

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
:
: PERA-U-19-147-E
: (PERA-R-06-444-E)
COLUMBIA-MONTOUR AREA VOCATIONAL :
TECHNICAL SCHOOL :

PROPOSED ORDER OF UNIT CLARIFICATION

On June 21, 2019, the Columbia-Montour Area Vocational Technical School Education Support Professionals, PSEA/NEA (Union) filed a Petition for Unit Clarification with the Pennsylvania Labor Relations Board (Board) seeking to accrete the position of Information Technology Coordinator into a unit of nonprofessional employes at the Columbia-Montour Area Vocational Technical School (School or Employer) pursuant to the Public Employee Relations Act (PERA or Act).

On July 16, 2019, the Secretary of the Board issued an Order and Notice of Hearing, assigning the matter to conciliation, and directing a hearing on September 25, 2019, if necessary.

The hearing was continued several times without objection before the parties eventually agreed to proceed by way of depositions in light of the ongoing Covid-19 pandemic. The depositions ensued on September 2, 2020, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The parties both filed post-hearing briefs in support of their respective positions on November 9, 2020. The Union then filed a reply brief on November 19, 2020. The School did not file a response to the Union's reply brief, nor did the School lodge any objection to the same.

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

FINDINGS OF FACT

1. The School 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 Union is the exclusive bargaining agent for a unit consisting of "[a]ll full-time and regular part-time nonprofessional employes including but not limited to secretaries, administrative assistants, technology employes, cafeteria employes, tutors, custodial/maintenance employes, reassignment room coordinator and paraprofessional employes; and excluding management level employes, supervisors, first level supervisors, confidential employes and guards as defined in the Act." (Association Exhibit 4)
4. The Union and the School are parties to a collective bargaining agreement (CBA) effective July 1, 2017 through June 30, 2022. (Joint Exhibit 2)

5. The School's purpose is to provide students with education in various trades. The School services grades 9 through 12 and consists of just one building. (N.T. II at 11-12)¹

6. Jeremy Adams has been employed at the School as Director of Technology Services since December 2013. The position is classified as Act 93 and not in the bargaining unit. Adams previously held the position of Information Technology Technician at the School since approximately 2000. (N.T. II 14, 30-31, N.T. III 12-13, 18-19, 23-24, 42-43, N.T. IV 8, 13; Exhibit E-1, E-2)²

7. Prior to December 2013, there was no Director of Technology Services (IT Director) position at the School. Instead, there were two positions in the School's Information Technology department, the Information Technology Technician (IT Technician) and the Information Technology Coordinator (IT Coordinator), which were both in the bargaining unit. (N.T. I 16-18, N.T. II 13; Exhibit A-1)

8. In 1998, David Madera held the IT Coordinator position at the School. When Madera left the School around 2003 or 2004, the School did not hire a new IT Coordinator. Adams continued working as the IT Technician and was the only employe in the Information Technology department until December 2013, aside from a few brief temporary employes. (N.T. II 15-16, 21-22, N.T. III 13-15, 23-24, 42, N.T. IV 13)

9. On August 9, 2013, PSEA Regional Field Director John Holland forwarded a letter to the School's attorney, Benjamin Pratt, which indicated in relevant part the following:

It has been brought to my attention that the [School's] Joint Operating Committee (JOC) has plans to reclassify the [IT Coordinator] position as an Act 93 position.

I want to bring your attention [sic] that this position is a bargaining unit position and that the JOC is not authorized to reclassify this position absent [Union] consent or a [Board] Unit Clarification Order.

I would appreciate you advising your client that they may not unilaterally proceed in this manner and do so at their own peril.

(Exhibit A-2)

10. In response, Pratt forwarded an August 16, 2013 letter to Holland which indicated in relevant part the following:

My office is in receipt of your August 9, 2013 letter wherein you indicate you believe the [School] plans to reclassify the [IT

¹ The deposition transcripts of John Holland, Holly Diltz, Anthony Lylo, and Jeremy Adams will be referenced as N.T. I, II, III, and IV, respectively.

