

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

In the Matter of:

MACOMB COUNTY COMMUNITY COLLEGE,  
Public Employer,

Case No. UC97 L-63

-and-

AMERICAN FEDERATION OF STATE, COUNTY &  
MUNICIPAL EMPLOYEES, COUNCIL 25,  
LOCAL 2172,  
Petitioner-Labor Organization.

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**APPEARANCES:**

Brady, Hathaway, Brady & Bretz, P.C., by Thomas P. Brady, Esq., for the Employer

Miller Cohen, P. L. C., by Gail M. Wilson, Esq., for Petitioner

**DECISION AND ORDER ON UNIT CLARIFICATION**

Pursuant to Sections 12 and 13 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCLA 423.212 and 423.213; MSA 17.455(12) and MSA 17.455(13), this case was heard in Detroit, Michigan, on December 22, 1998, and August 18, 1999, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission. Based upon the record, including post hearing briefs filed by October 15, 1999, we find as follows:

**The Petition:**

In the December 15, 1997, unit clarification petition, the American Federation of State, County & Municipal Employees, Council 25 (hereafter "AFSCME) Local 2172 and AFSCME Local 1917, each sought to clarify their respective units by adding a financial aid advising/processing technician position. After the December 22, 1998, hearing, AFSCME Local 1917 withdrew its participation in these proceedings. The Employer asserts that the position should remain in the supervisory-technical unit represented by AFSCME Local 1917.

**Facts:**

Petitioner Local 2172 represents a bargaining unit of secretarial, special skills, and clerical employees. The positions within the unit are grouped into levels one to six, with each level requiring

increased levels of responsibility and the use of discretion and professional judgment. AFSCME Local 1917 is a “supervisory/ technical unit” which includes coordinator, manager, technician, and supervisor classifications.

The position at issue in this case, financial aid advising/processing technician (FAAPT), was created in October of 1993 and placed in the bargaining unit represented by AFSCME Local 1917. The technician was required to use professional judgement and independent decision-making in reviewing financial aid applications; verifying data supplied by applicants; determining student eligibility in accordance with state and federal regulations; awarding financial aid; and supervising part-time and full-time employees, as needed. When funding for the position was discontinued in January of 1994, the two incumbents returned to part-time jobs as clerks in the financial aid office. A year later, in January of 1995, they became full-time employees and members of AFSCME Local 2172, the secretarial/clerical bargaining unit. Throughout their tenure as part-time clerks and as level III clerks in Petitioner’s bargaining unit, they have performed FAAPT duties.

In January of 1997, the new director of financial aid proposed that the Employer create a new “financial aid officer” or “financial aid advisor” classification in Local 1917 to assume the duties and responsibilities of the clerk IIIs in Local 2172. Rather than creating a new classification, the Employer posted a notice of vacancy for two FAAPT positions in AFSCME Local 1917. The vacant positions were awarded to the clerk IIIs in the bargaining unit represented by Local 2172. In a grievance, Local 2172 claimed that the Employer was eroding its bargaining unit by eliminating unit work and earmarking the FAAPT positions for specific individuals. The grievance was ultimately denied.

#### Conclusions of Law:

Petitioner’s central argument is that the Employer’s placement of the FAAPT position in AFSCME Local 1917 was inappropriate because the FAAPT performs the same types of duties as other skilled clerical employees and because the FAAPTs are not supervisors. The Employer contends the petition should be dismissed because the Commission should not interfere with its good faith decision to place a newly created position in a unit with which it shares a community of interest. In addition, the Employer asserts that the community of interest standard favors placing the position in Local 1917.

The assertions by both Petitioner and the Employer mischaracterize the issue. We have consistently held that unit clarification is only appropriate to determine placement of newly-created positions or positions which have undergone recent substantial changes. See e.g. *Genesee County*, 1978 MERC Lab Op 552,556; *Port Huron Area School Dist*, 1989 MERC Lab Op 763; *Lapeer County*, 1993 MERC Lab Op 649; *Washtenaw Community College*, 1993 MERC Lab Op 781. The record establishes that the position at issue in the instant case is not new. The FAAPT position was created in 1993 and placed in Local 1917. As Petitioner acknowledges in its post-hearing brief, the Employer “posted a *vacancy* for two financial aid advising/processing technicians” on or about May 23, 1997. The FAAPT position had been vacant since January 1995. Although the clerk IIIs worked

out-of-class during their tenure as members of Petitioner’s bargaining unit performing duties set forth within the FAAPT’s position description, the position was never moved to Petitioner’s unit. Therefore, we find that the instant petition, filed more than four years after the FAAPT position was created, is not timely.

Even if the position were newly created, we find no evidence that the Employer’s placement of the position in Local 1917 represents such “an extreme divergency in community of interest” from the rest of the unit to warrant its removal. See e.g. *Genesee County*, 1995 MERC Lab Op 223; *Livonia Public School*, 1987 MERC Lab Op 490. The FAAPT position shares a community of interest with positions in both Local 1917 and 2172. Its duties and responsibilities are the same as those performed by a student service technician which was included in Local 1917 in 1970. The scope of the FAAPT’s responsibilities is also similar to that of employees in Local 2172 who use professional judgement and exercise considerable discretion in making student enrollment and financial aid decisions.

We have carefully considered all other arguments raised by the parties and they do not warrant a change in the result. Accordingly, we issue the order set forth below:

**ORDER**

It is hereby ordered that Petitioner’s request to clarify its bargaining unit to include the financial aid advising/processing technician position is denied.

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

Date: \_\_\_\_\_