

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

HENRY FORD COLLEGE,
Public Employer,

MERC Case No. UC17 C-004

-and-

HENRY FORD COMMUNITY COLLEGE FEDERATION OF TEACHERS,
AMERICAN FEDERATION OF TEACHERS (AFT), LOCAL 1650,
Labor Organization-Petitioner,

-and-

HENRY FORD COMMUNITY COLLEGE SUPPORT STAFF ASSOCIATION (SSA),
Labor Organization-Intervenor.

APPEARANCES:

Dykema Gossett, PLLC, by Robert A. Boonin, for the Employer

Mark H. Cousens, for the Petitioner American Federation of Teachers (AFT) Local 1650

Allen Brothers, PLC, by Charles S. Rudy, for the Intervenor HFSSA

DECISION AND ORDER
ON PETITION FOR UNIT CLARIFICATION

On March 27, 2017, the Henry Ford Community College Federation of Teachers, American Federation of Teachers (AFT), Local 1650, (hereinafter Petitioner) filed the above petition for unit clarification with the Michigan Employment Relations Commission (the Commission) pursuant to Section 13 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.213. Petitioner represents a bargaining unit of full-time instructors, part-time instructors teaching over nine credit hours per semester, and non-classroom professional employees, including librarians and counselors, employed by Henry Ford College (the Employer or the College). Petitioner seeks to include in its unit a newly-created position, Success Navigator. The Success Navigator position was placed by the Employer in an existing bargaining unit of support employees represented by the Henry Ford Community College Support Staff Association (hereinafter Intervenor or the SSA).

A hearing was conducted on the petition on March 1 and March 2, 2018, by Julia C. Stern, Administrative Law Judge (ALJ) for the Michigan Administrative Hearing System.¹ Based on the entire record, including post-hearing briefs filed by all three parties on or before June 11, 2018, we find as follows.

The Petition and Positions of the Parties:

As noted above, Petitioner seeks to add the newly-created Success Navigator position to its bargaining unit of full-time faculty and other academic professional employees. Petitioner asserts that the Success Navigator is a professional position which lacks a community of interest with the SSA unit consisting primarily of technical positions and those performing manual work. Petitioner argues that the Success Navigator position's community of interest lies with Petitioner's unit and particularly the counselors within that unit. Petitioner points specifically to the functional integration of the duties of the Success Navigators with those of the counselors and academic advisors.

The Employer's position is that, while there is some overlap between the Success Navigator's duties and those of counselors and academic advisors, the duties of the Success Navigator are distinctly different from those of either position. The Employer asserts that the Success Navigator's duties as a whole, as well as the position's terms and conditions of employment, are like those of certain other positions within the SSA unit and that it shares a community of interest with this unit and not with the faculty unit. According to the Employer, it made a reasoned good faith decision to place the Success Navigator in the unit represented by the SSA, and the Commission should defer to this decision. The SSA agrees that the Success Navigator shares a community of interest with its unit and asks that the petition be denied.

Findings of Fact:

The College's Bargaining Units

The Employer has five bargaining units of employees. As noted above, Petitioner's bargaining unit is comprised of full-time faculty and other academic professional employees, including librarians and counselors, as well as part-time instructors with a teaching load above ten hours per semester. All positions within Petitioner's unit are required to have at least a bachelor's degree. Faculty and instructors within Petitioner's unit who teach in the content areas of math, science and English are required to have a master's degree, while instructors who teach in career and technical areas must have at least a bachelor's degree, coupled with experience in their fields and, where applicable, certification. Counselors are required to be licensed professional counselors (LPCs), which requires post-graduate education. All positions within Petitioner's unit are salaried and considered by the College to be FLSA-exempt.² One librarian and a few full-time counselors have eleven-month contracts, and one faculty member in the Learning Lab works a twelve-month year. All other members of Petitioner's unit work a ten-month "academic year" schedule. Faculty and instructors are each assigned a specified number

¹ MAHS Hearing Docket 17-012514

² The federal Fair Labor Standards Act (FLSA) requires employers to pay overtime to their employees; certain categories of employees are exempt from the requirement under that statute.

of credit hours per semester, while non-instructional members of the unit work 35 hours per week.