² Although the Union never formally amended the Petition for Unit Clarification, which misidentified the position at issue as Information Technology Coordinator, the parties stipulated at the outset of the proceedings that the proper title of the position at issue is Director of Technology Services and fully litigated the proper placement of that position. (N.T. I 10-12).

Coordinator] position as an Act 93 position. I have discussed this matter with the School Administration and it is my understanding the School Administration has no plans to reclassify the current [IT Coordinator] position as an Act 93 position. The School Administration is, however, creating a[n] [IT Director] position. This new position will not replace the [IT Coordinator] position, but will be a new position within the School.

As you are aware, the School has the right to create new positions and designate those positions to the proper employee classification. Based on the job description for the [IT Director] position, the new position being created is clearly an Act 93 position. Again, there is no intention on the part of the School to reclassify the current [IT Coordinator] position. The [IT Director] position is a new position being created by the School...

(Exhibit E-1)

11. Approximately two months later, on October 16, 2013, the parties entered into a new CBA effective July 1, 2013 through June 30, 2017, which listed the IT Coordinator and IT Technician as bargaining unit positions and provided for pay and benefits therein. (N.T. I 24-26; Exhibit A-3)

12. Since Adams became the IT Director in December 2013, the School has not hired anyone else to serve in either the IT Coordinator or IT Technician positions, which have remained vacant. For the past seven years then, Adams has been the only employe working in the School's Information Technology department. (N.T. I 47, N.T. II 30-31, N.T. III 18-19, 24, N.T. IV 37, 44)

13. As IT Director, Adams performs the following job duties: attending Joint Operating Committee meetings and providing monthly reports on the current technology issues or projects at the School; assisting with professional development of teachers by identifying ways to utilize technology in the classroom; overseeing student interns during the summer months with regard to unboxing and upgrading hardware; signing intern timesheets and assisting with their evaluations; assisting with yearly budget projections by identifying potential needs and costs; working closely with School administrators in developing and implementing technology plans, programs, and activities; maintaining and planning for replacement of computers; submitting e-rate³ documents for internet and data transport; ordering and maintaining supplies of technology related equipment; participating in consortiums and performing research for the purchase of new technology equipment and devices. (N.T. IV 16, 19, 24-28, 33-36; 40-41, 43, 48-49, 55, Exhibit A-5)

14. Over the last few years, Adams was responsible for drafting a policy surrounding the provision of Chromebook devices to students and their permissible uses. Adams discussed the policy draft with several administrators at the School, including the Administrative Director. The Administrative Director made the decision on whether the policy draft was

³ Adams testified that e-rate is a federal program that helps schools pay for internet, wiring, networking equipment, and other similar activities. (N.T. IV 36).

acceptable and could be forwarded to the Policy Committee of the JOC, which further reviewed the policy before submitting it to the entire JOC for approval. Adams explained that he is not responsible for meting out discipline to students who violate the policy by misusing a device or engaging in misconduct on the internet, as that is handled by the Principal or Assistant Principal. He described how he just reports the infractions. (N.T. IV 17-18, 51, 55-59, 81-85)

15. Adams testified that, after the Covid-19 pandemic started, he helped develop a plan and system to bring the School completely online. He described how that involved identifying what kind of online systems the School could use to obtain content for students and how teachers would manage that since the old system relied on having everyone physically in the building. Specifically, Adams chose the platform for the School to utilize, which was Zoom, and trained the teachers on how to use it. He further explained how his role involved lending his expertise in information technology and online instruction, and largely consisted of providing guidance to teachers on how they were going to accomplish such a task. (N.T. IV 21-22, 61-62)

16. Adams reports to the School's Administrative Director, who also performs his evaluations. (N.T. IV 31)

17. As IT Director, Adams holds a 12-month position, which is the same case for many bargaining unit positions, such as the IT Technician and IT Coordinator, as well as the custodians and maintenance workers. (N.T. II 39-40, N.T. IV 81; Exhibits J-2, A-5)

18. As IT Director, Adams works Monday through Friday, 8 a.m. to 4 p.m. for a total of 40 hours per week, which is the same schedule for many bargaining unit positions, including the IT Technician, custodians and maintenance workers. (N.T. II 36-39, 77, 94, N.T. IV 14, 80-81; Exhibit J-2)

