as the other positions in the nonprofessional unit, which is the IU. As such, in order to avoid the effects of over fragmentation, as set forth in Section 604(3) of PERA, 43 P.S. §1101.604(3), the Job Coach position will be included in the nonprofessional unit.

CONCLUSION

The Examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. The IU is a public employer within the meaning of Section 301(1) of PERA.

2. The Union is an employe organization within the meaning of Section 301(3) of PERA.

3. The Board has jurisdiction over the parties.

4. The Job Coach position shares an identifiable community of interest with the other positions in the nonprofessional unit.

5. The Job Coaches employed at the IU are nonprofessional.

6. The unit appropriate for the purposes of collective bargaining is all full-time and regular part-time nonprofessional employes including but not limited to a subdivision of the employer unit within the special services support group comprised of teacher aides, custodians, matrons, secretaries, cafeteria workers, driver custodians, maintenance custodians, physical therapy aides, physical therapy occupation aides, bus drivers, aides for brain injured and socially and emotionally maladjusted children, interpreters/notetakers employed in the Deaf/Hearing Impaired Program, and job coaches; and excluding all professional employes, supervisors, first level supervisors, confidential employes and guards as defined in the Act.

ORDER

In view of the foregoing and in order to effectuate the policies of the PERA, the Hearing Examiner

HEREBY ORDERS AND DIRECTS

that the unit is amended consistent with Conclusion 6 above.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

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

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this twenty-first day of October, 2014.

PENNSYLVANIA LABOR RELATIONS BOARD

JOHN POZNIAK, Hearing Examiner