

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

In the Matter of:

SAGINAW VALLEY STATE UNIVERSITY,
Public Employer,

Case No. UC03 B-09

-and-

SAGINAW VALLEY STATE UNIVERSITY
SUPPORT STAFF ASSOCIATION, MEA/NEA,
Labor Organization – Petitioner.

APPEARANCES:

Braun, Kendrick & Finkbeiner, PLC, by Emil L. Ognisanti, Esq., for the Public Employer

Douglas V. Wilcox, Esq., for Petitioner

**DECISION AND ORDER ON
PETITION FOR UNIT CLARIFICATION**

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, this case was heard on September 28, 2004, before David M. Peltz, Administrative Law Judge for the Michigan Employment Relations Commission. Pursuant to Sections 13 and 14 of PERA, and based upon the entire record, including the transcript of hearing and briefs filed by the parties on or before January 21, 2005, the Commission finds as follows:

The Petition:

On February 28, 2003, Petitioner Saginaw Valley State University Support Staff Association, MEA/NEA (the Union or Petitioner) filed this petition for unit clarification seeking to accrete to its bargaining unit of nonsupervisory clerical and support employees of Saginaw Valley State University (the University or SVSU) the positions of CAD assistant, administrative assistant position at Macomb Regional Education Center, and public safety resources supervisor.¹ After the petition was filed, but prior to the hearing in this matter, the University renamed the positions in dispute and issued new job descriptions. The CAD assistant position was renamed “coordinator construction projects & CADD” (CCP&C), while the administrative assistant position was renamed “operations coordinator” for the Macomb Graduate Program.

¹Petitioner subsequently withdrew its request to add the public safety resources supervisor to its bargaining unit.

The University argues that the petition should be dismissed because the CCP&C and the operations coordinator do not share a community of interest with any positions within the support unit, but rather are appropriately included within a residual unit of unrepresented “administrative professional” employees. SVSU also contends that unit clarification is not appropriate in this matter because the Union previously acquiesced to the unit placement of the predecessor positions, CAD assistant and administrative assistant position at Macomb Regional Education Center.

Findings of Fact:

I. Background

Petitioner represents a bargaining unit of clerical and support employees of SVSU described in the parties’ contract as follows:

[A]ll full-time and regular part-time Secretarial/Clerical Division employees and Plant/Business Services Division employees of Saginaw Valley State University but excluding: Human Resource Assistants, Office of Human Resources (2); Secretaries to the Vice Presidents (Business, Academic, and Public Services), (3); Secretary to the Director of Institutional Research and Planning (1); Secretary to the Assistant to the President/Secretary to the Board of Control (1); Secretary to the Dean of Student Affairs (1); Supervisors and all others.

Although the contract contains no explicit exclusion, employees designated by the parties as “administrative professionals” have historically been excluded from Petitioner’s bargaining unit. At the time of the hearing in this matter, there were between 200 and 240 unrepresented “administrative professional” employees. The determination regarding whether to exclude a position as “administrative professional” is made by the University on a case-by-case basis, based upon the job description and the degree of supervisory responsibilities assigned to the position. In addition to the "administrative professionals" group, there is also a faculty unit consisting of approximately 243 employees, most of whom are classroom teachers.

There are approximately 101 bargaining unit positions within the University’s secretarial/clerical division and 94 positions in the plant/business services division. Positions within the secretarial/clerical division include secretaries to deans and directors, financial aid secretaries, admissions secretaries, secretaries to registrars, faculty secretaries, bookstore clerks, switchboard operators, and textbook coordinator, as well as various positions within the library and the accounting department. The plant/business services division includes various skilled trades positions, as well as maintenance employees, groundskeepers, custodians, and mailroom and shipping and receiving clerks.

The parties’ contract sets forth various classification levels for bargaining unit positions, with progressively higher minimum/maximum wage rates for each level. Positions are classified based upon degree of responsibility, personal autonomy, and decision-making. There are six grade levels for secretarial/clerical positions within the unit and seven grade levels for plant/business services positions. The hourly wage rate for positions within Petitioner’s bargaining unit ranges from \$11.39 to \$24.31 per hour. Unit employees are paid on a bi-weekly basis. Unit members receive medical, dental, vision, and disability benefits and, depending on

the number of hours worked per week, may also qualify for group life insurance. No position within Petitioner's unit requires a four-year degree, however, a high school diploma or advanced secretarial experience is required for several positions within the unit.

