

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

In the Matter of:

CHARTER TOWNSHIP OF MERIDIAN,
Public Employer,

MERC Case No. 20-L-1782-UC

-and-

TECHNICAL, PROFESSIONAL AND OFFICEWORKERS
ASSOCIATION OF MICHIGAN,
Petitioner-Labor Organization.

APPEARANCES:

Fahey, Schultz, Burzych and Rhodes, PLC, by Helen E. R Mills and Chad P. Karsten, for the Public Employer

Ed Jacques, TPOAM Service Director, for the Petitioner

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

On December 1, 2020, the Technical, Professional and Officeworkers Association of Michigan (TPOAM) filed this petition for unit clarification with the Michigan Employment Relations Commission (MERC). The petition was referred to the Michigan Office of Administrative Hearings & Rules (MOAHR) on or about January 22, 2021.¹ Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, the case was heard via *Zoom* video conference by Administrative Law Judge (ALJ) David M. Peltz on February 23, 2021. Based on the entire record, including the transcript, exhibits and post-hearing briefs filed by the parties, the Commission finds as follows:

The Petition and Positions of the Parties:

On or about June 10, 2020, Meridian Charter Township (Township or Employer) created a new position of full-time Accountant, and designated the position as one outside of any bargaining unit represented by TPOAM. The individual promoted to this position, Bernadette Faulkner, was previously the full-time Accounts Payable Bookkeeper, a position which was part of the TPOAM bargaining unit of “administrative professional employees.” Petitioner asserts that the full-time Accountant should be part of its administrative professional employee bargaining unit because the position consists of the same duties and responsibilities as the former Accounts

¹ MOAHR Hearing Docket No. 21-001938-MERC

Payable Bookkeeper position. According to the TPOAM, the full-time Accountant performs virtually all of the essential job functions listed on the Bookkeeper position description. The Township asserts that the full-time Accountant is a newly created position which does not substantially consist of the same duties and responsibilities of the Bookkeeper position, and which does not share a community of interest with any of the other positions within Petitioner's administrative professional unit. The Township further argues that the petition should be denied because the full-time Accountant is not an "administrative" employee.

Findings of Fact:

I. Background

Meridian Charter Township employs a total of 165 employees, approximately three-quarters of whom are represented for purposes of collective bargaining in one of the Township's seven unionized bargaining units. There are four bargaining units represented by the TPOAM: administrative professional employees, Department of Public Works employees, nonsupervisory professionals and supervisory professionals. The firefighters, non-supervisory police officers and command police officers are each members of individual separate units not represented by TPOAM.

Petitioner and the Township are parties to a collective bargaining agreement covering the administrative professional employee bargaining unit for the period January 1, 2020, through December 31, 2022. The recognition clause of the contract, Article I, describes the unit as consisting of "All administrative professional employees, including regularly scheduled part-time employees employed by Meridian Charter Township, excluding casual, temporary, supervisory, and two (2) confidential administrative employees, and all other employees." The agreement does not define the term "administrative professional." At the hearing, the Township's Director of Human Resources (HR), Abigail Tithof, characterized the unit as "clerical" in nature, however there was no evidence presented to suggest that Petitioner had ever agreed to that characterization as a limitation on the positions appropriate for inclusion in the unit.

The following classifications are included within the existing administrative professional employee unit: Administrative Assistant II, Bookkeeper, Assessing Clerk, Assistant to the Clerk, and Assistant to the Treasurer and Bookkeeper. The collective bargaining agreement contains a salary schedule which groups bargaining unit positions in one of four classes, with Class 1 being the lowest paid positions within the unit and Class 4 the highest. Effective January 1, 2021, the pay rates for Class 4 positions ranges from \$19.42 per hour at Step 1 to \$25.44 per hour at Step 6, which equates to annual salaries of approximately \$40,394 to \$52,915. The contract lists Bookkeeper as a Class 2 position. For the 2021 calendar year, individuals employed as full-time Bookkeepers earn between \$16.47 to \$21.57 per hour, or about \$34,258 to \$44,866 annually. All members of Petitioner's bargaining unit are in the Municipal Employees' Retirement System of Michigan (MERS) pension program which is a defined benefit plan. Most of the positions within Petitioner's unit, including the Accounts Payable Bookkeeper, work in the Township's municipal building.

