

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PERA-U-07-414-W
: (Case No. PERA-R-80-724-W)
: :
CRAWFORD CENTRAL SCHOOL DISTRICT :

PROPOSED ORDER OF DISMISSAL

On September 27, 2007, the Crawford Central School District (District) filed with the Pennsylvania Labor Relations Board (Board) a petition for unit clarification seeking to exclude the position of student information systems coordinator from a bargaining unit represented by the Crawford Central Educational Support Professional Association (Association). On October 9, 2007, the Secretary of the Board issued an order and notice of hearing directing that a hearing be held on December 18, 2007. The hearing was held as scheduled. The hearing examiner afforded both parties a full opportunity to present evidence and to cross-examine witnesses. On March 18, 2008, the District filed a brief by deposit in the U.S. Mail. On April 4, 2008, the Association filed a brief by deposit in the U.S. Mail.

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

FINDINGS OF FACT

1. On June 26, 1981, the Board certified the Crawford Central School Service Personnel Association, PSSPA/PSEA, as the exclusive representative of the District's employes in a bargaining unit described as follows:

"In a subdivision of the employer unit comprised of all full-time and regular part-time nonprofessional employes including but not limited to secretaries, aides, custodians, cafeteria and maintenance employes; and excluding professional employes, management level employes, supervisors, first level supervisors, confidential employes and guards as defined in the [Public Employe Relations Act (PERA)]."

(Case No. PERA-R-80-724-W)

2. In 1987, James B. Shryock began working for the District as its student information systems coordinator. He had a bachelor's degree in computer science from Allegheny College at the time. He was responsible for making sure that student data was accurate. (N.T. 7-8, 26-27)

3. On May 29, 1990, the Board certified the Association as the exclusive representative of the bargaining unit. (Case No. PERA-U-90-296-W)

4. In the winter of 2000, Mr. Shryock took a course on computer hardware through the Erie Business Center. (N.T. 21)

5. During the 2002-2003 school year, the District purchased a software package called Student Administrative Software Information (SASI) and a software package called Integrate Pro (IG Pro) to manage its student data. SASI allows employes to record student attendance in a computer database. IG Pro allows teachers to record student grades in an electronic grade book and ties in with SASI so that grades and attendance records are located in one computer database. Mr. Shryock helped install a network of servers to run the software. (N.T. 10-11, 15-16, 22, 32)

6. Mr. Shryock became responsible for the implementation and maintenance of SASI and IG Pro and of another software package called Parent Connect that the District purchased to allow parents to access the computer database over the internet. He troubleshoots problems with the use of SASI and IG Pro and periodically installs updates for them. (N.T. 10-11, 13-17, 24-26, 35-37)

7. At the beginning of each school year and as needed throughout the school year, Mr. Shryock trains teachers in the use of SASI and IG Pro. He shows them how to log on to the network, how to retrieve email, how to record student attendance, how to create seating charts, how to record student grades and how the information they enter into SASI and IG Pro gets reported on the internet. (N.T. 11-12)

8. During the 2007-2008 school year, the District began using a computer program called the Pennsylvania Information Management System (PIMS) to report data to the Pennsylvania Department of Education. Mr. Shryock became responsible for adapting the District's software to work with PIMS. He customized fields, created new fields and wrote code for that purpose. (N.T. 18-19, 28-29)

9. In order to keep up to date in his field, Mr. Shryock reads PC Journal at home. (N.T. 36)

DISCUSSION

The District has petitioned to exclude the position of student information systems coordinator from a bargaining unit represented by the Association. According to the District, the student information systems coordinator should be excluded from the bargaining unit as a professional employe. In the District's view, the work the current occupant of the position (Mr. Shryock) performs with computers is professional in nature.

The Association contends that the petition should be dismissed because the District did not show that Mr. Shryock's duties as the student information systems coordinator includes the work he performs with computers. According to the Association, the work Mr. Shryock performs with computers is pursuant to an extra-duty assignment for which the District pays him a stipend and thus is irrelevant as to his placement in or out of the bargaining unit as the student information systems coordinator. The Association alternatively contends that the petition should be dismissed because the work Mr. Shryock performs with computers does not meet any of the elements of the test for determining professional status.

Professional employes are expressly excluded from the bargaining unit (finding of fact 1), so if Mr. Shryock's work as the student information systems coordinator is professional in nature, his position must be excluded from the bargaining unit.

Section 301(7) of the PERA defines a professional employe as follows:
" 'Professional employe' means any employe whose work: (i) is predominantly intellectual and varied in character; (ii) requires consistent exercise of discretion and judgment; (iii) requires knowledge of an advanced nature in the field of science or learning customarily acquired by specialized study in an institution of higher learning or its equivalent; and (iv) is of such character that the output or result accomplished cannot be standardized in relation to a given period of time."