The Adjunct Faculty Association (AFA), which is not involved in this proceeding, represents part-time instructors not included in Petitioner's unit as well as part-time non-instructional academic professionals. Included in the latter group are part-time, or "adjunct" counselors, and the College's thirteen academic advisors. Members of the Adjunct Faculty Association sometimes receive assignments that cause them to move temporarily into Petitioner's unit. The academic advisors are salaried employees and are considered FLSA-exempt. The position requires a bachelor's degree, but a master's degree is preferred. Academic advisors work a flexible schedule that, under the AFA contract, cannot exceed 314.5 hours per semester. The academic advisors sign contracts each semester specifying the number of hours they will work that semester. All the academic advisors work a full twelve-month year.

A third unit, represented by the SSA, includes maintenance and operations, clerical, technical support, food service and other support employees. The approximately fifty-five job titles in the SSA bargaining unit perform a broad variety of duties, and the unit includes graphic designers, payroll associates, accountants, and several information technology positions. All positions in this unit are paid hourly and work a 12-month schedule. Under the salary schedule in the current SSA contract, the Success Navigator position is within the same pay range as two other titles, Admissions Recruiter and Senior Orientation Associate; the latter position is currently vacant.³ The only SSA positions with a higher pay range are information technology positions.

Only five titles in the SSA unit require a bachelor's degree. None require a post-graduate degree. In addition to the Success Navigator, the SSA titles which require a bachelor's degree are Admissions Recruiter, Senior Orientation Associate, Admissions Associate-International Students, and Institutional Research Analyst. Admissions Recruiters work with high school counselors, churches and community groups to recruit students to the College. Admission Associates work in the Admissions Office processing applications. They also answer questions by phone or email from parents and students about the admissions process or the status of an application. The Admission Associates-International Students handle the enrollment process for international students. Their duties include monitoring each international student's enrollment status to ensure that the student remains full-time and, thus, eligible for a student visa. International students are directed to bring any sort of issue with the College to an Admission Associate-International Students, and the Admission Associate will try to resolve their problem and/or refer them to another College office, such as the Counseling Office or the Learning Lab.

The SSA unit includes several positions that do not require a bachelor's degree, but whose duties involve providing direct assistance to students. These titles include Financial Aid Associate, Records Associate, and the administrative assistants to the College's deans and associate deans. They also include Enrollment Associates. The Employer asserts that the duties of the Enrollment Associates, and in particular those with the title Enrollment Associate III, are very similar to those of the Success Navigator. These duties are outlined in the third section below. Enrollment Associate positions all require a two-year college degree.

³ Where specific job titles within the SSA unit are referenced in this decision, their titles are capitalized.

In addition to the units represented by Petitioner, the AFA, and the SSA, the College also has a unit of managers and high-level administrators represented by the Henry Ford College Administrators' Association and a unit represented by the Dearborn Schools Operating Engineers Association.

The Success Navigator Position

The Success Navigator position had its origin in 2015, when the Employer joined the Michigan Student Success Center, a consortium of community colleges focused on improving their students' success at completing their courses of study. At that time the Employer's graduation rate was the second lowest among Michigan's community colleges. Among other concerns, its students' low graduation rate jeopardized the Employer's continuing ability to offer its students financial aid. As part of its efforts to improve graduation rates, the Employer implemented the "Guided Pathways" program created by the State of Michigan for use in community colleges. Guided Pathways focuses on the implementation of specific best practices to improve student success. These include ensuring that counselors provide guidance to all students who are undecided about a major or career, that academic advisors properly explain the courses students need to graduate or successfully transfer to a four-year institution, and that students have the support services they need to achieve success from the time they begin considering the College through graduation or transfer to a four-year institution. To help increase the support it provides to students, the College adopted the State's suggestion that it create a position to help students "navigate" the route to graduation, i.e. provide students with a go-to person within the College who can either answer their questions or refer them to the correct person or office within the College to address their concerns. As discussed below, the Success Navigator position, as created, also has a role in recruiting new students.

