

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

SWARTZ CREEK COMMUNITY SCHOOLS,
Public Employer,

Case No. UC00 H-29

-and-

SWARTZ CREEK EXECUTIVE SECRETARIES
ASSOCIATION,
Petitioner-Labor Organization,

-and-

AMERICAN FEDERATION OF STATE, COUNTY, AND
MUNICIPAL EMPLOYEES, COUNCIL 25,
Intervenor.

APPEARANCES:

Thrun, Maatsch, and Nordberg, P.C., by Donald J. Bonato, Esq., for the Public Employer

Gary E. Vandemark, Esq., for the Petitioner

Kevin Bramlet, Staff Representative, American Federation of State, County, and Municipal Employees, Council 25, for the Intervenor

DECISION AND ORDER ON UNIT CLARIFICATION

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, and a notice of hearing dated December 1, 2000, this unit clarification case was heard at Swartz Creek, Michigan on December 19, 2000, before Julia C. Stern, Administrative Law Judge, acting as hearing officer for the Michigan Employment Relations Commission. Based on the record, including the transcript of the hearing and exhibits, we find as follows:

The Petition and Issue:

The Swartz Creek Executive Secretaries Association filed this petition for unit clarification on August 18, 2000. Petitioner represents a unit of nonsupervisory secretarial employees of the Swartz Creek Community Schools. It seeks to add a new position, data entry single record database secretary (SRD secretary), to its unit. Intervenor American Federation of State, County, and Municipal Employees (AFSCME), Council 25, represents other nonsupervisory clerical employees of the Employer. The Employer placed the SRD secretary position in Intervenor's unit. Both the Employer and the Intervenor contend that the new position should remain in that unit. Petitioner argues that the SRD secretary has a greater community of interest with its unit. It also asserts that the SRD secretary performs pupil accounting duties that were formerly the responsibility of a position in its unit.

Facts:

Petitioner's unit consists of six positions: the bookkeeper, the secretary for payroll, the secretary to the superintendent, and the secretaries to the assistant superintendents for instruction services, business services, and personnel services. All of the positions in Petitioner's unit work in the Employer's central office building. All of these positions report directly to either the superintendent or to one of the assistant superintendents, and all have district-wide responsibilities. All of the positions in Petitioner's unit work 52 weeks per year.

Intervenor's unit is described by the recognition clause of the 1998-2001 collective bargaining agreement between the Employer and the Intervenor as follows:

All custodial, laundry, maintenance, cooks, bus drivers, educational aides, food delivery drivers, cashiers, pool operator, garage assistant media technician, clerical and secretaries, Child Development Center caregivers and kitchen coordinators.

The majority of the Employer's clerical employees are in Intervenor's unit. Most of the clerical employees in Intervenor's unit work in school buildings. The only clerical member of Intervenor's unit who works in the central office building is the switchboard operator. Some positions in the Intervenor's unit have district-wide responsibilities. These include the secretary to the director of transportation and food service, the special education director's secretary, and the district warehouse secretary. Some positions in Intervenor's unit work directly for building principals, some work for administrators, and some work for members of the professional employees' bargaining unit, e.g., guidance counselors. Some of the positions in Intervenor's unit are 52-week-per-year positions, but others are 40-week-per year positions.

The submission of pupil accounting data to the Michigan Department of Education (MDE) has traditionally been the responsibility of the assistant superintendent for instruction services and his secretary (ASI secretary). The Employer is required to submit its pupil count to the MDE twice per year. The amount of state aid that the Employer receives is based on this count. Through the fall

of 2000, the ASI secretary was responsible for preparing the pupil accounting form, known as the DS-4061. The ASI secretary also prepared several other pupil accounting reports for submission to the MDE. The ASI secretary estimated that she spent about 20% of her time on pupil accounting duties.

The SRD secretary position was created during the 1999-2000 school year, and the SRD secretary assumed her title in August 2000. The SRD secretary works in the central office building. She works 44 weeks per year. The SRD secretary works for the technology coordinator, a member of the professional employees' bargaining unit, and is supervised by the assistant superintendent for instruction services. The SRD secretary has two primary functions: she provides secretarial assistance to the technology coordinator and she is responsible for monitoring the entry of data into the MDE's new Single Record Student Database (SRSD). Her responsibilities regarding the SRSD include training the employees who enter the data into the system, answering their questions on a day-to-day basis, and correcting inaccuracies in the data. She and the technology coordinator are the only individuals within the district who are authorized to make changes in the SRSD.

