COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF	:	
	:	
	:	Case No. PERA-U-99-13-E
	:	(PERA-R-113-E)
	:	(PERA-R-114-E)
LOWER MERION SCHOOL DISTRICT	:	

FINAL ORDER

On November 14, 2000, the Lower Merion School District (Employer) filed timely exceptions to a Proposed Order of Unit Clarification issued on October 26, 2000. On November 29, 2000, the Lower Merion Education Association, PSEA/NEA (Association) filed its response to the Employer's exceptions.

In the Proposed Order of Unit Clarification, the hearing examiner concluded that the positions of network manager and network administrator are neither confidential nor supervisory within the meaning of the Public Employe Relations Act (PERA) and clarified the Association's bargaining unit to include those positions.

In its exceptions, the Employer contends that the hearing examiner erred in failing to consider all of the job duties of the positions at issue as set forth in their respective job descriptions and in concluding that the positions were not supervisory within the meaning of PERA. After a thorough review of the record, the Pennsylvania Labor Relations Board (Board) makes the following:

ADDITIONAL FINDING OF FACT

6. That the positions of network manager and network administrator were newly created by the Employer in early 1998. In July of 1998, Paul Roebuck was hired as the network manager and Carol Cafiero was hired as the network administrator. (N.T. 11, 33, 41-42).

DISCUSSION

The record reveals that the network manager is responsible for troubleshooting the school district's computer system, optimizing that system and ensuring that all updates are properly installed. Computer technicians, who are employes included in the Association's bargaining unit, inform the network manager what they will be doing during the workday and notify the network manager when they are leaving and returning to the building. The network manager assigns computer technicians to work the "help desk", which is the terminal to which the school district's computer users may report computer problems and seek assistance from the technicians in solving them. The network manager has never completed a performance evaluation for any of the computer technicians.

The network administrator interacts with the computer technicians on a daily basis and prioritizes problems reported to the help desk. The computer technicians rely upon the network administrator as a resource to solve the more difficult computer problems. Based upon these job duties,

the Hearing Examiner concluded that the network manager and network administrator were not supervisory employes within the meaning of PERA.

In its exceptions, the Employer would have the Board rely upon duties set forth in the positions' job descriptions that the Employer contends evidence the supervisory status of both positions, rather than the record evidence of the duties actually performed by the employes at issue. The Employer argues that because the two positions have only been in existence and filled since July of 1998, the employes in those positions have not yet performed the supervisory duties set forth in the job descriptions, specifically the duty to complete performance evaluations. The Board has long held that that it will not rely upon duties set forth in a job description where the employe at issue has not performed those duties. Northgate School District, 9 PPER ¶ 9220 (Final Order, 1978); Penn Township, 15 PPER ¶ 15015 (Final Order, 1993); School District of the Township of Millcreek v. Millcreek Education Association, 440 A.2d 673 (Pa. Cmwlth. 1982). Accordingly, reliance upon the job duties set forth in the job descriptions that the employes at issue have not yet performed cannot be relied upon to substantiate a supervisory exclusion. The Employer has a simple alternative remedy, which is to allow sufficient time from the establishment of the positions for the duties contained in the job descriptions to be actually performed by the employes prior to requesting clarification of the unit from the Board. This result works no disadvantage to the Employer because it is in the best position prospectively to evaluate the actual performance of its employes and timely file requests to clarify existing bargaining units.

Although the Employer did produce evidence that both the network manager and the network administrator assign the computer technicians their job duties, the record fails to reveal the extent to which the employes perform this supervisory duty in relation to their nonsupervisory duties. Pursuant to Section 604(5) of PERA, the Board takes into consideration the extent to which supervisory and nonsupervisory duties are performed in making a determination of supervisory status. State System of Higher Education v. PLRB, 737 A.2d 313 (Pa. Cmwlth. 1999); West Perry School District v. PLRB, 752 A.2d 461 (Pa. Cmwlth. 2000), pet. for allowance of appeal denied, ___ Pa. ___, ___ A.2d ___ (2000). Accordingly, the hearing examiner correctly concluded that on this record the Employer failed to carry its burden to prove that the positions at issue are supervisory.

After a thorough review of the exceptions and all matters of record the Board shall dismiss the exceptions filed by the Employer and affirm the Proposed Order of Unit Clarification issued by the Hearing Examiner.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by the Employer in the above-captioned matter be and the same are hereby dismissed and the Proposed Order of Unit Clarification is made absolute and final.

SEALED, DATED and MAILED pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, John Markle, Jr., Chairman,

L. Dennis Martire, Member, and Edward G. Feehan, Member, this nineteenth day of December, 2000. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code § 95.81(a), to issue and serve upon the parties hereto the within Order.