19. The IT Director position does not require any postsecondary educational degrees. (N.T. IV 11-12, 80; Exhibit A-5)

20. The salary, benefits, and working conditions for the IT Director position are addressed by an "Act 93 Administrative Compensation Agreement," which contains many of the same or similar benefits provided for bargaining unit members in the CBA, including health insurance and the option to decline the same in exchange for a lump sum payment, flexible spending accounts, life insurance, sick leave, personal days, paid holidays, and vacation days. (N.T. I 8-10, N.T. II 42-50; Exhibits J-1, J-2)

21. Since 2013, there have been roughly a dozen disciplinary or investigatory meetings between the Union and the School. The individuals who attended these meetings for the School were the Administrative Director, Business Manager, Maintenance Supervisor, and/or the Principal. The Administrative Director always made the decision whether to impose discipline on the employe. (N.T. II 56-63)

22. As IT Director, Adams never attended any of the disciplinary or investigatory meetings, nor did he play any role in deciding whether to impose discipline against an employe. (N.T. II 60-61)

23. For the past few years, the School has had interns working during the summer, who were students from the School. The School uses CareerLink,

an outside agency, to hire the interns, and works with Mark Hock, a CareerLink employe, who makes the decision on which students to hire. (N.T. II 83-84, 86-87, 99-100, N.T. IV 24-25, 65-68)

24. Adams testified that CareerLink is the employer of the summer interns. He testified that he provides their timesheets to CareerLink and that CareerLink takes over from there. (N.T. IV 65)

25. As IT Director, Adams makes recommendations during the budgeting process to the Administrative Director, who decides whether to accept the recommendations and present them to the JOC. The budget is ultimately approved by the JOC. (N.T. III 22-23, 31-32, N.T. IV 27-31, 68-69, 85-86)

26. As IT Director, Adams can recommend a purchase only if there is money in the School's existing and already approved technology budget. Even when there is room in the technology budget, the IT Director must submit his purchase request to the Administrative Director, who must approve and sign off on the request. If there is no room in the technology budget, the IT Director must have a discussion with the Business Manager and Administrative Director about allocating funds from elsewhere in the budget and obtain the Administrative Director's approval. (N.T. IV 30-31, 49, 68-72, 90-91)

DISCUSSION

The Association has petitioned to include the IT Director in the bargaining unit of nonprofessional employes. The School opposes the petition on the grounds that the IT Director lacks an identifiable community of interest. The School also contends that the IT Director is a managerial employe, and therefore, not eligible for inclusion under the Act.⁴

Section 604 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 fragmentization.

43 P.S. § 1101.604.

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

⁴ The School does not argue that the IT Director is a supervisory employe pursuant to Section 301(6) of the Act, nor does the record support any such determination. The only positions that could potentially be subject to the IT Director's alleged supervision are the summer interns. However, the record shows that the summer interns are not employes of the School, but rather CareerLink, an outside agency. Therefore, the IT Director is not a supervisory employe under the Act. See Teamsters Local 430 v. Manchester Ambulance Club, 32 PPER ¶ 32039 (Final Order, 2001)(the exercise of supervisory authority over persons who are not employes within the meaning of PERA does not support an exclusion from the bargaining unit).

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 IT Director shares an identifiable community of interest with the employes in the nonprofessional unit. Indeed, the IT Director works in the same location with the bargaining unit employes, as the School consists of just one building. Likewise, the IT Director holds a 12-month position, which is the same case for many bargaining unit positions, such as the IT Technician and IT Coordinator, as well as the custodians and maintenance workers. The IT Director also works Monday through Friday, 8 a.m. to 4 p.m. for a total of 40 hours per week, which is the same schedule for many bargaining unit positions.⁵ Perhaps most importantly, the IT Director position does not require any postsecondary educational degrees, which is similar to the educational requirements for all nonprofessional bargaining units. Furthermore, the salary, benefits, and working conditions for the IT Director position are addressed by an "Act 93 Administrative Compensation Agreement," which contains many of the same or similar benefits provided for bargaining unit members in the CBA, including health insurance and the option to decline the same in exchange for a lump sum payment, flexible spending accounts, life insurance, sick leave, personal days, paid holidays, and vacation days. This is more than sufficient to establish an identifiable community of interest with the other employes in the nonprofessional unit.

