

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
:  
: CASE NO. PERA-U-24-207-E  
: (PERA-R-22-C)  
:  
:  
KEYSTONE CENTRAL SCHOOL DISTRICT :

**PROPOSED ORDER OF UNIT CLARIFICATION**

On September 3, 2024, the Association of Clinton County Educators PSEA/NEA (Association or Union) filed a Petition for Unit Clarification with the Pennsylvania Labor Relations Board (Board) seeking to include the Dean of Students position into a unit of professional employees of the Keystone Central School District (District or Employer) certified at PERA-R-22-C.

On September 23, 2024, the Secretary of the Board issued an Order and Notice of Hearing assigning the charge to conciliation for the purpose of resolving the matters in dispute through mutual agreement of the parties and designating December 6, 2024, in Harrisburg, as the time and manner of hearing.

The hearing was necessary and held on December 6, 2024, in Mill Hall, before the undersigned Hearing Examiner, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The Association and District both filed post-hearing briefs on January 17, 2025.

The Hearing 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. The District is a public employer pursuant to PERA. (N.T. 6-7).
2. The Association is an employee organization pursuant to PERA. (N.T. 6-7).
3. The Association is the exclusive representative of a unit comprised of all professional employees of the District including all full-time classroom teachers, librarians, school nurses, guidance counselors and department heads; but excluding all personnel of the superintendent's office, principals, elementary supervisors, specialists, head teachers, and all other employees of the employer performing non-professional work, and further excluding all supervisors, first-level supervisors, and confidential employees as defined in Act 195. (PERA-R-22-C).
4. In 2018, the unit was clarified to include Summer Testing Coordinators. (PERA-U-17-357-E).
5. The District has two high schools. One is Central Mountain High School and the other is Bucktail High School. The Bucktail High School is combined with the Bucktail Middle School and Renovo Elementary School. The Middle School is split between the High School building and the Elementary

School building. This combination of the three schools in two buildings is referred to as the Bucktail campus. (N.T. 12).

6. At the time of the hearing, James Poleto was the principal of the Bucktail campus (i.e, of all three schools at the campus). Prior to the 2024-2025 school year, Melissa Umbenhouer also served as a part-time principal at the Bucktail campus. (N.T. 12, 24, 33).

7. Within the District exists the position of Instructional and Behavioral Support Facilitator (Facilitator). This position exists at multiple buildings throughout the District. The duties of the Facilitator include handling minor student discipline issues including dealing with student behavior in classrooms, hallways and the cafeteria. This position is in the bargaining unit. (N.T. 14-15).

8. Micheal Poorman was the Bucktail Facilitator prior to being the Bucktail Dean of Students. Poorman was hired as Facilitator in January, 2024. In addition to being the Facilitator, he was also employed as a Special Education teacher and taught a few blocks a day. He has been a teacher in the District since 2010. As Facilitator, Poorman supported student discipline and day-to-day issues such as calling parents, coordinating behavior meetings, and coordinating discipline. If something major happened, he would escalate to one of the two principals (Poleto or Umbenhouer). (N.T. 15, 18, 23, 27, 41-42).

9. In the spring of 2024, the District realized that it was going to be short on administrators due to upcoming retirements. The District knew it needed another administrator, however at the same time, it felt constrained in terms of increasing the budget and felt it needed to be fiscally responsible. With these issues in mind, the District decided it could move Umbenhouer to full-time away from the Bucktail campus and then figure out how to get the Bucktail campus more administrative support. Randy Zangara, the Assistant Superintendent, had the idea to create a new Dean of Students position who could "operate basically like an assistant principal without the ability to evaluate . . . staff." Zangara proposed this idea because, in part, the District could pay a Dean of Students less than an Assistant Principal. The District though did have the goal of eventually transitioning the Dean of Students to an Assistant Principal when properly certified. In creating the Dean of Students position, Zangara used a description for a former school district he worked in and altered it as appropriate. Zangara intended the position to be "a bridge to the next level" of being an assistant principal. (N.T. 79-81).

10. In the spring of 2024, the Association became aware that the District had created and was going to fill a new Dean of Students position for the Bucktail campus. At the time, members of the Association at the Bucktail campus were concerned about administrative support because they knew at that time that Umberhouer, the part-time principal, would no longer be working at the Bucktail Campus starting that fall. (N.T. 16, 25-26).