In March 2016, the Employer posted the Success Navigator position and, in September and October 2016, it hired its current Success Navigators. At the time of the hearing, the Employer had three full-time and one part-time Success Navigator. Each of the four is assigned to a different one of the College's seven to nine "meta-majors." A meta-major is a grouping of related programs, e.g., the accounting, finance and marketing programs are all within the Business and Computer Technology meta-major. Funds permitting, the College plans to eventually have a Success Navigator for each meta-major. The meta-majors that currently have full-time Success Navigators are Industrial Arts and Technology, Business and Computer Technology, and STEM (science, technology, engineering and mathematics). There is also a part-time Success Navigator for the Nursing program within the Health and Human Services meta-major; this Navigator primarily assists pre-nursing students preparing for admission to the Nursing program. Students preparing for admission to the other health career programs within the Health and Human Services meta-major are assigned to the Industrial Arts and Technology Navigator. The Business and Computer Technology Navigator serves students in the College's business and information technology programs. However, she is also assigned to the College's culinary program and spends a significant percentage of her time with these students. The STEM Success Navigator mainly assists students in the College's pre-engineering and engineering technologies programs.

Two Success Navigators, the part-time Nursing Navigator and the Business and Computer Technology Navigator, testified at the hearing regarding their duties. Also testifying were Lorraine Paffenroth, the Success Navigators' direct supervisor; the dean of the STEM meta-major, the dean of the Health and Human Services meta-major, and the College's former dean of student services who was instrumental in creating the Success Navigator position. From this testimony it was evident that although all the Success Navigators have the same job description, their actual duties vary somewhat.

The College's job posting summarized the duties of the Success Navigator job as follows:

The Student Success Navigator is responsible for providing the necessary information, advocacy and support to prospective, current and re-entry career program students. The Success Navigator will work with program directors and admissions recruiters to recruit prospective students to his or her assigned career program. The position will also be responsible for maintaining records on student progress, persistence, retention, and graduation. Additionally, the [Success Navigator] will engage in campaigns to retain or re-enroll students. Coach caseloads will be comprised of students in assigned career or transfer programs or specific cohorts of students.

The educational requirement for the Success Navigator position, as listed in the job posting, is a bachelor's degree. The "minimum qualifications" listed in the posting are as follows:

Academic background in coaching/advising is preferred. A combination of education and directly related experience may be considered. Minimum one to two years of experience in a higher education institution with preference for academic affairs, student affairs, student services, and/or counseling. Ability to work on multiple tasks, set priorities, and meet deadlines with minimum supervision. Strong interest in student persistence, retention, and student success; familiarity with cognitive development theory of college age students. Familiarity with database software and student information systems. Excellent organizational skills. Excellent interpersonal and communication skills utilizing tact and diplomacy. Experience working with students, parents, faculty, and staff. Experience working with diverse populations.

All four individuals originally hired as Success Navigators and filling the position at the time of the hearing have master's degrees. Two of the four have master's degrees in counseling and are certified by the State of Michigan as Licensed Professional Counselors. A third has a master's degree in English as a Second Language and the fourth has a master's degree in business. The latter also has a graduate certificate in higher education leadership. The Success Navigator assigned to the Nursing meta-major was previously employed as an advisor in the University of Michigan's School of Nursing and, before that, as an academic advisor in Michigan State University's College of Nursing. The Navigator assigned to Business and Computer Technology previously worked for the College as an academic advisor and as an adjunct instructor teaching a course for new students in how to succeed in college. The

Navigator for Industrial Technology also worked for the College as an academic advisor and for other academic institutions in a variety of other positions. Before taking her current position, the STEM Navigator had more than ten years of experience working directly with undergraduate students at a small four-year college.

The Success Navigators are paid hourly and are not considered by the Employer to be FLSA-exempt. As discussed above, the Success Navigator's pay scale under the SSA contract is the same as two other SSA positions. The beginning pay of a Success Navigator is roughly the same as the beginning salary of a full-time instructor or academic professional in Petitioner's bargaining unit with less than a master's degree.

At least at the time of the hearing, all the Success Navigators were required to know and understand the prerequisites for admission into the various programs under their purview. Success Navigators can also tell students, in general terms, whether courses that they are planning to take or may have taken previously, including high school classes, satisfy these prerequisites. For example, a Navigator can explain to students contemplating entering a science program that if they took a high school college preparatory biology class and received an A or B grade, they have met one of the prerequisites for that program, but if they took a "general biology" class in high school they will have to take a College introductory biology class. Navigators also generally know the course sequences for programs within their purview, whether a course will be offered the next semester, how long it would likely take for a student to obtain a degree or certificate in a program, and whether the College has an agreement with a particular four-year institution relative to the transfer of credits. Navigators can also answer some types of financial aid questions such as how many credits a student must take to be eligible for financial aid and whether a course is within the student's program and, thus, will be paid for by that aid. Navigators can and do provide this type of information directly to both enrolled and prospective students. To keep current and to make themselves known to faculty, Navigators regularly attend faculty meetings and meet with faculty representatives, deans and associate deans to discuss changes in admission and program requirements.