The Assistant to the Treasurer position requires a bachelor's degree in accounting, finance or a related field and "[c]onsiderable knowledge of accounting and bookkeeping principles and practices." According to the job description, the duties and responsibilities of the Assistant to the Treasurer position include: explaining taxation issues, investment practices and the tax assessment and collection process; performing account maintenance activities, including preparing bank deposits, reconciling accounts, assigning account numbers to receipts and performing related bookkeeping functions; working with auditors on year-end closing of books and gathering data and reports; investigating and examining investment options; and keeping abreast of regulations and new procedures in tax collection, investing public funds, and managing finances.

The Assistant to the Clerk position requires an associate's degree in a related field, with a bachelor's degree preferred. Among the required skills listed in the job description are an "extreme" focus on details, the ability to critically assess situations, solve problems and use good judgment, initiative and resourcefulness. Duties and responsibilities of the Assistant to the Clerk position include working with and under the direction of the Clerk to supervise the administration of elections held in the Township; maintaining a comprehensive and complex filing and election related records system; conducting and compiling research; assisting the Clerk in preparing the annual budget and annual report; processing the Clerk's office bills; tracking credit card purchases and completing appropriate reporting forms, and submitting those forms to Accounts Payable for processing.

Under the supervision of the Department Head, the Administrative Assistant II performs a "variety of high-level administrative and support functions." Duties of the position may include assisting in the development and/or the preparation of the departmental budget; engaging in accounting activities such as generating billings, reconciling statements, processing payroll and other similar activities. The position requires a high school diploma or equivalent, supplemented by additional coursework in business management, office management, secretarial science or a related field, the ability to gather and prepare accurate and timely records, reports, notices, memos and letters, and the ability to critically assess situations, solve problems, and work effectively within deadlines and changing work profiles.

The Assessing Clerk performs various "routine and complex" tasks under the direction of the Assessor and/or the Assessing Director, including filing departmental records, importing building permits and preparing reports. The position is also responsible for processing and entering payroll. A high school diploma, supplemented with specialized training in assessment administration or vocational coursework in office management and related fields, is required, along with certification from the State Tax Commission as a Michigan Certified Assessing Technician (MCAT) or three years in assessment administration. An associate's or bachelor's degree is preferred.

Among the job requirements for the Bookkeeper classification are: an associate's degree in accounting, finance or a related field; two or more years in accounting or finance in a municipal setting, thorough knowledge of the principles, practices and legal regulations of municipal finance and accounting; thorough knowledge of the methods and techniques of financial analysis, accounting and financial reporting; skill in generating comprehensive and accurate reports, and in performing mathematical computations with accuracy; skill in maintaining and updating records

and documents with a high degree of accuracy; skill in administering payroll systems according to established procedures, with impartiality and a high degree of confidentiality; and an ability to critically assess situations and solve problems.

There are three different positions within the Bookkeeper classification. In addition to the Accounts Payable Bookkeeper, the Township employs two Utility Bookkeepers in the Finance Department and one additional Bookkeeper who is shared between the Finance Department, the Treasurer's Office, and the Utilities Department. Although the actual work performed by individuals employed as Bookkeeper varies by position, all of the Bookkeepers are covered by the same job description. Pursuant to that job description, the duties and responsibilities of the position include: preparing and maintaining a variety of statistical bookkeeping, or other complex records; processing data and information; preparing detailed cost, time, billing or other financial records; preparing and reviewing forms, correspondence, reports and other documents; collecting and compiling data and information for use in creating and preparing estimates, bills, reports, budgets and other records; calculating and posting labor, material and equipment costs to proper accounts; making journal entries; verifying and balancing reports to the general ledger; preparing deposits, reconciling accounts, statements and transactions; auditing documents and reports for accuracy; and assisting in compiling information for use in annual audits and year-end close.