11. On or about April 12, 2024, the District began advertising and posted via email a new professional job position entitled "Dean of Students". The Dean of Students position was for the Bucktail campus. The posting email states in relevant part:

K-12 Dean of Students-Bucktail Campus

ACT 93 Range

Entry \$75,000 - Midpoint \$90,000 - Career \$105,000

Position will be official on 7/1/2024. Start date is approximately two weeks before school starts.

QUALIFICATIONS: Valid teaching certificate, master's degree or master's degree in progress (preferred), successful teaching experience. K-12 Principal Certification in process, or will be within 6 months.

REPORTS TO: K-12 Principal

JOB GOAL: Assists the school principal with direction, leadership, and day-to-day management of educational and athletic activities within the K-12 campus. Plays an integral role in the establishment and maintenance of a school climate that is conducive to learning, including overseeing the enforcement of school rules and regulations, and the assistance with disciplinary measures when deemed necessary. Assists with the oversight of school programs and policies; assists in planning and services for professional and non-professional personnel such as staff development activities, resource management, and instructional program management.

The position of a Dean of Students is a 205-day Act 93 position and shall include active participation in the District's management team. The position reports directly to and is evaluated annually by the Principal(s).

(N.T. 16, 89; Association Exhibit 2).

12. Poorman was hired by the District to be the Dean of Students at the Bucktail campus. The District did not fill his vacated Facilitator position. (N.T. 17).

13. As Dean of Students, Poorman performs the same job duties as he did as Facilitator such as student discipline and student behavior. In addition, he also performs the following new duties: he handles teacher scheduling conflicts, assigns coverage to handle absences, and handles substitute teacher issues. He schedules athletics events. He also handles PBIS issues. PBIS is the District's positive student behavior reinforcement program. He also sits in on administration meetings. (N.T. 29-32, 36-37, 44).

14. As Dean of Students, Poorman will direct professional staff, such as telling a teacher to cover a specific class for the day. (N.T. 55).

15. As Dean of Students, Poorman has no authority to do formal observations or evaluations of professional or non-professional staff. (N.T. 45-47).

16. As Dean of Students, Poorman has never disciplined any employee. There has been no discipline of any employee while he has been Dean of Students. Poorman testified that he believes if there were to be a staff discipline issue, he would assist the administration in the process. In terms of termination, ultimately the Superintendent and School Board vote to discharge any employee and no principal has the independent authority to

terminate or suspend anyone. The Superintendent has the responsibility of making discipline recommendations to the School Board. (N.T. 47, 75, 86-88).

17. As Dean of Students, Poorman has participated in hiring interviews as a member of a panel and expressed his opinion of the candidate as a member of the panel. Poleto is also in these interviews. Poleto puts together any recommendation to hire which is forwarded to the Superintendent for eventual action by the School Board. Poorman's recommendation is not on its own sufficient to hire anyone. It is the principal's duty to take any recommendation forward to the Superintendent. (N.T. 48, 66-67, 73-74, 77, 86).

18. As Dean of Students, Poorman shares an office with Poleto in the Elementary and High School buildings. (N.T. 34).

19. At the time of the hearing, Poorman did not have his K-12 principal's certification, though he was in a program and working on it. (N.T. 43).

20. Poorman and Poleto arrange their schedules so that at least one of them is in one of each campus building. They rotate every other day so that they keep in touch with staff and students. When Poorman is in a building as Dean of Students, he "runs the building". When there is an issue that is above him, he will talk to Poleto about it. (N.T. 50, 54).

21. At the time of the hearing, Poorman had not participated in any budget processes. He testified that, in the near future, he expected to get some experience in the budget process. (N.T. 56-57).

22. As Dean of Students, Poorman will walk through the school during school hours and check on classes, teachers and students. He is not doing formal observations but is instead making sure classes are proceeding appropriately. If he discovers a major issue, he reports them to Poleto. (N.T. 59-60).

#### **DISCUSSION**

The Association petitioned to add the new position of Dean of Students into the professional unit. The record in this matter shows that the District created the Dean of Students position to address a shortfall of administrative support at its Bucktail campus.

The Association has the initial burden of showing that the Dean of Students has an identifiable community of interest with other members of the bargaining unit. Section 604 of PERA provides, in relevant part, as follows:

The [B]oard shall determine the appropriateness of a unit which shall be the public employer unit or a subdivision thereof. In determining the appropriateness of the unit, the [B]oard shall:

(1) Take into consideration but shall not be limited to the following: (i) public employees must have an identifiable community of interest, and (ii) the effects of over fragmentation.

