

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

In the Matter of:

LANSING SCHOOL DISTRICT,
Public Employer,

Case No. UC05 D-017

-and-

LANSING EDUCATIONAL ASSISTANTS, MEA/NEA,
Petitioner-Labor Organization.

APPEARANCES:

David A. Trakul, Labor Relations Specialist, for the Public Employer

James Boerma, Uniserv Director, for the 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 at Lansing, Michigan on October 21, 2005, 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 the hearing, exhibits and post-hearing briefs filed by the parties on or before December 22, 2005, the Commission finds as follows:

The Petition and Background:

Petitioner Lansing Educational Assistants (LEA), MEA/NEA, represents a bargaining unit of nonsupervisory support employees of the Lansing School District. Included in this unit are 41 paraprofessional classifications, including teacher assistants, therapy assistants, music assistants and lunchroom supervision assistants. Other nonsupervisory support employees of the school district, including individuals employed as computer technicians, are not represented for purposes of collective bargaining.

On April 13, 2005, the Union filed this petition seeking to add to its bargaining unit the position of computer technician. According to Petitioner, the Employer, in 2004, substantially altered the job duties of one of the computer technicians, Clarence Leslie, effectively creating a new position. Petitioner maintains that this new position shares a community of interest with employees within the LEA bargaining unit. Specifically, the Union contends that Leslie's duties

and responsibilities are similar to those of the media technology assistant. The Employer asserts that the unit clarification petition is inappropriate because computer technician is an existing position that has been historically excluded from the LEA bargaining unit.

Facts:

There are currently three individuals employed by the school district as computer technicians. The primary function of the position is to repair the district's computer and networking equipment, including desktops, laptops, servers and printers. The computer technicians are each assigned to support specific or "primary" buildings; however, they may be called upon to work at any building within the district as needed. Each day, the technicians receive work orders generated by the district's telephone support desk based upon calls from administrators and instructors. If a technician is unable to fix the equipment on-site, he may pack it up and send it to the manufacturer for service.

In addition to repairing computer equipment, technicians also maintain the inventory of the school district's equipment, configure hardware, install software, and troubleshoot the computer network. Computer technicians have no involvement with classroom instruction, nor are they responsible for training users on particular equipment or software. Jeff VanderLaan supervises all three computer technicians employed by the district. They each work about 40 hours per week and earn approximately \$30,000 per year. They are expected to have similar levels of expertise and to be interchangeable in terms of performing the duties required by the Employer.

Clarence Leslie, the employee whose position is at issue here, began working for the Lansing School District as computer technician in July of 2002. Around that time, the district began participating on a limited basis in the Freedom to Learn (FTL) program, a statewide initiative to provide laptop computers for K-12 students and their teachers. Pursuant to the FTL program, students and instructional staff at Riddle Middle School and CLCCA received laptops and other computer equipment. In 2004, the program was extended to Otto Middle School, which received 847 laptops for its students and 70 laptops for staff members. Riddle Middle School and CLCCA also received additional equipment as part of the second phase of the program.

Because of the infusion of new equipment into the school district, the Employer determined that it would be necessary to dedicate one of the computer technicians to work exclusively at Riddle, CLCCA and Otto supporting the FTL program. To that end, the Employer's director of technology prepared a new job description in 2004 for a position entitled "Freedom to Learn – Cycle 2 Computer Technician." According to the job description, the position was to be a one-year assignment funded directly by money from the FTL grant. The duties and responsibilities set forth in the job description included providing support to users on laptop malfunction and usage; diagnosing hardware, software and operator problems; coordinating warranty repairs; configuring laptops for wireless connectivity; keeping an inventory of laptops; and providing "basic skills training for staff" on the use of FTL equipment and software.

The “Freedom to Learn – Cycle 2 Computer Technician” job description was never posted and no interviews were ever conducted to fill the position. In November of 2004, the school district reassigned Leslie to service the new laptop computers and other FTL equipment at Riddle, CLCCA and Otto schools and changed his account number to associate it with the FTL grant. Although Leslie began working primarily on laptops as opposed to desktop computers, the essential nature of his job did not change in any meaningful respect. Leslie continued to troubleshoot and repair computer equipment in response to work orders prepared by the district’s help desk, and VanderLaan remained his immediate supervisor. Leslie did not train any staff members in using the new equipment, nor did he have any direct interaction with students as part of his work with the FTL program.

By the time of hearing in this matter, the FTL program was no longer in existence. Leslie continues to be employed by the Lansing School District as a computer technician, but he is no longer assigned exclusively to Riddle, CLCCA, and Otto. None of the buildings to which he is currently assigned have FTL equipment. Although Leslie still services some laptops, he also works on desktop computers and other equipment. Leslie continues to be responsible for setting up, configuring, and repairing computer equipment. In essence, his current duties and responsibilities are the same as they were at the time of his hiring in 2002.

Discussion and Conclusions of Law:

Unit clarification is a proceeding for resolving disputes concerning the unit placement of newly-created positions and existing classifications that have undergone recent, substantial changes in their duties and responsibilities so as to create a real doubt as to whether the individuals in the classifications continue to fall within the category that they occupied in the past. Unit clarification is not appropriate for upsetting an agreement, whether contractual or not, or an established practice regarding unit placement. *Wayne Co Risk Mgt Div*, 1996 MERC Lab Op 243; *Lansing Sch Dist*, 1994 MERC Lab Op 128; *Genesee Co*, 1978 MERC Lab Op 552, 556. We have consistently held that where an employee or group of employees have been historically excluded from an established bargaining unit, a question of representation is raised which can be resolved only through the filing of a proper petition for representation election accompanied by a prior showing of interest. See *Blackman Twp*, 1988 MERC Lab Op 419, and cases cited therein.

Petitioner contends that the school district created an entirely new position in 2004, when it produced the “Freedom to Learn – Cycle 2 Computer Technician” job description and assigned Leslie to report to Riddle, CLCCA and Otto. The record does not support this claim. Although the 2004 job description set forth some duties which were not previously a function of the computer technician position, such as providing training for staff members, the evidence indicates that Leslie never actually performed any of these new tasks following his reassignment. In fact, his duties and responsibilities did not change in any significant respect. Leslie continued to troubleshoot and repair the Employer’s computer equipment, just as he did when he began working for the school district in 2002. He still received his daily assignments via work orders prepared by the school district’s help desk, and he continued to report directly to VanderLaan. At most, the 2004 job description represented a change in job title rather than a change in actual job function. In any event, the FTL program has since been abolished and Leslie is no longer

assigned to the schools that were part of that program. We find that the computer technician position held by Leslie is not a new classification, nor has the position undergone any recent substantial change in duties and responsibilities that would justify altering its unit placement. Accordingly, it would be inappropriate to clarify Petitioner's unit to include this position. The inclusion of the computer technician position must be accomplished through a representation election.¹

ORDER

Based upon the above findings of fact and conclusions of law, the petition for unit clarification is hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

¹ In so holding, we note that any petition for representation seeking only a single computer technician position would likely be inappropriate as well. In keeping with the policy established in *Hotel Olds v State Labor Mediation Bd*, 333 Mich 382 (1952), any litigated unit, residual or otherwise, must include all unrepresented employees with a community of interest. See e.g. *Livonia Pub Schs*, 1988 MERC Lab Op 1068, 1085-1087; *Western Mich Univ*, 1987 MERC Lab Op 1029.