

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
: :  
: Case No. PERA-U-07-101-E  
: (PERA-R-826-C)  
CHAMBERSBURG AREA SCHOOL DISTRICT :

**PROPOSED ORDER OF UNIT CLARIFICATION**

On February 28, 2007, the Chambersburg Area Education Association (Association) filed a Petition for Unit Clarification with the Pennsylvania Labor Relations Board (Board), seeking clarification of a unit of professional employes of the Chambersburg Area School District (District) to include the position of elementary head teacher.

On April 13, 2007, the Secretary of the Board issued an Order and Notice of Hearing in which May 10, 2007 was assigned as the time for a telephone pre-hearing conference to resolve the matters in dispute and May 29, 2007, in Harrisburg was assigned as the time and place of hearing, if necessary. The hearing was necessary, but was continued to July 27, 2007, at which time the parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence.

The examiner, on the basis of the evidence presented at the hearing and from all other matters and documents of record makes the following:

FINDINGS OF FACT

1. That the Chambersburg Area School District ("District") is a public employer as defined in the act.
2. That the Chambersburg Area Education Association/PSEA/NEA (Association) is an employe organization as defined in the Act.
3. That on August 4, 1971, at PERA-R-826-E, the Board certified the Association as the exclusive representative of "all classroom teachers, guidance counselors and home and school visitors, librarians, nurses and dental hygienists and the head of the school nursing department, but excluding teaching principals in the elementary schools, department heads, and all other employes of the employer performing non-professional work, any other supervisors, first level supervisors and confidential employes as defined in the Act." (N.T. 10, Board Exhibit 1)
4. That the District has 17 elementary school buildings. Each building has a head teacher. (N.T. 20)
5. That the District's elementary education program is divided into seven regions, each supervised by a principal. (N.T. 19-20)
6. That the regional principal makes regular visits to the elementary buildings in his or her region. The interval between visits may vary from a day to a week. On designated days, the principal schedules a meeting with the head teacher. (N.T. 49, 94)
7. That Reid Pletcher is Regional Principal for Elementary School Region 3. He supervises Fred Mickey at Marion Elementary, Shawn Temple at South Hamilton Elementary and Bernadette Bendo at Doherty Elementary. (N.T. 105)
8. That Pletcher visits two of these buildings on a daily basis and one of the buildings two or three times a week. (N.T. 111)

9. That the head teacher is responsible for managing the daily routines of the professional and nonprofessional employes of the building. As an example, head teachers establish the appropriate place for parents and buses to pick up students. (N.T. 20, 88, District Exhibit 2)

10. That the elementary head teacher is responsible for assigning extra daily, weekly and monthly responsibilities to all staff members, including professional and nonprofessional employes. Examples included bus duty and recess duty. (N.T. 20, 21-22, 83, District Exhibits 2 and 3)

11. That the elementary head teacher is responsible for developing a building budget for supplies and allocating expenditures from that budget to all the staff. (N.T. 20, 38-39, 41-42, 108, District Exhibits 2 and 11)

12. That the elementary head teacher is responsible for maintaining and amending a safe school plan and educating building staff on safe school procedures. This includes protocol for emergencies and evacuations. (N.T. 20, 85, 90, District Exhibit 2)

13. That the head teachers prepare and distribute a school handbook for their building. The handbook contains general rules and procedures applicable to the entire district but also specific rules and procedures relevant to the particular elementary building prepared by the head teacher. (N.T. 39-40)

14. That the elementary head teachers hold monthly staff meetings with other head teachers. (N.T. 30-31)

15. That the head teachers have a secretary in their building. (N.T. 46)

16. The head teachers receive a stipend of \$6,000 in addition to the base teacher salary. The stipend is to increase to \$7,000 by the end of the current collective bargaining agreement. (N.T. 13-14)

17. That the head teachers work 193 days a year. The other teachers work 188 days a year. (N.T. 46)

18. That the head teachers have a longer work day than the other teachers; 7:30-4:00 compared to 8:15-3:15. (N.T. 47)

19. Generally, the head teachers use the beginning and end of school to perform the head teacher duties. Also, they perform those duties at lunch, morning and afternoon recesses, for a total of two hours. (N.T. 48)

#### DISCUSSION

The Association has petitioned the Board to include the position of elementary head teacher in the bargaining unit of professional employes. The District opposes the petition on the ground that the position is a supervisor under Section 301(6) of PERA and a management level employe under Section 301(16) of PERA.