43 P.S. § 1101.604.

It is the burden of the petitioning party, in this case the Association, to show an identifiable community of interest. When determining whether employees share an identifiable community of interest, the Board considers such factors as the type of work performed, educational and skill requirements, pay scales, hours and benefits, working conditions, interchange of employees, grievance procedures, bargaining history, and employees' desires. West Perry School District v. PLRB, 752 A.2d 461, 464 (Pa. Cmwlth. 2000). An identifiable community of interest does not require perfect uniformity in conditions of employment and can exist despite differences in wages, hours, working conditions, or other factors. Id.

Section 301(7) of PERA provides as follows:

"Professional employee" means any employee 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.

43 P.S. § 1101.301(7). The test is conjunctive, and all four parts must be met in order for an employee to be deemed professional under PERA. In the Matter of the Employees of Luzerne County Community College, 37 PPER 47 (Final Order, 2006). The same factors (such as work performed, educational and skill requirements) that support professional status also support the conclusion that the employees in a proposed professional bargaining unit share an identifiable community of interest with the existing professional employees in the unit. In the Matter of the Employees of Temple University, 47 PPER ¶ 54 (Order Directing Submission of Eligibility List, 2015); In the Matter of the Employees of Temple University Health System Episcopal Hospital, 41 PPER 177 (Order Directing Submission of Eligibility List, 2010); In the Matter of the Employees of Riverview Intermediate Unit, 37 PPER 106 (Final Order, 2006).

In this matter, it is not contested that the Dean of Students is a professional employee. Indeed, the record is quite clear that the job of Dean of Students is predominantly intellectual and varied in character. The Dean of Students performs a variety of high-level job functions throughout the school day and does not have a routine set of duties. The Dean of Students must also use his professional discretion and judgment in a variety of challenging circumstances such as scheduling staff and disciplining students. The Dean of Students position requires a bachelor's degree and, ultimately, a master's degree. Finally, there is no question on this record that the Dean of Student's job cannot be standardized in relation to a given period of time. The Dean of Students is a professional employee.

As the Dean of Students is a professional employee, he shares an identifiable community of interest with the other professional employees in the Association's unit.

The District argues that the Dean of Students is a supervisor or management level employee and therefore should not be included in the unit. The party arguing for the exclusion of an employee from a unit on a statutory ground bears the burden of proving a basis for the exclusion. School District of Philadelphia v. Commonwealth of Pennsylvania, PLRB, 719 A.2d 835 (Pa. Cmwlth. 1998).

Section 301(6) of PERA provides as follows:

"Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances; or to a substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

43 P.S. § 1101.301(6).

In determining the difference between a lead worker or task leader and a statutory supervisor, the Board has examined the requirement that the employee "responsibly direct" other employees. The Board explained the meaning as follows:

"Direct" infer[s] authority to order employees as to the nature, quality and quantity of their work. "Responsibly" infers authority to grant reward or sanction should such orders not be followed, or, to a substantial degree, to be able to effectively recommend such reward or sanction. The right to order the work force and the ability to effect reward or sanction are what distinguish a "supervisor" from a "task leader."

In the Matter of the Employees of Danville Area School Dist., 8 PPER 195 (Order and Notice of Election, 1977). The Board has repeatedly and consistently emphasized that "an employee who lacks the authority to effect reward or sanction simply cannot be excluded from a bargaining unit as a supervisor." In the Matter of the Employees of Pennsylvania State University, Milton S. Hershey Medical Center, 20 PPER 20126 (Final Order, 1989); Findlay Township Water Authority, 21 PPER ¶ 21130 (Final Order, 1990) (reiterating that "[t]he hallmark of supervisory status under [PERA] is the ability to effect reward or sanction").

Moving to this matter, as for the Dean of Student's duties, the District did provide a job description at District Exhibit 3. I do not credit this job description as being an accurate summation of the duties performed by Poorman, however, and in the Findings of Fact above instead rely solely on the testimony at the hearing regarding his duties. I do not rely on the job description because it contains many duties that Poorman had not performed.<sup>1</sup>

The record is clear that the Dean of Students is not a supervisor but is a lead worker. Importantly, Poorman lacks the authority to effect reward or sanction of any employee. Milton S. Hershey Medical Center, *supra*. Therefore, he lacks the hallmark of supervisory status. Findlay Township

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<sup>1</sup>In making this determination, I rely on the record as a whole and especially the District's direct examination of Poorman at N.T. 58-66. Poorman's testimony here shows that the job duties he had actually performed did not substantially match his job description.

