

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

In the Matter of:

ESSEXVILLE-HAMPTON PUBLIC SCHOOLS,  
Public Employer,

Case No. UC00 C-12

-and-

CLERICAL ASSOCIATION OF THE ESSEXVILLE-  
HAMPTON PUBLIC SCHOOLS,  
Petitioner.

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Appearances:

Thrun, Maatsch, and Nordberg, P.C., by C. George Johnson, Esq., for the Public Employer

White, Schneider, Baird, Young & Chiodini, P.C., by Michael M. Shoudy, Esq., and William F. Young, Esq., for the Petitioner

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

Pursuant to the provisions of Section 12 of the Public Employment Relations Act (PERA), 1947 PA 336, as amended by 1965 PA 379 and 1973 PA 25, MCL 423.212, this matter came on for hearing at Detroit, Michigan, on November 1, 2000, and December 4, 2000, before Nora Lynch, Administrative Law Judge for the Michigan Employment Relations Commission. Based upon the entire record, including briefs filed by the parties on or before February 6, 2001, the Commission finds as follows:

The Petition:

In the petition filed on March 23, 2000, the Clerical Association of the Essexville-Hampton Public Schools seeks to clarify its bargaining unit of instructional support personnel by adding the classification entitled technology department support position. The Employer contends that the petition should be dismissed because it seeks to accrete a position that is part of a residual unit of unrepresented technology employees in the district.

Facts:

The Clerical Association of the Essexville-Hampton Public Schools represents a bargaining unit consisting of secretaries, instructional and non-instructional aides, library clerks, paraprofessionals, study hall monitors, and bookkeepers employed by the school district, but excluding supervisory personnel. The Union and the Employer are parties to a contract for the school years 1997-1998 through 1999-2000. The contract reflects that the hourly wage rate for unit positions ranges from \$8.00 to \$13.99 per hour.

The school district is located in Bay County, Michigan, and serves the communities of Essexville and Hampton in Hampton Township. Its facilities include a high school, a junior high school, three elementary schools and an administration building. The district employs approximately 245 employees, organized into five bargaining units: teachers; custodial-maintenance employees; bus drivers; food service personnel; and clerical employees. There are also administrative and technology personnel who are not represented by any labor organization.

Over the last several years, the district has significantly increased its utilization of computer technology. At present, the following positions are assigned to the technology area: director of technology, coordinator of technology<sup>1</sup>, director of staff development and communications, and technology department support position. The duties and responsibilities of each of these positions are discussed below:

Coordinator of Technology

In August of 1995, the district opened a computer lab in each of the elementary school buildings. The computer system ran on a local area network (LAN). Each building had two servers; one ran the Jostens program, the other ran the Accelerated Reader and Winnebago Automatic Library System. At that time, the individual responsible for computer technology in the district was Harold Holcomb, a physical education teacher. Holcomb eventually moved from teaching responsibilities to technology work and was given the position of coordinator of technology for the elementary schools beginning in the 1994-1995 school year. Holcomb signed individual contracts with the school district for the 1997-1998 and 1998-1999 school years. His salary for the 1997-1998 school year was \$63,852; for 1998-1999 it was \$65,768. These contracts specified that the position was a supervisory title, but not an administrative position, and that evaluation would be conducted by the superintendent. They also indicated that the position was not covered by the teachers' collective bargaining agreement.

In his capacity as coordinator of technology, Holcomb was responsible for overseeing the work of three computer lab aides who worked in the three elementary schools. Instructional aides assigned to computer labs are designated computer lab aides. Computer lab aides are on the same wage schedule as instructional aides, ranging from \$8.12 to \$11.28 per hour. Postings by the district for computer lab aide positions listed as job requirements: high school diploma or GED required; proficient in the use of technology, knowledge of computer systems, and initial troubleshooting. Computer lab aides assist the teacher with the day's exercise, working with approximately 25 students in the lab. They are responsible for setting up the computer lab and cleaning up after school. They are also responsible for keeping the server up and running so that

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<sup>1</sup> This position is currently vacant.

staff can access the various programs. Computer lab aides perform maintenance and cleaning of the computers, as well as general troubleshooting. They may occasionally install software. Holcomb trained the computer lab aides and held monthly meetings with them. The aides also received additional training by attending computer training seminars paid for by the school district.