Prior to the events giving rise to this unit-placement dispute, Bernadette Faulkner was employed as a full-time Accounts Payable Bookkeeper in the Finance Department. In that capacity, she was supervised by Miriam Mattison, the Township's Finance Director. Faulkner testified that as Accounts Payable Bookkeeper, most of her time was spent paying invoices and making journal entries into the general ledger indicating which accounts to debit and which to credit. When Township employees made purchases on their credit cards, they would submit their receipts to Faulkner, who would then record that information in the Accounts Payable ledger and transmit the entry to Mattison for approval. Faulkner also reconciled bank accounts for the Meridian Township Downtown Development Authority to ensure that the entity's accounts matched incoming and outgoing payments. Faulkner and Mattison both testified that the bank reconciliations performed by the Accounts Payable Bookkeeper were "simple" reconciliations. As Bookkeeper, Faulkner had no duties related to the administration of employee pensions or the defined benefit pension plan.

II. Full-Time Accountant Position

Prior to 2020, the Township employed a full-time Purchasing Manager and a part-time Accountant, both of which were non-union positions. In early 2020, the full-time Purchasing Manager position was eliminated due to budgetary concerns related to the COVID-19 pandemic. Shortly thereafter, Tom Warner, the incumbent part-time Accountant, announced his intention to resign. On or about June 10, 2020, Mattison and former HR Director Joyce Marx submitted a written letter to Township Manager Frank Walsh recommending the promotion of Faulkner to a new full-time Accountant position in which she would assume the duties formerly performed by the full-time Purchasing Manager and the part-time-Accountant. Specifically, the letter proposed that Faulkner would assume "payroll back-up responsibilities and assist in monitoring [the] policy and purchase order process."

Faulkner was promoted to the new full-time Accountant position in July of 2020. At the same time, the full-time Accounts Payable Bookkeeper position was eliminated and replaced with a part-time Bookkeeper position. According to Mattison, the new part-time Bookkeeper retained only the “clerical duties” previously performed by Faulkner. The Township placed the part-time Bookkeeper position in Petitioner’s bargaining unit and designated the new full-time Accountant position as non-union. The annual salary for the full-time Accountant ranges from \$54,081 to \$64,606. As a non-union employee, Faulkner no longer participates in the defined benefit pension program. Rather, she is enrolled in the Township’s defined contribution plan.

According to the job description for the full-time Accountant, the requirements for the position include a bachelor’s degree in accounting, finance or a related field; two or more years’ experience in governmental accounting or finance and thorough knowledge of the principles, practices and legal regulations of governmental finance and accounting. The job description includes the following duties and responsibilities: collecting and compiling data and information for use in creating and preparing estimates, bills, reports, budgets and other records, as well as data for the Township pension plans and actuarial reporting; reviewing and monitoring purchases; preparing and maintaining records, files and other information; balancing reports to the general ledger and preparing budget progress reports; reconciling accounts, statements and transactions; serving as backup to payroll/HR payroll administration, including performing complex calculations; assisting with financial audits; preparing and reviewing year-end accounting entries and financial statements; assisting with budget preparation and monitoring; and reconciling financial discrepancies by collecting and analyzing account information.