Recruitment of new students is an important part of the Success Navigator's job. The Nursing Success Navigator, along with Admissions Recruiters in the SSA unit, regularly attend high school college nights and other events where they provide information to prospective students about the College's nursing and pre-nursing programs. The College offers an early college program in health careers with some local high schools, and the Nursing Navigator meets with students at those high schools to describe the program. The College hosts an annual event for high school business students which includes a competition. The Business and Computer Technology Navigator helps arrange this competition and hands out information about the College's programs at the event. She also attends the annual "Discover Day" that the College holds for prospective students. The STEM Navigator plans, organizes and participates in an annual "Engineering Day," for high school students, which includes a robotic competition and scholarship prizes. She also provides advice and assistance to high school students enrolled in the College's early college engineering program.

Each Success Navigator is given lists of prospective students who have expressed interest in the College but have not formally applied or registered as well as students who have

completed some classes, but have not registered for additional classes for a semester or more. Navigators are expected to attempt to make personal contact with these students either by phone or email, ask about possible barriers to their enrollment and, as appropriate, direct them to an academic advisor for help with the application process or to another office within the College.⁴

All the Navigators are also listed on the page of their meta-major on the College's website as the initial point of contact for students who are interested in programs within the meta-major. Prospective students regularly call or email the Navigators for information. Navigators commonly exchange emails with prospective students on topics such as program requirements and prerequisites, and some Navigators have a list of questions to help students determine whether a program is right for them.

The Navigators are each assigned a cadre of students. For the Nursing and STEM Navigators, their cadre includes anyone who within the past few years has been accepted into the College's pre-nursing program or the pre-engineering program. This is roughly 4,000 pre-nursing students and about 1,000 pre-engineering students. All students applying to any program within the Business and Computer Technology meta-major are automatically sent an email with the Business and Computer Technology Navigator's contact information. All the Navigators keep counselors, academic advisors, and the Navigator's supervisor, Lorraine Paffenroth, abreast of any changes in their programs' course requirements and prerequisites. The Nursing Navigator and the STEM Navigator also maintain email lists of students and/or prospective students and use these lists to update students about program changes, remind them of registration deadlines, or advise them of events, such as College-sponsored seminars. The Nursing Navigator also updates the College's nursing and health careers Facebook page.

The Nursing Navigator arranges and conducts regular nursing information sessions which pre-nursing students are required to attend, and the Industrial Arts and Technology Navigator conducts regular information sessions for enrolled students who have expressed interest in one of the other health career programs. The Nursing Navigator participates along with other nursing staff in regular "nursing submission sessions." At these sessions, students present their applications for admission into the nursing program to staff members, and the staff members preview them and let the students know if something is missing. The Nursing Navigator maintains a spreadsheet of classes already taken by students in the pre-nursing program; the STEM Navigator maintains a similar spreadsheet for pre-engineering students; and the Industrial Arts and Technology Navigator maintains a spreadsheet for enrolled students who have expressed interest in a health careers program.

The Welcome Center contains various student services' offices. On the first floor, is the Enrollment Lab and office space shared by the Navigators and the academic advisors. Currently the three full-time Navigators spend three days per week in the Welcome Center and two days per week in the buildings where the administrative offices of programs to which they are assigned are located. The College plans eventually to have the Navigators work full-time in these offices. Once admitted to a program within the College, a student may make an appointment, or drop in to the Welcome Center, to see either an academic advisor or a Navigator as they choose.

⁴ Many other individuals within the College are also given lists of such students to contact, including deans and their administrative assistants. It is not clear from the record whether counselors or academic advisors receive such lists.