II. CAD Assistant/CCP&C Position

Sometime around 2001, Petitioner became aware of a job posting for a nonunit position entitled computer aided drafting and design assistant, or CAD assistant. Petitioner requested that the University provide it with a copy of the job description for this new position. At that time, a job description had not yet been created. Shortly thereafter, the University's human resources department was dissolved, causing the Union's request for information to be further delayed. The document that was ultimately supplied to the Union specified that the CAD assistant position required a high school diploma or equivalent, with strong math and computer skills.

In March of 2001, the University hired Lance Edwards to fill the CAD assistant position. Edwards had previously worked for the University as a student employee in the Engineering Department. Edwards has a bachelor's degree in history and has taken approximately two years of engineering courses.

Initially, Edwards' primary responsibility was to work with CAD designs and drawings and other documents in the University's possession. Edwards reviewed, maintained, and archived existing designs, drawings, digital images, and maintenance manuals. He also used existing drawings and radio detection devices to locate and stake underground campus utilities to facilitate construction on University grounds. Edwards also performed some preliminary design work based upon sketches created by others. As he gained experience and began taking on more responsibilities, Edwards started to delegate many of the archival duties to three student assistants working in his office.

By the time of the hearing in this matter, Edwards had been given more decision-making responsibilities, and he works with less direct supervision than when he was initially hired as CAD assistant. Edwards now spends much of his time creating original construction drawings and designs rather than working from sketches created by other individuals, and he is typically involved in projects from the earliest planning stages through final construction. Using the "autocad 2000" computer program, Edwards creates multiple designs for each project and presents them to his supervisors, who then decide which options to employ. On a typical day, Edwards spends approximately 60 to 70 percent of his time working on drawings and designs.

In addition to his drawing and design responsibilities, Edwards works in the field overseeing construction work. He personally visits job sites to ensure that contractors are proceeding according to the designs, to verify that utilities are being placed in the proper locations, and to check on the workmanship of the crew and the quality of materials used. If Edwards discovers a problem on a particular job site, he typically notifies his supervisor who then attempts to resolve the situation. However, if the problem occurs on a project that Edwards is overseeing, or if a supervisor is not available at the time, Edwards may speak directly to the contractor and make a decision as to how to proceed. If necessary, Edwards may consult with the architect or engineer assigned to the project before making such a determination.

Edwards is supervised on a daily basis by Steve Hocquard, the assistant vice president of campus facilities. Edwards gets most of his assignments from Hocquard, but may also be asked by faculty members to assist on construction and maintenance projects throughout the campus. In addition, Edwards interacts with the three secretaries within his department, each of whom are members of Petitioner's bargaining unit. For example, Edwards may ask the secretaries to assist him in creating bid packages to be sent to contractors. Edwards also occasionally works with the University's maintenance and grounds staff on particular tasks, such as placing signage on campus.

Edwards does not have authority to make any financial decisions on construction projects. Rather, he presents cost estimates to his supervisors, who then make decisions regarding the projects. Similarly, although Edwards is responsible for ordering supplies and equipment, he must first obtain Hocquard's approval before making any purchases.

After the instant petition was filed, but before the hearing in this matter, the University changed Edwards' job title from CAD assistant to coordinator construction projects & CADD (CCP&C) and, with Edwards' participation, updated the job description to better reflect the actual duties and responsibilities of the position. Pursuant to the new job description, a bachelor's degree and three years experience in "a related field" is now required for Edwards' position.

As CCP&C, Edwards works Monday through Friday, from 8:00 a.m. to 4:30 p.m. He earns approximately \$13 per hour, or \$28,000 a year, and receives the same fringe benefit package as all other full-time employees of the University.

III. Administrative Assistant Position at Macomb Regional Education Center/Operations Coordinator

In addition to its main campus in Saginaw, the University operates off-campus programs in L'Anse Creuse, Port Huron, and Cass City. The graduate program in L'Anse Creuse (the Macomb Center) primarily offers College of Education classes, including programs for certified teachers working on masters' degrees and individuals who already have a bachelor's degree, but are seeking to become certified in elementary or secondary education. At the time of hearing in this matter, there were approximately 1000 students enrolled at the Macomb Center.

In 2001, the University posted for a nonunit position entitled "administrative assistant" to manage the daily operations of the graduate program in L'Anse Creuse. When Petitioner became aware of the posting, it requested a job description, which the University provided on August 6, 2001. The job description specified that the administrative assistant position at L'Anse Creuse required two to three years of clerical experience, an associate's degree in a related field, and advanced word processing skills. After the job description was provided to Petitioner, the Union filed a grievance concerning the document and the parties met on more than one occasion to discuss the duties of the administrative assistant position.