The District relies on Bedford Area School District, 23 PPER ¶ 23177 (Proposed Decision and Order, 1992), 24 PPER ¶ 24069 (Final Order, 1993) in which the Board affirmed the hearing examiner's decision that the District's six head teachers were not supervisors but were management level employes within the meaning of Section 301(16) of PERA. The Board reasoned that even though the head teachers performed some supervisory duties, the head teachers were not supervisory under PERA "because the extent to which they perform supervisory functions is limited." 24 PPER at 176. The Board reasoned that under Section 604(5) of PERA, it was permitted to take into consideration the extent to which supervisory and nonsupervisory functions are performed in making a determination of supervisory status under Section 301(6) of PERA.

In recent years, the Board, with appellate court approval, has restated this principle of taking into consideration the extent to which an employe performs

supervisory work. See e.g. West Perry School District v. PLRB, 752 A.2d 462 (Pa. Cmwlth. 2000), petition for allowance of appeal denied, 568 Pa. 675; 795 A.2d 984 (2000).

In the present case, the bulk of a head teacher's daily schedule is spent teaching. Their supervisory work, such as assigning duties, is small in proportion to their teaching duties. More important, the record does not show that the head teachers exercise the traditional duties of a supervisor such as hiring or issuing serious discipline that would show they hold authority calling for the use of independent judgment that carries with it the power to reward or sanction employes. Mifflin County, 14 PPER ¶ 14012 (Proposed Decision and Order, 1982); 14 PPER ¶ 14051 (Final Order, 1983). Accordingly, the head teachers are not supervisors under Section 301(6) of PERA.

The District's second basis for excluding the head teachers is that the position is management level, which is defined in Section 301(16) of the Act as:

(16)'Management level employe' means any individual who is involved directly in the determination of policy or who responsibly directs the implementation thereof and shall include all employes above the first level of supervision.

43 P.S. 1101.301(16)<sup>1</sup>.

In support of its case, the District presented the testimony of two head teachers, Gladys Leon and Bradford Horst, and a regional principal, Reid Pletcher. The essence of their testimony was that the elementary head teachers responsibly directed the implementation of policy regarding five separate aspects of their elementary schools. The elementary head teachers are responsible for managing the daily routines of the building; assigning staff for extra duties; preparing and administering a supplies budget for each building; creating, amending and implementing a safe schools plan for their building and developing and distributing a handbook for their particular building.

The District's evidence is similar to the evidence supporting the Board's conclusions in Bedford Area School District, supra that elementary head teachers in that district were management level employes. The Board stated, "The hearing examiner correctly concluded that the head teachers are involved in the determination of policy when they prepare and distribute school handbooks, develop emergency plans for their schools and attend meetings regarding the operation of their schools. The head teachers are also involved in the implementation of policy through their sole responsibility for the day-to-day operation of their schools. " 24 PPER at 176. The elementary head teachers in Chambersburg Area School District perform similar functions and more.

In operating its elementary school buildings, the District has a legal obligation to have one individual in each building responsible for the safety and security of the students, teachers and support staff. Instead of assigning a principal to each building to carry out this responsibility, the District has assigned head teachers this responsibility and vested principals with broad supervision over regions. Accordingly, the District has met its burden of proof that the elementary head teachers are management level employes.

#### CONCLUSIONS

The examiner, therefore, after due consideration of the foregoing and the record as a whole concludes and finds:

1. That Chambersburg Area School District is a public employer within the meaning of Section 301(1) of the PERA.

2. That the Chambersburg Area Education Association/PSEA/NEA is an employe organization within the meaning of the Section 301(3) of PERA.

3. That the Board has jurisdiction over the parties hereto.

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<sup>1</sup> The Board's 1971 Nisi Order of Certification at PERA-R-826-C mistakenly did not contain the standard language excluding "management level employes" from the description of the unit.

4. That the position of elementary head teacher is not a supervisor within the meaning of Section 301(6) of PERA.

5. That the position of elementary head teacher is a management level employe within the meaning of Section 301(16) of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the examiner

HEREBY ORDERS AND DIRECTS

that the unit certified by the Board at PERA-R-826-C is amended to exclude the position of elementary head teacher.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to Pa. 34 Code § 95.98 within twenty (20) days of the date hereof, this decision and order shall become absolute and final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania this fifth day of June, 2008.

PENNSYLVANIA LABOR RELATIONS BOARD

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THOMAS P. LEONARD, Hearing Examiner