At the hearing, Faulkner testified that there is some crossover of responsibilities between her former role as full-time Accounts Payable Bookkeeper and her current full-time Accountant position. Mattison estimated that Faulkner continues to perform about 25 percent of the duties that were previously assigned to the full-time Accounts Payable Bookkeeper. However, both Mattison and Faulkner repeatedly emphasized that the primary difference between the full-time Accounts Payable Bookkeeper and the full-time Accountant is the level of discretion and autonomy afforded to the latter position, as well as the complexity of the assigned duties and responsibilities. According to Mattison, “there is just a lot more analytics and knowledge that comes with being an accountant” and there are “huge” financial consequences if the work is not performed correctly. Mattison testified that, like other positions within Petitioner’s unit, the Accounts Payable Bookkeeper was specifically told what work needed to be done, whereas the full-time Accountant is expected to complete the tasks assigned to her using her own discretion and judgment. Likewise, Faulkner testified that when she was Bookkeeper, she was told what journal entries to make, whereas she must now make those decisions independently as the full-time Accountant. Faulkner characterized her new position as being “more detail orientated” and involving “more substantial critical thinking” than her former job as Accounts Payable Bookkeeper.

In terms of specific duties and responsibilities of the full-time Accountant position, the evidence indicates that Faulkner performs more bank reconciliations than she did when she was the Accounts Payable Bookkeeper. Faulkner estimates that these reconciliations account for about 70 percent of her time and that they are more complex and detailed than the reconciliations she performed as Bookkeeper. One of the reconciliations that Faulkner now performs involves comparing records for ambulatory services to determine the difference between what is on the

Township's records and the amount billed by the third-party service providers. After Faulkner completes each reconciliation, her work undergoes a "high-level review" by Mattison to make sure that the accounts are balanced.

As full-time Accountant, Faulkner is the backup person for payroll. Although Faulkner assisted with payroll when she was Bookkeeper, her role has been expanded since she was promoted to Accountant. She is now responsible for completing the payroll, as well as helping with other tasks whenever Mattison is out of the office. At the time of the hearing in this matter, Faulkner was working with Mattison on audits relating to fixed assets. This task requires her to determine which assets to capitalize and which to depreciate. She is then responsible for recording that information accurately. In addition, Faulkner does journal entries for pension statements. She has the discretion to determine what entries to make using statements showing losses and gains. If the figures on the statements do not match, it is her responsibility to correct the records, subject to Mattison's review and approval. As Accounts Payable Bookkeeper, Faulkner did not have any duties relating to pensions or the budget and her involvement with audits was limited to gathering data and submitting it to the auditors. As Accountant, Faulkner no longer works on invoices, a task which accounted for a large part of her job when she was Bookkeeper.

Faulkner continues to work out of the Township's municipal building. She has regular contact with Mattison, who helps her to understand the rationale behind the tasks she is performing and explains to her the "nuances of governmental accounting." Faulkner sometimes interacts with the Utility Bookkeepers if she has a question on specific deposits they have entered or when a payment is posted which does not match the information on the general ledger. At the time of the hearing, Faulkner was also helping to train the new part-time Bookkeeper.

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). A unit clarification petition is appropriate for resolving ambiguities in unit placement caused by the creation of a new position or by recent substantial changes in the job duties of existing classifications. *Tuscola Co Rd Comm*, 27 MPER 57 (2014); *Big Bay De Noc Sch Dist*, 17 MPER 81 (2004); *Genesee Co*, 1978 MERC Lab Op 552. A position is not "newly established" if it has the same job duties as a former position and has merely been given a new title. *Henry Ford Community College*, 30 MPER Lab Op 71; *City of Detroit (Water & Sewerage Dep't)*, 29 MERC Lab Op 62 (2015).

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. *Charter Twp of Lansing*, 18 MPER 12 (2005); *Chelsea Sch Dist*, 1994 MERC 268, 276.

Although a representation matter such as this is treated as a non-adversarial proceeding, to the extent that there is a burden of proof, it falls upon the party seeking to deny representation for purposes of collective bargaining to a public employee covered by PERA. Therefore, it is up to the Township, in this case, to establish that inclusion of the full-time Accountant in the petitioner's unit would be improper under the Act. *Lake Co & Lake Co Sheriff*, 1999 MERC Lab Op 107; *Antrim Kalkaska Cmty Mental Health*, 1998 MERC Lab Op 11, 15.