Sometime in 2001, Janet Miller was hired as administrative assistant for the Macomb Center at L'Anse Creuse. Miller was initially contracted to work from 8:30 a.m. to 5:30 p.m., Monday through Friday. However, her actual hours of work are typically from 7:30 a.m. to 5:00

p.m. At the time of hearing in this matter, Miller earned \$32,000 per year, along with the benefit package available to employees in the "administrative/professional" group.

When Miller was first hired by SVSU, classes offered in the Macomb graduate program were held in the L'Anse Creuse Middle School. In 2003, the University opened its own building in L'Anse Creuse. The 15,000 square foot facility houses four standard classrooms, two labs, a conference room, a workroom, a student lounge, and a large lobby, along with office space for the administrative and clerical staff, including Miller and her supervisor, Dr. John Armstrong, the University's director of off-campus programs. Although Armstrong spends a majority of his time at the Macomb Center, Miller generally works independently and with little supervision.

Miller's primary duty is to manage the daily operation of the Macomb Center, including opening the building in the morning, answering all telephone inquiries, mailing out requests for program information and making copies for faculty members. Miller has the authority to purchase everything from rubberbands to building materials, provided that the purchase does not exceed a specified amount. Miller is also responsible for ensuring that the building is properly maintained. She arranges for necessary repairs to the facility, and she is the contact person in case an emergency alarm sounds. The University subcontracts with a private firm for custodial services, and Miller supervises the custodian assigned to the facility. Miller also handles all of the paperwork for employees hired to work at the facility.

In addition to her responsibilities managing the facility, Miller works with graduate students and advises them on which courses to take. She also processes forms for students seeking to have their credits from other colleges and universities transferred to SVSU, and she organizes textbook sales for students enrolled at the Macomb Center and the University's off-campus facility in Port Huron. In addition, Miller maintains appointment calendars and files for the student advisors assigned to the facility in L'Anse Creuse and, in the past, she has helped mail out course registration schedules and edited marketing materials. Although Miller is not involved with creating the schedule of events occurring in the building, she is responsible for assigning rooms for those events, and she coordinates with the local middle school if additional space is needed.

After the instant petition was filed, the University updated Miller's job description and changed her title from administrative assistant to operations coordinator. Miller first saw the revised job description on the morning of the hearing in this matter and was not consulted by the University regarding its creation. Miller testified that both the original and the revised job descriptions accurately reflect the duties and responsibilities of her current position at the Macomb Center.

IV. Specific Bargaining Unit Positions

At hearing, Petitioner introduced evidence regarding several positions within its bargaining unit that it contends are similar to the CCP&C and operations coordinator positions at issue here, including the faculty secretary/office coordinator, the administrative secretary and the energy management specialist.

A. Faculty Secretary/Office Coordinator

Saun Strobel is employed by SVSU as faculty secretary/office coordinator in the University's technical publications department and was president of Petitioner's bargaining unit from 1977 to 2004. Strobel is the only employee assigned to the technical publications department. Strobel is responsible for assisting the University's 240 faculty members with the publication of various documents, including scientific papers, journal articles, manuscripts, presentations, foreign language publications, dissertations, and surveys. Specific duties assigned to Strobel include formatting, editing, cross-referencing, and proofreading articles and manuscripts for accuracy, creating indexes and tables of contents and general book design. Strobel also assists faculty members with marketing their manuscripts and securing contracts with outside publishing companies.

In addition to her technical publishing responsibilities, Strobel also coordinates the University's honors program. Strobel is responsible for monitoring the approximately 240 students enrolled in the program, and she serves as the contact person for all new honors students. Strobel keeps track of which advisors have been assigned to each honors student, assists students with course selection and the thesis process, and contacts any students whose grade point averages have fallen below a specified level. Strobel organizes the honors convocation, as well as outings, luncheons and other meetings involving the honors program. She also coordinates the workload of four faculty secretaries assigned to the honors program and is responsible for hiring and supervising five students who work with the honors secretaries on a part-time basis.

The faculty secretary/office coordinator has been classified by the University as a Level 6 position in the secretarial/clerical division. Strobel earns \$17.56 per hour, or approximately \$36,000 per year, and receives all of the benefits set forth in the parties' collective bargaining agreement. She works Monday through Friday, from 8:00 a.m. to 4:30 p.m.