As previously set forth above, the School argues that the IT Director should not be included in the unit because the position is managerial under the Act. Section 301(16) of PERA provides that:

"Management level employe" means any individual who is involved directly in the determination of policy or who responsibly directs the implementation thereof and shall include all employes above the first level of supervision.

43 P.S. § 1101.301(16).

The Board has held that if employes meet only one part of the three-part test set forth in Section 301(16), then those employes are managerial. Pennsylvania Ass'n of State Mental Hospital Physicians v. PLRB, 554 A.2d 1021 (Pa. Cmwlth. 1990). In Horsham Township, 9 PPER ¶ 9157 (Order and Notice of Election, 1978), the Board stated:

An individual who is involved directly in the determination of policy would include not only a person who has the authority or responsibility to select among options and to put a proposed policy into effect, but also a person who participates with regularity in the essential process which results in a policy proposal and the decision to put such a proposal into effect. Our reading of the Statute does not include a person who simply drafts language for the statement of policy without meaningful

⁵ The fact that the IT Director is sometimes also subject to call during irregular evening and weekend hours is hardly enough to destroy the clear and identifiable community of interest.

participation in the decisional process, nor would it include one who simply engaged in research or the collection of data necessary for the development of a policy proposal.

The remaining criteria for designating an employe as managerial concerns one "who responsibly directs the implementation (of policy)" and shall include "all employes above the first level of supervision." We interpret these criterion to include those persons who have a responsible role in giving practical effect to and ensuring the actual fulfillment of policy by concrete measures, provided that such role is not of a routine or clerical nature and bears managerial responsibility to insure completion of the task. The administration of a policy involves basically two functions: (1) observance of the terms of the policy and (2) interpretation of the policy both within and without the procedures outlined in the policy. The observance of the terms of the policy is largely a routine and ministerial function. There will be occasion where the implementation of policy will necessitate a change in procedure or methods of operation. The person who effects such implementation and change exercises that managerial responsibility and would be responsibly directing the implementation of policy. Furthermore, the interpretation of policy would constitute responsible implementation of policy as a continuation of the managerial decision making process.

* * *

In City of Lebanon, 4 PPER 24 (1974), we stated that policy formulation and implementation must be distinguished from technical expertise. To define the problem and directly implement the proposed solution to a problem is not the same as performing a function within a known discipline with competence. The former has to do with policy and the latter deals with technical expertise.

The Commonwealth Court has opined that an employe's decisions are not managerial if they are part of the employe's routine discharge of professional duties. Municipal Employees of the Borough of Slippery Rock v. PLRB, 14 A.3d 189 (Pa. Cmwlth. 2011). Rather, in order to be considered a managerial level employe, the employe must be responsible for not only monitoring compliance with a policy, but also for taking action in situations where noncompliance is found. *Id.* at 192. The exercise of authority to take remedial action in the event of noncompliance with governmental regulations is the hallmark of a management level employe. In the Matter of the Employes of Jefferson Morgan School District, 31 PPER ¶ 31115 (Proposed Order of Unit Clarification, 2000) *citing* School District of Philadelphia v. PLRB, 719 A.2d 835 (Pa. Cmwlth. 1998).

The Board has long held that mere professional or technical expertise that affects or has an impact on employer policies does not render the position management level. In the Matter of East Stroudsburg Area School District, PERA-U-19-184-E, (Final Order, 2021) *citing* Commonwealth of Pennsylvania, 49 PPER 41 (Proposed Order of Unit Clarification, 2017), *affirmed*, PERA-U-16-334-E and PERA-U-16-335-E (Final Order, 2018); Port Authority of Allegheny County, 48 PPER 47 (Final Order, 2016). Indeed, the Board has stated that "[j]udgments of professional employes which transcend the technical discipline of professionals should be distinguished from those

instances where the natural and normal performance of professional duties may affect the employer's policy merely by the specialized nature of the professional's normal tasks." East Stroudsburg, quoting Pennsylvania State University, 19 PPER ¶ 19156 (Final Order, 1988) at 378. Only the former are considered management level employees pursuant to PERA. *Id.* Put another way, "managerial status may not be based on decision making which is part of the routine discharge of professional duties." *Id.*; Slippery Rock, at 192.