### Director of Technology

The director of technology is Matt Thomas. Thomas began working for the district in March of 1997, after the district passed a multi-million dollar technology and building renovation millage. As part of its expanded technology, the district transitioned to a wide area network (WAN), with each building in the district connected to a central network. The platform was changed from MacIntosh to a PC platform. At that time, the district contracted with the Bay-Arenac Intermediate School District for additional technology personnel, utilizing Thomas to provide part-time technology support services for Essexville-Hampton. Thomas has an associate's degree in electronics and computer repair and had worked for several companies providing support and maintenance for their computers and networks. Thomas has had extensive training on different servers, IBM products and network theory. He holds several certifications, such as A Plus certification and Novell CNA (Certified Network Administrator) certification. A Plus certification involves a computer professional industry standard test recognizing an individual's abilities with different platforms, software and theory, and networking and connectivity of computers. Novell CNA certification involves demonstrated expertise in network operating systems, connecting computers so that they work properly together, and managing network resources such as printers, storage devices and backup devices that are network connected.

To meet the district's need for additional technology personnel, Thomas was hired full-time by Essexville-Hampton as the technology performance coordinator during the 1998-99 school year. In that capacity, he signed a contract with the school district as an administrator/coordinator with a salary of \$37,500. Initially, Thomas worked in the high school and middle school. Eventually he took on a larger role in the district, taking charge of the infrastructure and providing direction to Holcomb and the instructional aides in the computer labs. In July of 1999, Thomas entered into a contract with the district accepting employment as the technology performance director at a salary of \$40,875. This was designated as a supervisory position, with Holcomb reporting to him.

Thomas has an office in the Network Operations Center which is located at the junior high school. This is the core, or main hub, of the network, where all of the servers, the main trunk lines, and the internet connection are located. It is where all of the software that runs on a network basis is installed, and where computers are brought when hardware repair is necessary. Work orders from staff reporting computer problems are received and processed at the Network Operations Center.

### Director of Staff Development and Communications

At the same time that Thomas was designated technology performance director, the district hired John Mertz in the position of director of staff development and communications. Mertz, a former teacher in the district, possesses a bachelor's degree in social studies education

and a master's degree in education administration. He has not had formal technology training. Mertz has several areas of responsibility, including public relations, school calendar, annual reports, publishing a newsletter, directing the school improvement team, and curriculum development. With respect to the curriculum, he is involved in the science, social studies, and technology education curriculum. Mertz sets up technology training for the staff. He surveys staff members regarding their training needs, and after consulting with members of the technology department, puts together a training calendar for the year. Mertz reports to the assistant superintendent and the superintendent. His salary for the 1999/2000 school year was \$57,700.

### Technology Department Support Position

In January of 2000, the district began to explore the need to add a support position to the technology area. Over the course of several years, the district had gone from 100 computers to nearly 900 computers. There was a greater need for software and classroom applications and more use of the district system from e-mail to the local area to wide area networks; there were also new labs and technology halls. This created a need for an individual to assist in the maintenance and operation of all of the equipment.

On January 11, 2000, the Employer posted a new position entitled technology department support position. The posting indicated that the position required high school graduation, with an associate's degree in technology or college level technology courses preferred. The desired training and experience included previous hands-on experience working with local area network systems and software installation, as well as good written and verbal communication skills.

Cathy Howden was selected and began working in the position in March of 2000. Howden is a high school graduate who is currently taking college courses working towards an associate's degree in computer science. She was first hired by the district in January of 1997 as an instructional aide at one of the elementary schools. She subsequently worked as a library clerk at the middle school. Howden also spent two months substituting for the regular computer lab aide at the elementary school. She had no prior computer training or experience, but received basic computer training from Holcomb during that time. She installed software and completed routine troubleshooting including testing monitors. Howden developed an interest in computers and computer technology and, during the summer of 1999, she assisted Thomas in repairing computers and installations.