The issues that academic advisors are expected to handle are described in the section below. Students are directed to see a Navigator when they are not sure where to go with their question or problem and academic advisors sometimes send students who come to see them to a Navigator. The Navigator's role is to find out the nature of the student's problem and answer students' questions if they can. As noted above, Navigators are expected to be able to answer some, but not necessarily all, questions about program prerequisites, course requirements and financial aid, etc. Depending on the nature of the student's problems or questions, the Navigators may connect students with academic advisors, the Counseling Office, the Financial Aid Office, the Enrollment Lab, the Learning Lab, the Admissions Office, or some other office within the College. Sometimes the Navigators contact the offices themselves on the student's behalf, either to find the answers to student questions or to determine if someone in the other office is available to see the student. The Financial Aid Office and the Admissions Office are on the second floor of the Welcome Center and do not accept walk-ins. However, staff from these offices, and the Financial Aid Office in particular, daily answer questions from Navigators and Enrollment Associates by instant message and sometimes visit the Navigators' offices or the Enrollment Lab to speak to students or parents directly.

Students typically see a Navigator, rather than an academic advisor, as their first point of contact when they are considering changing programs within a meta-major or seeking information about programs within another Navigator's meta-major. Navigators have access to the databases of confidential protected student information that include College transcripts and the programs in which the students are currently enrolled, their high school records, and the scores from the assessment tests that students take when they first enroll at the College. A Navigator might access the database when discussing a program change with a student and might, for example, alert a student with low math assessment scores that the program he or she is considering is math-intensive. Students also come to Navigators with questions about transferred credits, and the Navigator can look in the database and help the student interpret information he or she has received from the Registrar's Office. Navigators must sign off on all program changes. However, Navigators are required to first refer students requesting a program change to career counseling if the students have already changed their program at least once or if they are requesting to change to a program within a different meta-major. Navigators also review and approve "course eligibility forms" for students who plan to transfer eventually to another institution. If a student tries to take a class that is not part of his or her College program, the class will not be covered by their financial aid unless the Navigator certifies that the class has been approved for students planning to transfer. Navigators are not authorized to approve requests to drop or add courses, but a Navigator can provide information to students about the impact of dropping a course on their financial aid and/or chance of completing their program.

The Nursing Navigator described a recent incident involving a student who was in danger of failing a course because of a childcare conflict. The student had made an appointment with an advisor who called in the Navigator when the nature of the problem became clear. The Nursing Navigator eventually referred the student to an office - not the Financial Aid Office - to apply for additional money for childcare assistance. Navigators have also helped students charged by the College with misconduct to understand the disciplinary process and find out whom to contact to respond to the allegations. If students tell Navigators that they are undecided about a career, or

come in with personal or family problems, Navigators direct them to the Counseling Office. Once students see a counselor, Navigators typically do not see the student again unless the student contacts them directly, but they routinely send the students whom they have referred follow-up emails asking the student if there is any other way they can be of service.

Students often contact a Navigator when they are having trouble with course content. In that situation, Navigators first question the student about whether they have taken other steps, such as talking to the instructor or joining a study group. Navigators also refer students to the Learning Lab. Students have brought complaints about instructors to the Navigator. In that case, the Navigators advise the department of the complaints and follow the department's instructions. Navigators do not normally intervene with instructors on a student's behalf or contact instructors directly.

One of the components of the Guided Pathways plan is identifying students at high risk of not completing their programs and providing them with individual attention to ensure that they stay on track towards graduation. At the time of the hearing, the Employer was working on the implementation of a software program to identify such students by certain trends or behaviors. The system, which had experienced delays, was expected to be operational by the end of 2018. When operational, the software should allow the Navigators to identify high-risk students within their assigned group of students based on factors that include: (1) students who have not enrolled for a semester or more; (2) students on academic probation; and (3) students with high levels of debt but relatively low grades. Once a student is identified as high-risk, a Navigator will then contact the student, ask to meet, question the student about issues which might be interfering with their academic progress, and help the student brainstorm solutions to these problems. For students with high debt levels, the Success Navigators are to contact the Financial Aid Office and ask it to provide these students with warnings about jeopardizing their financial futures and information about possible scholarships or work opportunities. When appropriate, the Navigator will refer high-risk students, as they do now with the students who contact them, to another person or office within the College. The Navigators are also supposed to keep track of the academic progress of the high-risk students within their assigned group of students. That is, if a Navigator sees that a high-risk student appears to be in academic trouble, the Navigator is to email the student and ask to meet. At the time of the hearing, the Navigators had no duties specific to high-risk students.

Both the academic advisors and the Success Navigators report to Manager of Academic Advising and Student Success Lorraine Paffenroth. Prior to accepting that position, Paffenroth worked as an admissions specialist for Health Careers and Nursing, an SSA position. According to Paffenroth, the latter position, which has not been abolished, performed essentially the same duties as those now performed by the Nursing Navigator.