In this case, the School contends that the Petition for Unit Clarification should be dismissed because the IT Director is a managerial employee under the first two prongs of the Section 301(16) test. Specifically, the School maintains that the IT Director is directly involved in the determination of policy and responsibly directs the implementation thereof.⁶ In support of these claims, the School points to the IT Director's alleged involvement with policy creation and implementation, along with his budgeting and purchasing duties. However, the School's arguments are untenable and not supported by the record evidence.

Indeed, while the School references myriad alleged "policies" throughout its post-hearing brief and in the transcripts, the School has actually identified only one specific JOC-approved policy, with which the IT Director has had any involvement. As set forth in the Findings of Fact, Adams was responsible for drafting a policy surrounding the provision of Chromebook devices to students and their permissible uses. Adams discussed the policy draft with several administrators at the School, including the Administrative Director. The Administrative Director made the decision on whether the policy draft was acceptable and could be forwarded to the Policy Committee of the JOC, which further reviewed the policy before submitting it to the entire JOC for approval. This does not meet the requirements of the first prong of the Section 301(16) test. The School has not demonstrated that the IT Director is someone who has the authority or responsibility to select among options and to put a proposed policy into effect or that he participates with regularity in the essential process which results in a policy proposal and the decision to put such a proposal into effect. Instead, this evidence shows that the IT Director is more closely akin to a person who simply drafts language for the statement of policy without meaningful participation in the decisional process or simply engaged in research or the collection of data necessary for the development of a policy proposal, which is not sufficient to justify an exclusion from the unit.

Similarly, the School has also failed to sustain its burden of proving the managerial exclusion under the second prong of the test for the IT Director's alleged involvement in the implementation of policy. The School asserts that Adams is responsible for the enforcement of the Chromebook policy. However, Adams readily conceded that he is not responsible for meting out discipline to students who violate the policy by misusing a device or engaging in misconduct on the internet, as that is handled by the Principal or Assistant Principal. To the contrary, he simply reports the infractions. As such, the IT Director does not have the actual authority to enforce the policy or to interpret the policy by making exceptions for cases that lie outside of its parameters. Instead, those duties lie with either the Principal or Assistant Principal.

⁶ The School does not argue that the IT Director is above the first level of supervision pursuant to the third prong of the Section 301(16) test.

In any event, the School has not demonstrated that the IT Director's involvement with the Chromebook or any other alleged policy transcends his technical expertise, so as to render his position managerial. The record shows that the IT Director is responsible for various information technology duties related to computers, hardware, software, the internet, and other networking capabilities. The Chromebook policy involved the provision of Chromebook devices to students and their permissible uses. How this transcends the IT Director's technical expertise is unclear. Indeed, the policy is directly related to the position's knowledge, skills, and abilities in information technology, as it involves the provision of take-home computers to students. In fact, the record is devoid of the actual written policy either in draft form or as approved by the JOC. As a result, it is nearly impossible to conclude that the policy involved anything other than technical expertise. Adams himself did not shed much light on his involvement with the policy, as his testimony was limited to his drafting of the policy and apparently recommending the purchase of the devices since it was within the department's budgetary limits. To that end, the School put on evidence that Adams does have significant involvement with recommending purchases relative to information technology equipment and supplies. However, there is nothing to support the conclusion that these duties go anywhere beyond the technical expertise of the position. Rather, Adams simply performs troubleshooting duties wherein he either solves existing technology problems, as they occur, or attempts to preempt their occurrence by securing the most up to date systems or equipment. In doing so, Adams exercises technical expertise and makes technical judgments which affect the employer's policy merely by the specialized nature of his normal tasks. While surely significant and important, as it relates to the School's operations, this does not rise to the level of managerial status under the Act.⁷

What is more, as IT Director, Adams can recommend a purchase only if there is money in the School's existing and already approved technology budget. Even when there is room in the technology budget, the IT Director must submit his purchase request to the Administrative Director, who must approve and sign off on the request. If there is no room in the technology budget, the IT Director must have a discussion with the Business Manager and Administrative Director about allocating funds from elsewhere in the budget and obtain the Administrative Director's approval. However, it is now well