B. Administrative Secretary at Port Huron Regional Education Center

Lisa Cramp is employed as administrative secretary at the SVSU Regional Education Center in Port Huron. Like the Macomb graduate program, the Regional Education Center in Port Huron (Port Huron) is an off-campus program intended primarily for students enrolled in the University's College of Education. The curriculum at Port Huron is essentially the same as at the Macomb facility. Port Huron offers a graduate program for certified teachers working on their master's degrees, as well as a program for individuals with bachelor's degrees who are seeking to become certified in elementary or secondary education. There are between 140 to 160 students enrolled at Port Huron, many of whom are taking classes on a part-time basis.

Classes in Port Huron are held on the campus of St. Clair Community College (SCCC). SVSU leases ten classrooms and an office from SCCC, as well as office space consisting of a reception area and a cubicle. There are eight professors assigned to Port Huron, each of whom teaches approximately one class per week, as well as two student teacher supervisors. There are also several advisors who work in the Port Huron office, including association certification officer Kathy Lopez, who is responsible for supervising Cramp on a weekly basis when Lopez is in the office and for evaluating Cramp's job performance. Lopez and the other advisors are in the office approximately 15 hours per week. Dr. Armstrong, who is responsible for overseeing all

off-SVSU campus programs, goes to Port Huron about once a month. Thus, Cramp generally works independently and without direct supervision.

As administrative secretary at Port Huron, Cramp performs all clerical functions for the program, including answering phone calls, handling written correspondence, maintaining student files, and processing applications and transcripts. Cramp maintains the appointment schedules and files for the advisors, and she assists students in scheduling appointments with the advisors. Cramp is also responsible for registering students for the Port Huron program and assisting in the selection of individuals to conduct interviews with students. Cramp compiles schedules each semester and mails them to students. In addition, Cramp provides support to the teaching faculty by making copies, ordering supplies, and working with her contact at SCCC to ensure that the necessary classrooms and audio-visual equipment are available. Cramp also coordinates with SCCC to set up rooms for special events, such as receptions and meetings. Cramp assists in marketing the Port Huron program by working with Dr. Armstrong in the creation of newspaper advertisements and press releases and providing information to the general public over the telephone.

In her capacity as administrative secretary, Cramp has occasional contact with Janet Miller. Cramp contacts Miller to order textbooks for students enrolled at Port Huron. In addition, Cramp communicates with Miller concerning individuals who are interested in enrolling in the teacher certification program.

Cramp is a part-time employee working 29 hours per week. Cramp's hours of work are Monday to Thursday from 11:00 a.m. to 5:00 p.m., and Friday from 9:00 a.m. to 2:00 p.m. She is classified at Level 5 of the secretarial/clerical division and earns \$15.22 per hour. Although a college degree is not a requirement for the administrative secretary position, Cramp has a bachelor's degree in fine arts, with an emphasis in marketing management.

C. Energy Management Specialist

Mike Andrzejewski is the University's energy management specialist. Andrzejewski monitors and adjusts the University's energy management system and related mechanical, pneumatic, and electrical controls. He uses computers to reduce operating energy costs, prepares computer generated energy use summaries, and monitors energy controls for temperature setback, duty cycling, and demand limiting. Andrzejewski also coordinates utility services to ensure that maximum energy savings are realized without impacting University events, conducts scheduled rounds inspections and emergency service calls on campus, and performs other HVAC duties. The energy management specialist position is part of the University's Campus Facilities Department. The position is classified at Level 7 of the plant business services division, earning \$24.31 per hour.

Discussion and Conclusions of Law:

A primary objective of the Commission is to constitute the largest unit which, in the circumstances of the particular case, is most compatible with the effectuation of the purposes of the law and which includes within a single unit all employees sharing a community of interest. *Hotel Olds v State Labor Mediation Bd*, 333 Mich 382 (1952). Community of interest is determined by examining a number of factors, including similarities in duties, skills, and

working conditions; similarities in wages and employee benefits; amount of interchange or transfer between groups of employees; centralization of the employer's administrative and managerial functions; degree of central control of labor relations; common promotion ladders; and common supervision. See e.g. *Covert Pub Schs*, 1997 MERC Lab Op 594, 601; *Grand Rapids Pub Schs*, 1997 MERC Lab Op 98, 106. With respect to colleges and universities, we have previously found appropriate broad units of all nonsupervisory, noninstructional personnel. See e.g. *Alpena Cmty College*, 1994 MERC Lab Op 955, aff'd *MEA v Alpena Cmty College*, 457 Mich 300 (1998).