Water Authority, supra. The record shows that Poorman does not have the authority to discipline any employee in the school. He has never done so. I infer from the record that if Poorman had been involved in any discipline process as Dean of Students, it would be Poletto, the Principal, or the Superintendent who would make the ultimate effective recommendation of employee discipline to the School Board. Additionally, while Poorman participates in hiring committees, mere participation on a panel that interviews and recommends a candidate for employment is insufficient to support a supervisory determination. Saucon Valley Education Ass'n v. Saucon Valley School District, 32 PPER ¶ 32167 (Final Order, 2001) (citing State System of Higher Education v. PLRB, 737 A.2d 313 (Pa. Cmwlth. 1999)). The Dean of Students is not a supervisor.

In its Brief, the District also argues that the Dean of Students should be excluded because it is a management level position. Section 301(16) of PERA defines "management level employee" as:

[A]ny individual who is involved directly in the determination of policy or who responsibly directs the implementation thereof and shall include all employees above the first level of supervision.

43 P.S. § 1101.301(16). The Board has interpreted Section 301(16) of PERA as follows:

The statute may be read to state a three-part test in determining whether an employee will be considered managerial. Those three parts are (1) any individual who is involved directly in the determination of policy; (2) any individual who responsibly directs the implementation of the policy; or (3) employees above the first level of supervision.

Commonwealth of Pennsylvania (Attorney Examiners I), 12 PPER ¶ 12131 at 203 (Final Order, 1981).

An employee who plays a meaningful role in the development of a budget is a management level employee within the meaning of the first part of Section 301(16) of the Act dealing with direct involvement in the determination of policy. Pennsylvania Association of State Mental Hospital Physicians v. PLRB, 554 A.2d 1021 (Pa. Cmwlth 1989), petition for allowance of appeal denied, 525 Pa. 590, 575 A.2d 119 (1990). An employee is not a management level employee if their work history is of insufficient duration for the Board to find that their involvement in the determination of policy has been meaningful. Bethel Park School District, 18 PPER ¶ 18140 (Final Order, 1990).

Moving to this matter, the District has not met its burden of showing that the Dean of Students is a management level employee. There is no record to establish that the Dean of Students is above the first level of supervision. The record also does not support that the Dean of Students is involved in the determination of policy as Poorman has not been in his position long enough to find that he has had any meaningful involvement in the determination of policy. The record shows that he has not participated in any budget processes. While he is instrumental in student discipline, the

record does not show that he determines in any way the District's student discipline policy.

While Poorman did testify that, when he is in a building as Dean of Students apart from Poleto, he "runs the building," this testimony was not well developed and I do not credit it as an example of the determination or implementation of policy. Importantly, Poorman testified that when he is "run[ning] the building" he will go to Poleto for any issue that is above him. This testimony shows Poorman does not have the authority to determine or implement policy but instead applies policy using his professional expertise. Similarly, Poorman testified that he does walkthroughs of the schools as Dean of Student. However, when he does these walkthroughs, he is not doing any formal evaluations of staff and testified that if he found any major issues, he would bring the issues to Poleto for resolution. This testimony again tends to show that Poorman lacks the authority to determine and implement policy as Dean of Students and, in performing his job, applies policy as a professional. Mere application of existing policy formulated by others does not evidence managerial status. County of Berks v PLRB, 28 PPER ¶ 28234 (Court of Common Pleas of Berks County, 1997); Horsham Township, 9 PPER ¶ 9158 (Final Order, 1978); Spring Grove Area School District, 38 PPER ¶ 54 (Proposed Order of Unit Clarification, 2007).

The record also shows that Poorman, as Dean of Students, schedules athletic events for the Bucktail campus and participates in administrative meetings. However, the record is insufficient to show that these activities rise to the level of management level employee.

For the above reasons, the Dean of Students shares an identifiable community of interest with members of the professional unit and is not a supervisor or management level employee. The position of Dean of Students is added to the bargaining unit.

### **CONCLUSION**

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 within the meaning of Section 301(1) of PERA.
2. The Association is an employee organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties.
4. The Dean of Students shares an identifiable community of interest with the members of the bargaining unit.
5. The Dean of Students is not a supervisor or management level employee.
6. The Dean of Students is properly included in the bargaining unit.

### **ORDER**

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



**HEREBY ORDERS AND DIRECTS**

that the bargaining unit is amended to include the position of Dean of Students.

**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 and become absolute and final.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this seventh day of March, 2025.

**PENNSYLVANIA LABOR RELATIONS BOARD**

/s/ Stephen A. Helmerich  
STEPHEN A. HELMERICH, Hearing Examiner