The Union asserts that the petition should be granted because the full-time Accountant performs the same duties and has the same responsibilities as the full-time Accounts Payable Bookkeeper. Petitioner contends that since the Bookkeeper position has historically been in its administrative professional employee bargaining unit, the full-time Accountant should have been placed in that same unit as well. In contrast, the Township argues that the full-time Accountant is an entirely new position which combines the duties and responsibilities of the former part-time Accountant and the Purchasing Manager, both of which were established as non-union positions. Whether the full-time Accountant is considered a new or substantially changed position, or merely a retitled version of the former full-time Accounts Payable Bookkeeper, we find that the position should be included in the administrative professional employee bargaining unit, as a community of interest exists between the full-time Accountant and other positions within that unit.

We determine whether community of interest exists between a new position and an existing bargaining unit 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. The fact that employees have different job duties or functions does not necessarily mean that they lack a community of interest. *Michigan Ed Ass'n v Alpena Cmty Coll*, 457 Mich. 300, 306 (1998); *Covert Pub Sc.*; *Washtenaw Cmty Coll*, 1993 MERC Lab Op 781, 790-791. The touchstone is whether employees in the unit have a common interest in the terms and conditions of employment that warrants their inclusion in a single bargaining unit and the choosing of a bargaining agent. *Jackson Pub Sch*, 23 MPER 97 (2010); *Alpena Cmty Coll*, at 304-305.

Like the other members of Petitioner's unit, Faulkner is a professional, non-supervisory employee. Although HR Director Tithof characterized the unit as clerical in nature, the record establishes that other unit positions perform jobs that require a background in finance and/or accounting. For example, the Assistant to the Treasurer, like the full-time Accountant, requires a bachelor's degree in accounting, finance or a related field, and significant knowledge of accounting and bookkeeping principles and practices." Similarly, an associate's degree in accounting, finance or a related field is required for the Bookkeeper classification, with a bachelor's degree preferred. The Bookkeeper position also requires two or more years' experience in accounting or finance in a municipal setting and thorough knowledge of the methods and techniques of financial analysis accounting and financial reporting.

Although the salary scale for the full-time Accountant position maxes out at an amount higher than any position within Petitioner's unit, the differences in salary are not so substantial as to establish an extreme divergence of community of interest warranting exclusion of the Accountant from the unit. The annual salary for the full-time Accountant ranges from \$54,081 to \$64,606, while the Assistant to Clerk and Assistant to the Treasurer earn between \$40,394 and \$52,914 per year. As full-time Accountant, Faulkner works in the municipal building, the same location as other members of Petitioner's bargaining unit. She is supervised by Miriam Mattison, the Township's Finance Director. Mattison was Faulkner's supervisor when she was the full-time Accounts Payable Bookkeeper, and she now supervises the new part-time Bookkeeper as well as the other Bookkeeper positions in Petitioner's unit. At the time of the hearing, Faulkner was training the part-time Bookkeeper and testified that she sometimes has interaction with the Utility Bookkeepers.

With respect to specific job duties, the record establishes that the full-time Accountant performs many of the same tasks as the former full-time Accounts Payable Bookkeeper. In fact, Faulkner conceded that there is some crossover of responsibilities between her former and current positions. In her role as full-time Accountant, Faulkner performs bank reconciliations, makes journal entries and works with payroll, tasks that she also performed when she was Accounts Payable Bookkeeper. Although there are some new duties, such as filling in for Mattison when the Finance Director is out of the office, serving as the backup for payroll and doing journal entries relating to pensions, the primary difference between the positions appears to relate to the complexity of the tasks assigned to the full-time Accountant and the degree of discretionary autonomy afforded to the new position. Both Mattison and Faulkner testified that the Bookkeeper and other unit positions are told what work to perform whereas the full-time Accountant is required to make those decisions on her own. Nevertheless, the job descriptions introduced into evidence in this matter establish that other positions within Petitioner's unit are expected to perform similarly complex, detail-orientated tasks.²