The contract which Howden signed with the district as the technology support position indicated that she would report to the director of technology, and that her starting salary would be \$22,000 per year (approximately \$11.45 per hour). The contract also delineated the following responsibilities: domain administration; domain maintenance; backbone maintenance; software configuration; and other duties as assigned. Domain administration involves insuring that district-wide software programs run properly and that users are able to log on and use e-mail. Domain maintenance involves duties such as changing or replacing a drive on a server. Backbone maintenance refers to work on the switches/servers connecting the entire network. Software configuration involves installing district-wide software directly onto the server. Howden spends between 25 and 30% of her time in the office at the Network Operations Center; the remainder of her time is spent in the various district buildings troubleshooting and responding to computer work orders. These work orders reflect a variety of problems responded

to by Howden, including printers not working, drives not running, non-functioning programs, e-mail problems, bad connections, broken mice, loose connections, and missing files.

### Discussion and Conclusions:

The Petitioner maintains that a significant community of interest exists between the technology support position and the Association bargaining unit, based on similarities of duties, skills, educational background, pay and benefits, and working conditions. The Employer argues that the petition cannot be added to the Association's bargaining unit because it is a position within an existing residual unit of unrepresented technology support personnel. According to the Employer, the unrepresented technology positions all function at a professional level of expertise and share a separate and distinct community of interest sufficient to warrant separate representation.<sup>2</sup>

We have found in the past that nonsupervisory technology and data processing personnel are technical employees who are appropriately included in support or office clerical bargaining units. *Brimley Area Schools*, 2000 MERC Lab Op 159, 163; *Saginaw Int Sch Dist*, 1992 MERC Lab Op 3, 5. We reach the same conclusion here. The record reflects that the job requirements for the technology support position are similar to those for computer lab aides. No advanced degrees or computer certifications are required for the position. When hired, Howden had only on the job training which she received from Holcomb. In general, Howden performs at a higher level of expertise than the computer lab aides included in the Association bargaining unit. However, there is an overlap in the performance of certain duties such as installing software, troubleshooting minor problems, and assisting in computer repair. Her salary of \$22,000, approximately \$11.45 per hour, is in line with others in the bargaining unit, particularly the instructional aides. We find that Howden performs a support function at the school district, receiving direction from, and reporting to, the director of technology. Based on the above factors, we conclude that there is a community of interest between the technology support position and the other instructional support employees in the Association bargaining unit sufficient to include the position in that unit.

In contrast, we do not find a community of interest of this position with other technology personnel, who not only work at a professional level, but are supervisory and administrative positions with equivalent remuneration by the Employer. Both the coordinator of technology and the director of staff development and communications are former teachers with advanced degrees. The technology director has an associate's degree, as well as computer certifications and extensive technology experience. In addition, he supervises the technology support position, precluding both positions from being in the same bargaining unit. See e.g. *City of Grand Rapids*, 1999 MERC Lab Op 74; *Macomb County*, 1997 MERC Lab Op 233. The fact that the technology support position is involved with the functioning of the computer network in the district is not sufficient to establish a community of interest with the other technology personnel, given the significant differences in education, experience, and responsibilities. See *Wayne-Westland Com Sch Dist*, 1976 MERC Lab Op 847, 853. Even

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<sup>2</sup> The Employer also argues that under Section 15(3)(h) of PERA (MCL 423.215(3)(h)), the Employer has discretion with respect to the staffing and placement of technology positions. We find that this section, removing the bargaining obligation of public school employers over certain subjects, does not apply to the unit placement issue raised herein which is within the sole discretion of the Commission.

assuming *arguendo* that a community of interest could be established, it is the policy of this Commission to add new positions to established bargaining units, provided the requisite community of interest is demonstrated, rather than leave them unrepresented to form or be added to a residual unit. *Charlotte School Dist*, 1996 MERC Lab Op 193, 205; *Kalamazoo County Probate Court*, 1994 MERC Lab Op 980, 984.

**ORDER CLARIFYING UNIT**

Based upon the above findings and conclusions, the collective bargaining unit represented by the Clerical Association of the Essexville-Hampton Public Schools, MEA-NEA, comprised of instructional support personnel of the Essexville-Hampton Public Schools, is hereby clarified to include the technology department support position.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Maris Stella Swift, Commission Chair

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Harry W. Bishop, Commission Member

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C. Barry Ott, Commission Member

Dated: \_\_\_\_\_