Enrollment Associates, Academic Advisors and Counselors

The Enrollment Lab, which is also referred to as the Solutions Center, is also located on the first floor of the Welcome Center, and students can walk into the Enrollment Lab for assistance. The Lab has computers on which students can apply to the College, fill out financial aid applications, and register for classes. As noted above, Enrollment Associates are in the SSA

unit, and their positions require a two-year associate's degree. Enrollment Associates III, the highest non-supervisory level, work in the Enrollment Lab helping students apply for admission and financial aid and register for classes. Enrollment Associates III often sit down with new students and walk them through all these processes. The Enrollment Associates III also answer questions such as how to drop a class or change a schedule and whether taking a class will affect that student's eligibility for financial aid. Enrollment Associates III have access to the same confidential student record databases as Success Navigators. When students or parents come into the lab with questions which the Enrollment Associates III cannot answer, they will instant message other departments, including Financial Aid, the Registrar, Admissions and Enrollment, for help. They may also refer students to a Success Navigator, academic advisor, or the counseling office. Enrollment Associates III also troubleshoot. For example, if student attempts to register for the last class he or she needs to graduate and that class is full, an Enrollment Associate III may call a faculty member or dean seeking permission to add the student to the class.

Enrollment Associates II staff a call center where they answer student questions about applications for admission, financial aid and registration; like the Enrollment Associates III, the Enrollment Associates IIs regularly instant message other offices for answers to student questions. Enrollment Associates attend weekly "hot topics" sessions during which they are updated on recent departmental program changes.

The academic advisor position existed before the College implemented the Guided Pathways plan, but the College expects to hire more academic advisers, in addition to Success Navigators, as they continue implementing the plan. Each academic advisor is assigned several programs/meta-majors, and most meta-majors have more than one academic advisor. The academic advisors help students navigate the admission and course registration process and provide information about the College's academic programs for students in programs to which the academic advisors are assigned. They evaluate student assessment scores to help students choose courses and they ensure that students take the proper courses in the proper order to get admitted to a program and/or obtain a degree or certificate. Academic advisors also help students with financial aid paperwork. The College's website includes this advice to students as to when to see an academic adviser:

1. You are a new or current student and decided on your program of study.
2. You have placement test scores that need to be evaluated.
3. You want to review prerequisites and required courses for your program of study.
4. You want to review transfer requirements or your pre-graduation audit.
5. You have questions regarding the admissions process, registrar [sic], transcripts in the system, program evaluation, course substitutions, waivers, CLEP/AP credits or a course syllabus.

6. You are considering attending HFC and seeking information regarding courses, degree offerings and requirements.
7. You are a returning student and the last course was completed less than three (3) years ago at HFC.
8. You require a change of program and you are firmly decided on what the program will be; [you are] selecting a new program closely related to [your] current program of study; [you are] a student changing their program for the first time or a student seeking [to] change to align with transferring to a university. (Undecided students may be referred to Counseling for Career Counseling).

As indicated in the section above, Navigators, at least as of the date of the hearing, were handling many tasks assigned to academic advisors. For example, they provide prospective students with information regarding courses, degree offerings, and requirements for the programs to which the Navigators are assigned; provide students currently enrolled in their programs with information about prerequisites and required courses; and sign off on first-time program changes within the same meta-major. As Paffenroth admitted in her testimony, because the College is short on academic advisors, during peak enrollment times “it’s all hands on deck.” This apparently means that, during these periods, the academic advisors, the Success Navigators, and Paffenroth herself are all performing essentially the same work.

The academic advisor position requires a bachelor’s degree, but a master’s degree in one of the instructional programs offered by the College is preferred. Experience in student development and/or academic advisement is also preferred, along with advanced knowledge of computer technology and software applications. The long list of “minimum qualifications” in the job description includes “knowledge of academic advising best practices,” and “ability to read research and other information in professional journals and adapt appropriately to advising position,” and “ability to develop and implement intrusive advising approaches to increase students’ success, retention rates, and program completion.”