⁷ The same result must obtain with regard to the IT Director's Covid-19 duties, wherein he helped bring the School completely online. Post-petition evidence is admissible where there has been no showing that the employer changed job duties merely to influence the Board's determination regarding the placement of the position in question, as is the case here, in light of the ongoing pandemic. In the Matter of the Employes of Housing Authority of the City of Shamokin, 42 PPER 32 (Proposed Order of Unit Clarification and Proposed Order of Amendment of Certification, 2011) *citing* In the Matter of the Employes of Westmoreland County, 40 PPER 35 (Final Order, 2009). Adams simply chose the platform for the School to utilize, which was Zoom, and trained the teachers on how to use it. This merely reflects a technical judgment in selecting the online platform and does not transcend the information technology field in any way or somehow change the direction of the School's policy. Moreover, training the teachers on how to use the platform does not rise to the level of managerial status under the Act, as the IT Director is merely imparting knowledge about the platform so the teachers can use it. Port Authority of Allegheny County, 48 PPER 47 (Final Order, 2016).

settled that mere purchasing authority is not implementation of the general budget for purposes of determining management level status under the second prong of Section 301(16) of PERA. Cumberland Township, 49 PPER 66 (Final Order, 2018) *citing* In the Matter of the Employees of East Mead Township, 47 PPER 46 (Order Directing Remand to the Examiner for Further Proceedings, 2015). Indeed, the Cumberland Township Board reiterated the rule that once a general budget has been adopted by a public employer, an employee's purchases in accordance with the budget are not implementation of budget policy under the second prong of the test. *Id.* The School has not presented any evidence to show that the IT Director has actually compelled the reallocation of funds for purposes of demonstrating a change in policy sufficient to justify an exclusion from the bargaining unit. To the contrary, the record simply shows that the IT Director assists with yearly budget projections by identifying potential needs and costs for the technology department; however, it is the Administrative Director, who decides whether to accept any recommendations and present them to the JOC. This is insufficient to demonstrate meaningful participation in formulating the School's budget for purposes of the first prong of the test.

Finally, the School argues that the Petition for Unit Clarification should be dismissed because it is barred by the statute of limitations and the doctrine of laches. Specifically, the School contends that the Union knew or should have known of the School's plan to create the IT Director position in 2013 and that the Union did not act to accrete the position at that time or file any charge or petition with the Board. However, it is well settled that the Act's four-month limitations period does not apply to unit clarification proceedings, as these proceedings do not relate to acts or statements which occurred in the past, but to facts concerning the present duties of the employees in question. Jefferson-DuBois Vo-Tech, 11 PPER ¶ 11194 (Nisi Order of Unit Clarification, 1980); Churchill Area School District, 374 A.2d 1000, 1002 (Pa. Cmwlth. 1977). In fact, the Board has held that unit clarification petitions can be filed at any time, including many years after the creation of the position. Chambersburg Area School District, 20 PPER ¶ 20149 (Final Order, 1989). Similarly, the equitable doctrines of laches and estoppel are not applicable in administrative proceedings. Churchill Area School District, *supra*; Chambersburg Area School District, *supra*. Nor is it a defense for the School to claim that the Union failed to raise the issue during negotiations for the last two CBAs. The Board has long rejected the notion that a party is somehow estopped from filing a unit clarification petition simply because it unsuccessfully sought to exclude the position from the unit during bargaining; the Board's policy is to process unit clarification petitions at any time, including during the term of a CBA. City of Erie, 40 PPER 45 (Proposed Order of Unit Clarification, 2009), 40 PPER 69 (Final Order, 2009). As a result, the School's arguments in this regard are rejected, and the IT Director must be accreted into the bargaining unit.

CONCLUSIONS

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

1. The School 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 hereto.

4. The IT Director is not a managerial position within the meaning of PERA and is properly included in the bargaining unit.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the unit certified at PERA-R-06-444-E is amended to include the IT Director position.

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 days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this 9th day of March, 2021.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak
John Pozniak, Hearing Examiner