The SRSD was created by the MDE as part of the Michigan Education Information System, a sort of electronic warehouse for data gathered from local school districts. Eventually, according to the MDE's plan, this data will be used for various reports, including state aid, and pupil accounting. On February 10, 2000, the MDE sent a letter to all state school districts and public school academies informing them that they had to begin entering data into the SRSD by the summer of 2000. All the data used to prepare the Employer's pupil accounting form is in the SRSD, although the SRSD contains more student information than the DS-4061. At the time of the hearing, the Employer also continued to maintain its own internal database of student information. The MDE anticipates, however, that the SRSD will eventually replace existing school district student information databases. It was clear at the time of the hearing that eventually the DS-4061 would be eliminated, perhaps by the fall of 2001.

Discussion and Conclusions of Law:

Petitioner argues that the SRD secretary has a greater community of interest with its unit than with the unit represented by Intervenor. Petitioner contends that the SRD secretary's level of responsibility is closer to that of the positions in its bargaining unit. In support of this claim, Petitioner points out that the SRD secretary is the only clerical employee with the authority to make changes in the SRSD database. Petitioner also asserts that the SRD secretary will soon assume the responsibility for pupil accounting which previously belonged to a position in its unit, the ASI secretary. In addition, Petitioner also argues that the SRD secretary and positions in its unit have a community of interest because they have common supervision and work in the same location.

The Employer argues that the SRD secretary has a community of interest with employees in Intervenor's unit based on similarities in their job duties; the fact that the SRD secretary, like certain positions in Intervenor's unit, has a work year of less than 52 weeks; the fact that the SRD secretary receives the same benefits as employees in Intervenor's unit; and the fact that the current SRD secretary previously held a position in the AFSCME unit. According to the Employer, because the

SRD secretary arguably shares a community of interest with both Petitioner's and Intervenor's units, we should defer to the Employer's good faith decision to place the position in the latter unit, citing *Lakeview Schs*, 1988 MERC Lab Op 424, and *Royal Oak Pub Schs*, 1984 MERC Lab Op 922.

The Intervenor generally agrees with the Employer's arguments, but asserts that there is no community of interest between the SRD secretary and the positions in Petitioner's unit. Intervenor argues that the hours of work and other conditions of employment for the SRD secretary are entirely different from those of the positions in Petitioner's unit.

We conclude that the SRD secretary is a new position, not merely the ASI secretary position with a new title. Although at the time of the hearing the ASI secretary was retiring, the Employer intends to fill the vacancy. Petitioner asserts that the ASI secretary's pupil accounting responsibilities will soon be taken over by the SRD secretary. However, these responsibilities take only approximately 20% of the ASI secretary's time. Moreover, although many, if not all, of the ASI secretary's pupil accounting duties may disappear when the DS-4061 is replaced by direct transmission of pupil count data from the SRSD, the record indicates that the SRD secretary's duties will not change. That is, the SRD secretary will continue to perform the same duties with respect to the SRSD that she now performs.

We find that the SRD secretary shares a community of interest with both bargaining units. Factors supporting finding a community of interest between the SRD secretary and the employees in Petitioner's unit include: the fact that they all perform clerical functions, they all work in the Employer's central office, they have day-to-day contact, and they are supervised by the superintendent or an assistant superintendent. There are also factors indicating a community of interest between the SRD secretary and the clerical employees in Intervenor's unit. These include similarities in the type of work they perform. Also, the SRD secretary's function of monitoring data entered into the SRSD is integrated with that of members of Intervenor's unit who input this data into the system. Although the SRD secretary does not work in the same building as these individuals, she has regular contact with them by phone or e-mail when she trains them and answers their questions about the SRSD. We do not agree with Petitioner that the community of interest between the SRD secretary and the clerical employees in Intervenor's unit is destroyed by the fact that the SRD secretary can make changes in the data entered into the SRSD.

We agree with the Employer that since the SRD secretary shares a community of interest with both units, and the Employer has placed the position in one of these units, it is proper to defer to the Employer's decision. We have consistently stated that we will not determine relative degrees of community of interest. See *Henry Ford Community College*, 1996 MERC Lab Op 374, 379-380, *Saginaw Valley State College*, 1988 MERC Lab Op 533, 538 and *Royal Oak Pub Schs*. Where a position shares a community of interest with more than one bargaining unit, and both units claim the position, we do not interfere with the position's unit placement. *City of Lansing*, 2000 MERC Lab Op 380. Accordingly, we will dismiss the unit clarification petition filed by the Swartz Creek Executive Secretaries Association. The SRD secretary shall remain part of the AFSCME unit.

ORDER

Based upon the findings and conclusions as set forth above, the unit clarification petition is hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: _____