

**STATE OF MICHIGAN
BUREAU OF EMPLOYMENT RELATIONS
LABOR RELATIONS DIVISIONS**

In the Matter of:

CHARTER TOWNSHIP OF CLINTON,
Public Employer,

Case No. R05 E-076

-and-

AFSCME COUNCIL 25,
Petitioner-Labor Organization,

-and-

UAW, LOCAL 412,
Interested Party.

APPEARANCES:

Towner & Towner, P.C., by Charles M. Towner, Esq., for the Public Employer

Miller Cohen, P.L.C., by Eric I. Frankie, Esq., for the Petitioner

Nancy Johnson, International Representative, for the UAW Local 412

DECISION AND DIRECTION OF ELECTION

Pursuant to Section 13 of the Public Employment Relations Act, 1965 PA 379 as amended, MCL 423.213, this case was heard in Detroit, Michigan on September 2, 2005, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission. Based on the record, including briefs filed by the parties on or before October 14, 2005, the Commission finds as follows:

The Petition:

On May 2, 2005, Petitioner AFSCME, Council 25, filed a petition seeking an election to accrete the following positions to its bargaining unit of supervisory employees: office manager I, office manager II, office supervisor, computer systems manager, network analyst, and recreation

coordinator.¹ At the hearing, UAW Local 412 claimed that the computer systems manager, the recreation coordinator, and the network analyst were already included in its nonsupervisory bargaining unit and, therefore, could not be added to the AFSCME bargaining unit.²

Prior to the start of the hearing, the parties agreed that the office manager positions and the office supervisor position could appropriately be accreted to the AFSCME, Council 25's bargaining unit. They disagreed, however, on the supervisory status of the recreation coordinator. The Employer takes the position that the recreation coordinator position is not supervisory and, therefore, not appropriately included in the AFSCME bargaining unit.

Facts:

The Township employs two full-time recreation coordinators who, under the direct supervision of the director and assistant director, are responsible for operating and coordinating the Township's various recreations programs. These include sports programs, the swimming pool, arts and crafts, and music programs. They are responsible for securing and hiring outside contractors to provide services. The coordinators schedule and assign work to seasonal part-time playground and office aides who are primarily students. There are approximately 100 seasonal part-time employees during the summer, and 15 to 20 during other seasons. The recreation coordinators have the ability to make recommendations regarding the discipline of the aides to the director or assistant director who ultimately decide on discipline. The recreation coordinators also perform job evaluations for the summer seasonal employees to assist the director and assistant director in determining whether the employees will be rehired the next summer. The director and assistant director make all hiring decisions.

Conclusions of Law:

A supervisor is one who possesses authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or to effectively recommend such action, as long as this authority requires the use of independent judgment and is not merely routine. *MEA v Clare-Gladwin ISD*, 153 Mich App 792, 796-798 (1996); *City of Holland*, 2002 MERC Lab Op 40, 41; *Village of Paw Paw*, 2000 MERC Lab Op 370. "[E]ffectively recommend" means that the supervisor's recommendations are generally accepted at face value and without an independent investigation. *Village of Ortonville*, 17 MPER 46 (2004); *Village of Port Austin*, 1991 MERC Lab Op 346, 348. Where higher management makes the effective personnel decisions, the fact that an individual evaluates the performances of other employees is not sufficient to qualify that individual as a supervisor. *Village of Ortonville*, 17 MPER 46 (2004); *City of Lansing*, 1985 MERC Lab Op 93, 101; *Saginaw Co Probate Court, Juvenile Div*, 1983 MERC Lab Op 954, 958. A finding of supervisory status requires that an individual or classification exercises independent judgment and

¹The petition also refers to an "office manager elections" position and an "office manager treasurer" position. The parties, however, agreed that the correct title for these positions is office manager.

² The UAW did not substantiate its claim that it already represents the positions of computer systems manager, network analyst, and recreation coordinator. However, as stipulated at the hearing, AFSCME no longer seeks to accrete the positions of computer systems manager and network analyst to its unit.

be identified or aligned with management in the performance of assigned duties. *Montcalm Co and Sheriff*, 1997 MERC Lab Op 157, 167; *Huron Co Sheriff's Dept*, 1995 MERC Lab Op 505, 509. An individual whose authority is limited to the routine direction of the daily work of other employees and/or making work assignments of a routine nature is not a supervisor under PERA. *61st Dist Ct*, 1998 MERC Lab Op 1; *Kalkaska Co and Sheriff*, 1994 MERC Lab Op 693.

In this case, the recreation coordinators evaluate employees to assist the Employer in determining whether aides should be rehired the next season. However, all hiring decisions are made by the director and assistant director. The recreation coordinators have no authority to hire or effectively recommend that employees be hired. Their authority is similarly limited with respect to discipline. While recreation coordinators may make recommendations with regard to discipline, the director and assistant director decide on and carry out all discipline. It is evident that the authority of the recreation coordinators is limited to routine oversight of the day-to-day work and scheduling of seasonal employees. Such responsibilities are not sufficient to establish supervisory status. See *61st Dist Ct*. We, therefore, hold that recreation coordinators are not supervisors under PERA.

ORDER DIRECTING ELECTION

Based on the findings and conclusions of law above, we find that a question concerning representation exists herein under Section 12 of PERA, and that the following residual group of employees may vote to decide whether to be accreted to the unit of supervisory employees of Clinton Township currently represented by the Petitioner:

Office manager I, office manager II, and office supervisor, excluding all other employees.

Pursuant to the attached Direction of Election, the above employees shall vote on whether they wish to be represented for purposes of collective bargaining by Petitioner AFSCME Council 25. If the employees vote to be represented by AFSCME Council 25, they will have indicated their desire to become part of the unit of supervisory employees currently represented by that organization and the Notice of Election will so state.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Date: _____