The University asserts that the CCP&C and the operations coordinator are administrative positions that do not share a community of interest with the clerical and support employees in Petitioner's bargaining unit. We disagree. This Commission does not recognize a distinct and separate category for "administrative" employees. *Washtenaw Cmty College*, 17 MPER 29 (2004); *Lake Superior State Univ*, 17 MPER 9 (2004). Although we have permitted the exclusion of administrative positions in cases in which there was a prior agreement between the parties to keep such employees out of the unit, see e.g. *Ferris State Univ*, 1996 MERC Lab Op 16, the standards pursuant to which such positions are deemed "administrative" must be clear from the record. *Lake Superior State Univ*; *Saginaw Valley State College*, 1988 MERC Lab Op 533. In the instant case, there is nothing in the contract between Petitioner and the University specifically excluding "administrative" employees from the support unit. Although there does exist a residual unit of approximately 200 unrepresented employees, which the parties have agreed to exclude from Petitioner's unit on the basis of their "administrative professional" duties and responsibilities, there is no recognized standard or agreed upon definition by which such positions have been excluded. Rather, the record clearly establishes that the determination as to whether a position will be excluded is made by the parties on a case-by-case basis.

We also find no merit to the University's contention that Petitioner acquiesced to the exclusion of the CCP&C and operations coordinator positions.² Although the University initially posted the CAD assistant and administrative assistant positions sometime in 2001, job descriptions were not immediately made available to Petitioner, despite the Union's request that the University provide such documents. Moreover, Petitioner filed a grievance concerning the administrative assistant position after receiving a copy of the job description from the University. The Union filed the instant petition at the beginning of 2003. Under these circumstances, we are unable to conclude that the Union agreed, explicitly or implicitly, to exclude the CCP&C and operations coordinator positions from its bargaining unit.

Turning to the issue of community of interest, the record indicates that the hours of work, wages, benefits, and skills of the CCP&C and operations coordinator are substantially comparable to the clerical and support positions currently within Petitioner's bargaining unit. The CCP&C and operations coordinator also have some degree of interaction with unit members. For example, Miller and Cramp have communicated with each other about students and textbooks, while Edwards has regular contact with secretaries in his office. Although the University recently added a four-year degree requirement to the CCP&C position, Edwards testified that his history degree has little to do with the actual work he is now performing. Moreover, we have previously held that differences in educational requirements and qualifications alone are not determinative of the unit inclusion issue. See e.g. *Muskegon Pub*

² The University raised this issue for the first time in its post-hearing brief.

Schs, 1979 MERC Lab Op 1202, 1204-1205. Finally, there are similarities between the work performed by the CCP&C and operations coordinator and other positions in Petitioner's unit, particularly the administrative secretary at the Port Huron Regional Education Center, the faculty secretary/office coordinator, and the energy management specialist.

In making a unit placement determination, we are not required to find the “optimum” or “most” appropriate unit, but rather only a unit appropriate for collective bargaining based upon the facts of each case. *City of Lansing, Bd of Water and Light*, 2001 MERC Lab Op 13; *City of Zeeland*, 1995 MERC Lab Op 652. Absent a showing of extreme divergence of community of interest between an existing unit and a residuum of unrepresented employees, our policy has been to allow accretion, rather than leave the unrepresented employees without collective bargaining representation. *Lansing Twp*, 18 MPER 12 (2005); *Chelsea Sch Dist*, 1994 MERC Lab Op 268, 276. Given that there is no other bargaining unit seeking to represent the CCP&C and operations coordinator positions, and finding nothing in the record that would suggest that accreting the positions to Petitioner’s bargaining unit would be inconsistent with our objective to avoid fractionalization or multiplicity of bargaining units, *Michigan Ass’n of Pub Employees v AFSCME Council 125*, 172 Mich App 761, 765 (1988), we hereby grant the petition for unit clarification.

We have carefully considered the remaining arguments of the parties and conclude that they do not warrant a change in the result.

ORDER CLARIFYING BARGAINING UNIT

Based upon the above findings and conclusions, the petition filed by the Saginaw Valley State University Support Staff Association, MEA/NEA, is hereby granted and the bargaining unit consisting of support employees of Saginaw Valley State University is clarified to include the positions of coordinator construction projects & CADD and operations coordinator for the Macomb Graduate Program.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____