For example, the job description for the Assistant to the Treasurer position provides that the position is required to explain taxation issues, investment practices and the tax assessment and collection process, prepare and reconcile bank accounts, work with auditors on year-end closing of books, investigate and examine investment options and keep abreast of regulations. The duties and responsibilities of the Assistant Clerk include working with, and under, the direction of the Clerk to supervise elections and maintaining a "comprehensive and complex" filing and election records system. According to the job description, the Assistant to the Clerk must be self-motivated and self-directed, have an "extreme" focus on details, an ability to critically assess situations, solve problems and use initiative. The Administrative Assistant II position performs "high-level administrative" functions, including engaging in accounting activities such as generating billings, reconciling statements and processing payroll, while the Assessing Clerk is required to perform various "routine and complex" tasks. The Bookkeeper job description, which covers all three positions within that classification, lists duties and responsibilities which include performing and maintaining statistical, bookkeeping, or other complex records, preparing detailed records, verifying and balancing reports to the general ledger, reconciling accounts, statements and

² None of the employees holding these other bargaining unit positions were called to testify in this matter.

transactions, auditing documents and reports for accuracy and assisting in compiling information for use in annual audits and year-end close.

We find that the duties and responsibilities, skills, work location and wages of the full-time Accountant are not so dissimilar to other positions within Petitioner's unit so as to preclude us from finding that a community of interest exists. Although there are currently differences in retirement benefits between the Accountant and the positions in the unit, the existence of such a distinction arises from the Township's designation of the position as non-union, rather than a difference in benefits among employees under Petitioner's collective bargaining agreement. As such, the existence of this difference in benefits is of no relevance to the underlying issue of community of interest. See *Saginaw Valley State Univ*, 29 MPER 28 (2015); *Dearborn Pub Sch*, 2002 MERC Lab Op 287 (2002). Given that there is no other bargaining unit seeking to represent the full-time Accountant, and because denying the petition would leave the position unrepresented, it is consistent with well-established Commission policy to include the full-time Accountant in Petitioner's unit of administrative professional employees. See e.g., *Charlotte Pub Sch*, 1999 MERC Lab Op 68, 73; *City of Muskegon*, 1996 MERC Lab Op 64, 70.

In asserting that the petition should be dismissed, the Township argues that Faulkner's position is not "administrative" and, therefore, not included under the terms of the recognition clause of the parties' contract which defines the unit as consisting of all "administrative professional employees." It is well-established that this Commission does not recognize a distinct and separate category for "administrative" employees unless the standards pursuant to which positions are deemed "administrative" are clear from the record. *Saginaw Valley State Univ*, 19 MPER 53 (2006); *Washtenaw Cmty College*, 17 MPER 29 (2004). For example, in *Saginaw Valley State College*, 1988 MERC Lab Op 533, the employer created what it claimed was a new position, administrative assistant to the dean of the business school, and classified it as an unrepresented "administrative and professional" position outside the nonsupervisory bargaining unit of clerical employees. Although the parties' contract contained no explicit exclusion, employees designated by the college as "administrative" had been excluded from the unit by past practice. We held that the addition of "administrative" duties to the position was not sufficient to justify its removal from the unit where the parties had no recognized definition of an "administrative" employee and, despite a change in job title, the underlying nature of the position had not changed. See also *Lake Superior State Univ*, 17 MPER 9 (2004). In the instant case, there is no recognized standard or agreed upon definition of "administrative professional" employees which would justify excluding the full-time Accountant from Petitioner's bargaining unit, particularly given the other evidence of commonality in job duties, and other working terms and conditions.

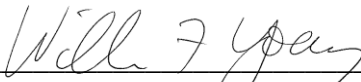
ORDER

For the reasons set forth above, the petition filed by the Technical, Professional and Officeworkers Association of Michigan is hereby granted and the bargaining unit of administrative professionals of Meridian Charter Township is clarified to include the position of full-time Accountant.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Tinamarie Pappas, Commission Chair



William F. Young, Commission Member

Issued: December 17, 2021