As noted above, the academic advisors are included with part-time adjunct faculty in the bargaining unit represented by the AFA. The salary schedule in the AFA collective bargaining agreement has separate salary schedules for “non-teaching employees with less than a master’s degree,” and “non-teaching employees master’s degrees.” All academic advisors, whatever their actual educational credentials, are paid according to the first schedule, while all “adjunct” or part-time counselors are paid according to the second. Academic advisors are considered salaried employees and FLSA-exempt, although the Adjunct Faculty contract’s salary schedule lists salaries, both for teaching employees and non-teaching employees, as hourly rates. The beginning rate for non-teaching employees without a master’s degree in the AFA contract is about \$ 5.00 per hour more than the beginning hourly rate for a Success Navigator.

The College’s Counseling Office is in another College building, the Learning Success Center. The Counseling Office offers both personal and career counseling and employs both full-time and part-time counselors. The job description for the counselor position states that its

primary responsibilities are to provide professional counseling, referral to community and personal/family aid services, career assessment and guidance, and academic advising for at-risk students. In a power point presentation around the time that the Success Navigators were first hired, the College listed these students as those who should be seen by a counselor: (1) first semester students who were previously home schooled; (2) students undecided on a career, major or transfer institution; (3) early college students entering the College for the first time; (4) international students; (5) previous students who had not been enrolled for three years or more; (6) students considering a change of major; (7) students with disabilities; (8) students with personal issues; and (9) students with financial problems not covered by financial aid. The Employer's counselors are required to have and maintain an LPC (professional counselor's license), which requires graduate study. Enrolled students who have not yet decided on a program of study are required to meet with a career counselor. As noted above, counselors, who are all full-time, are included in Petitioner's bargaining unit. Like most members of Petitioner's bargaining unit, counselors work a 10-month academic schedule and are considered salaried employees and that are FLSA-exempt.

Discussion and Conclusions of Law:

A unit clarification petition is appropriate for resolving questions in unit placement caused by the creation of a new position or recent substantial changes in the job duties of existing classifications. *University of Michigan*, 32 MPER 7 (2018); *Tuscola Co Rd Comm*, 27 MPER 57 (2014); *Genesee Co*, 1978 MERC Lab Op 552. Unit clarification is not appropriate for upsetting an agreement of a union and employer or an established practice of such parties concerning unit placement. *Genesee Co*, supra; *City of Greenville*, 2002 MERC Lab Op 236. Moreover, a position is not "newly-established" if it has the same job duties as another position and has merely been given a new title. *City of Detroit (Water and Sewerage Dept)*, 29 MPER 65 (2015). When a union files a unit clarification petition seeking to add a genuinely new position to its unit, no other union claims the position, and the employer does not assert that the position is executive, confidential or supervisory, the issue is generally whether the new position shares a community of interest with petitioner's existing unit. See, e. g., *Detroit Judicial Council*, 2000 MERC Lab Op 7; *Lansing Community College*, 2000 MERC Lab Op 99. However, we do not determine relative degrees of community of interest or attempt to find the "most appropriate" unit. *Lansing Sch Dist*, 22 MPER 96 (2009); *Henry Ford Cmty College*, 1996 MERC Lab Op 372, 379-380. When two unions claim a new position, we generally defer to an employer's good faith, reasonable decision to place the position in one of their units if the evidence indicates that the position shares a community of interest with this unit or with both units. *Henry Ford Cmty Coll*, 30 MPER 71 (2017); *Univ of Michigan*, 29 MPER 23 (2015); *City of Bay City*, 16 MPER 31 (2003).

We determine whether a community of interest exists between a position and a bargaining unit by examining a number of factors, including: (1) similarities in duties, skills, and working conditions; (2) similarities in wages and employee benefits; (3) the amount of interchange or transfer between groups of employees; (4) centralization of the employer's administrative and managerial functions; (5) the degree of central control of labor relations; (6) common promotion ladders; and (6) common supervision. See e.g. *Univ of Michigan*, 32 MPER

7 (2018); *Covert Pub Sch*, 1997 MERC Lab Op 594, 601; *Grand Rapids Pub Sch*, 1997 MERC Lab Op 98, 106.