In Luzerne County Community College, 37 PPER 47, the Board observed that "[t]he test as outlined in [section 301(7) of] PERA is a conjunctive test and all four parts of the test must be met in order for an employe to be found to be professional under PERA." 37 PPER at 147. Thus, in that case, the Board found that a network administrator who provided employes with access to computer files via a server was not a professional employe because he did not meet the third element of the test. As the Board explained, his work required knowledge that was self-taught rather than knowledge that is customarily acquired by specialized study in an institution of higher learning or its equivalent. Likewise, in Butler County, 10 PPER ¶ 10057 (Order and Notice of Pre-election

Conference 1979), the Board found that computer programmers were not professional employees. As the Board explained in that case:

"The record shows that the computer programmers are required to have a degree from an accredited programming school before they are hired by the Employer, but that they need not be experienced at the time they are employed. Their function is to communicate with the computers such that the computers perform the tasks assigned to them.

In Safeway Stores, 174 NLRB No. 189, 70 LRRM 1438 (1969), the NLRB concluded that computer programmers were non-professional employees even though they were required to have a college degree and one to three years experience in their field. The NLRB noted that a prolonged course of specialized intellectual instruction and studying was not required to be a computer programmer; rather, one year's experience was all that was required in order to capably perform the duties of a computer programmer.

We reach the same result herein. We are not persuaded in the present record that the parties' stipulation that the computer programmers are professionals accurately reflects the substance of their function. To the contrary, we believe the computer programmer's work does not require knowledge of an advanced nature customarily acquired by specialized study in an institution of higher learning or its equivalent. Accordingly, we conclude that the computer programmers are not professional employees within the meaning of section 301(7) of the Act and include them in the [nonprofessional] unit."

10 PPER at 94.

The same result obtains on the facts of record here. As set forth more fully in findings of fact 5-8, the record shows that Mr. Shryock's work with computers includes the implementation and maintenance of various computer software packages. Under Luzerne County Community College, supra, and Butler County, supra, it is apparent that work of that nature does not require knowledge that is customarily acquired by specialized study in an institution of higher learning or its equivalent. There is, therefore, no basis for finding that Mr. Shryock's work meets the third element of the test for professional status. Accordingly, the petition must be dismissed.

In support of its contention that Mr. Shryock is a professional employee, the District relies on his testimony that he has a bachelor's degree in computer science (N.T. 7-8) and that he does not "feel that someone without that could walk right in and do the job" (N.T. 20). As noted above, however, in Luzerne County Community College, supra, and in Butler County, supra, the Board found that substantially similar work could be performed without knowledge customarily acquired by specialized study at an institution of higher learning or its equivalent. Mr. Shryock's feeling to the contrary is, therefore, irrelevant. Thus, Mr. Shryock's testimony provides no support for the District's contention.

Given that all four elements of the test for professional status must be met in order for an employee to be found to be professional, Luzerne County Community College, supra, the fact that Ms. Shryock's work does not meet the third element of the test for professional status is dispositive in and of itself. Under the circumstances, the Association's contention that the petition also should be dismissed because Mr. Shryock's work with computers does not meet any of the other elements of the test for professional status need not be addressed.

Given the foregoing disposition, the Association's contention that the petition also should be dismissed because the District did not show that Mr. Shryock's duties as the student information systems coordinator includes the work he performs with computers need not be addressed either. It is noted, however, that in School District of the Township of Millcreek v. Millcreek Education Association, 440 A.2d 673 (Pa. Cmwlth. 1982), the court held that "the purpose of a unit clarification petition under the PERA is to determine whether certain job classifications are properly included in a bargaining

unit, based upon the actual functions of the job." 440 A.2d at 675. It also is noted that while the District pays Mr. Shryock a stipend for the work he performs with computers (Association Exhibit 2), it is apparent that his work in that regard is among the actual functions of his job as the student information systems coordinator. The Association's contention is, therefore, without merit in any event.

CONCLUSIONS

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

1. The District is a public employer under section 301(1) of the PERA.
2. The Association is an employe organization under section 301(3) of the PERA.
3. The Board has jurisdiction over the parties.
4. The student information systems coordinator is not a professional employe under section 301(7) of the PERA.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the petition is dismissed.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this order shall be final.

SIGNED, DATED and MAILED from Harrisburg, Pennsylvania, this fifteenth day of April 2008.

PENNSYLVANIA LABOR RELATIONS BOARD

DONALD A. WALLACE, Hearing Examiner

Direct Dial 717-783-3050

FAX Number 717-783-2974

April 15, 2008

Richard W. Perhacs, Esquire
KNOX MCLAUGHLIN GORNALL & SENNETT PC
120 W. Tenth St.
Erie, PA 16501-1461

Richard S. McEwen, Esquire
PSEA LEGAL DIVISION
4250 Route 6N East
Edinboro, PA 16412-1735

CRAWFORD CENTRAL SCHOOL DISTRICT
Case No. PERA-U-07-414-W

Enclosed is a copy of my proposed order of dismissal.

Sincerely,

DONALD A. WALLACE
Hearing Examiner

Enclosure

cc: Crawford Central EA