

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

SERB OPINION 92-012

In the Matter of
Ohio Health Care Employees Union
District 1199, SEIU,
Employee Organization,
and
Ohio Civil Service Employees Association
Local 11, AFSCME, AFL-CIO,
Employee Organization,
and
Office of Collective Bargaining,
Employer.

CASE NUMBERS: 91-REP-02-0035
91-REP-02-0037

OPINION

SHEEHAN, Board Member:

I.

The issue in this case is whether the classification of "Mental Health Standards Surveyors" should be included in State Unit 11 or in State Unit 14. The hearing officer found this case to be a close call and recommended placing this classification in Unit 14. The hearing officer based her recommendation to a great extent on a community of interest analysis, pointing out that while the classification at issue shares some community of interest with the classification of "Health Care Facilities Surveyors," which is in Unit 11, it has much more community of interest with another classification - "Mental Health Licensure/Certification" - which is included in Unit 14. We do not agree with this recommendation. Even if arguably this is the case, it is only limited to a very small picture. The big picture is much different.

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Given the size of state units, it is likely that in any given unit, a handful of employees can be found with whom a new or changed classification may share community of interest. However, attention must be given to the overall unit composition in determining the correct placement.

II.

In 1985, when SERB determined the structure of the bargaining units for state employees and designated 14 state units, State Unit 11 was designated as a unit of "Health Care Professionals," and State Unit 14 was designated as the "Administrative Professionals" unit. In re State of Ohio, SERB 85-009(3-29-85).

As the health care professionals unit, Unit 11 with approximately 1800 employees, includes all professionals with health-facility inspection responsibilities, which number close to four hundred. (Tr. 79-83). By contrast, the only health inspectors who are not included in Unit 11 are two employees classified as Mental Health Licensure/Certification Coordinators. They are included in State Unit 14 with nearly 4,000 other employees. It is with this small classification that the hearing officer found community of interest when she placed Mental Health Standards Surveyors in State Unit 14. Considering the nature and designation of Unit 11 and the massive number of employees there who carry health-facility inspection responsibilities, we believe their placement is inappropriate.

Even if there is a substantial community of interest between the classification at issue and the two employees in Unit 14, clearly, looking at the big picture, the appropriate unit for the classification at issue is Unit 11, which is the designated unit for health care professionals. Unit

11 already includes hundreds of employees who are involved, like the classification at issue, with health-facility inspection responsibilities. Unit 14 is not a specific health care professional unit and out of more than 4000 employees includes only two (2) who are performing a similar health-oriented job.

III.

Our placement of Mental Health Standards Surveyors in Unit 11 is supported by the history and development of the classification. It evolved from a Unit 11 classification, Health Facilities Standards Representative, which underwent various splits and reclassifications. When the Mental Health Standard Surveyors came into existence in October, 1990, all of the incumbents in the Department of Mental Health in the "mother" classification, which were in Unit 11, took on the new title, without application or new requirements or any other indicia of a job change. (Tr. 25-28).

Likewise, Unit 14's Mental Health Licensure/Certification Coordinators evolved from a classification of Mental Health Administrator 3 (Stipulation 8) which was originally in Unit 14. In sum, the forerunners of the two classifications which the hearing officer has found so much alike, were historically in separate units.

It is common in the state system to reclassify employees and adjust classification plans. These changes are mandated by the enactment of new laws, modernization, contract negotiations and other changing needs of government.

It is poor public policy to turn every bureaucratic formality which entails changes in classification to a major change in representation.

or a change in bargaining unit structure. Certainly, if the classification at issue had been a complete aberration in Unit 11, we would have not have forced it there.

But in the circumstances of this case, with Unit 11 being the health care professional unit, with the hundreds of employees who have community of interest with the classification at issue, the sound and reasonable policy is to include it in State Unit 11.

IV.

Finally, we offer a comment on the impact of the employer's administrative structure in determining placement in state units.

In the section dealing with overfragmentation, efficiency of operations, and administrative structure of the public employer, the hearing officer's recommended determination reads:

Both 1199 and OCSEA propose to add the Mental Health Standards Surveyors to a larger state unit, therefore, there is no advantage to either Employee Organization based on the factor of overfragmentation. Nor are factors of efficiency of operations, or administrative structure of the Employer particularly helpful. As both units are state units, the Employer is the same, thus the Hearing Officer cannot find persuasive evidence relating to administrative structure of the public employer mandating placement in one unit over the other. (Emphasis added.)

We find worrisome the suggestion that the state as an employer cannot or does not have a legitimate unit placement preference based on administrative structure or efficiency of operations. To take such a view would be to take a superficial approach to unit determination.

We do believe that the state and its departments and agencies have an important stake in the placement of classifications in the state units for reasons of administrative structure as well as the efficiency of their operation.

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For all of the above stated reasons, the appropriate unit to place the classification of "Mental Health Standards Surveyors" is State Unit 11.

Owens, Chairman, concurs; Pottenger, Vice Chairman, absent.

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