In this case, the record indicates that the Success Navigators' job duties overlap with those of the Enrollment Associates IIIs in the Enrollment Lab and the Admissions Associates-International Students. They also overlap substantially with those of the Academic Advisors. The supervisor of both the Academic Advisors and the Success Navigators, Paffenroth, admitted that the College uses Navigators to make up for a shortage of Academic Advisors. Since the Navigators' job posting expressed a preference for advising experience, and since three of the four Navigators that the College hired had previous experience working as academic advisors, we assume that the College anticipated that assisting the academic advising staff would be a regular part of the Navigators' job. In any case, at the time of the hearing the Success Navigators' regular job duties included providing students with some of the same type of information about program prerequisites and course requirements that Academic Advisors provide. There is less overlap between the duties of the Success Navigators and the counselors in Petitioner's unit. Both the counselor and Success Navigator positions require the ability to listen carefully to students and understand their concerns. However, the Navigators do not generally provide advice to students on dealing with personal problems, and they do not help students undecided on a course of study to find the right one for them.

Despite the overlap in job duties with other positions, the Success Navigator is not the Enrollment Associate, Academic Advisor or counselor position retitled. The Navigators have duties related to student recruitment that academic advisors and counselors do not. Along with the Admissions Recruiters, Success Navigators participate in events for high school students to recruit them to the College. Success Navigators also serve as a conduit for information about program changes from the academic departments to academic advisors, counselors and students. Moreover, while the Enrollment Associates III, academic advisors, counselors, and probably most College employees will provide a student with any help that they can if approached, the Success Navigator has a special role. That is, Success Navigators provide students within their assigned programs with a specific person to whom the students can bring any type of problem they are having at the College and receive guidance on how to solve it. The only other College position with a similar role appears to be the Admissions Associate-International Students. We also note that according to the College's plans, the Navigators will also have unique duties relative to at-risk students as soon as the software designed to identify these students becomes operational.

The Success Navigator position formally requires a bachelor's degree, but no other advanced degree. Although most positions in the SSA unit do not require a four-year degree, the unit includes positions that do require it. The pay of the Success Navigators is also roughly comparable to some other SSA positions, and a few SSA positions are paid more. The Navigator's role is functionally integrated with that of many non-SSA positions, including that of the counselors, academic advisors, and some faculty members, but also with that of the Enrollment Advisor IIIs, Admissions Recruiters, Financial Aid Associates, and Admissions Associates. Like most SSA positions, the Success Navigator works a full twelve-month year. We find that these facts, and the similarities between the duties of the Success Navigators and the

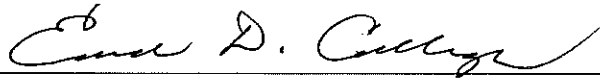
Enrollment Associate IIIs and Admissions Associates-International Students, establish a community of interest between the Success Navigator position and the SSA unit.

As discussed above, we do not generally determine relative degrees of community of interest. When more than one union claims that a new position should be included its bargaining unit, and the employer places the position in one of these units, we generally defer to the employer's decision as long as it is made in good faith, is reasonable, and the position shares a community of interest with the unit in which it has been placed. *Henry Ford Cmty Coll*, 30 MPER 71 (2017). As noted above, we find that that the Success Navigator position shares a community of interest with the SSA unit. The record indicates that the average employee in the SSA unit is probably paid less than the average employee in Petitioner's unit. However, this does not establish that the College's decision to place the position in that unit rather than Petitioner's unit was made in bad faith. We conclude that while the Success Navigator may share a community of interest with other bargaining units, the College's decision to place the Success Navigator position in the SSA unit was reasonable. We, therefore, issue the following order.

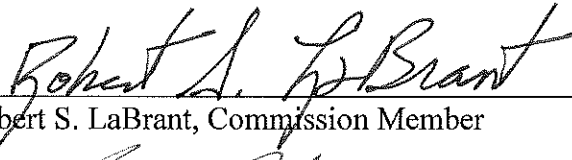
ORDER

The petition filed by the Henry Ford Community College Federation of Teachers, American Federation of Teachers (AFT), Local 1650, to add the position of Success Navigator to its bargaining unit of employees of Henry Ford College is denied.

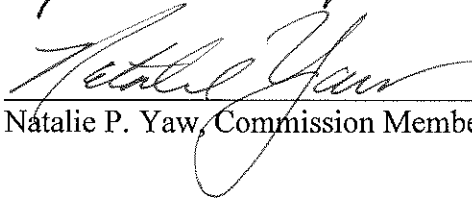
MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Edward D. Callaghan, Commission Chair



Robert S. LaBrant, Commission Member



Natalie P. Yaw, Commission Member

Issued: APR 03 2019