

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Glass, Molders, Pottery, Plastics and Allied Workers
International Union, AFL-CIO, CALC,

Employee Organization,

and

Columbiana County Department of Human Services/
Division of Children's Services,

Employer.

CASE NUMBER: 92-REP-01-0016

OPINION

MASON, Board Member:

I.

On January 30, 1992, the Glass, Molders, Pottery, Plastics and Allied Workers International Union, AFL-CIO, CALC (Employee Organization) filed with the State Employment Relations Board (SERB or Board) a Petition for Representation Election for the following bargaining unit in the Columbiana County Department of Human Services (Employer):

Included: All full-time and permanent part-time employees working in Children's Services in the following classifications: Social Service Worker 2, Social Service Worker 3, Social Service Aide 1, Family Service Aide 1, Social Service Aide 2, Investigator 2, Data Entry Operator 2, Youth Leader 2.

Excluded: All managerial, confidential and supervisory employees not working in Children's Services.

The Employer objected to the petitioned-for unit arguing that it is inappropriate and

that the appropriate bargaining unit is a department-wide unit.

The hearing officer found that the Employee Organization's petitioned-for unit is an appropriate unit and recommended to direct an election in that unit.

For the reasons addressed below we do not agree with the hearing officer's recommended determination and dismiss the Petition for Representation Election on the basis that the petitioned-for unit is not an appropriate bargaining unit.

II.

The issue before the Board in this case is simply whether the petitioned-for unit, composed only of Children's Services' employees at the Columbiana County Department of Human Services, is an appropriate bargaining unit.¹ A review of the Department's function

¹The Employer's citations of In re University of Cincinnati, 1984-86 SERB p. 179 (1985) and City of Bowling Green, 1992 SERB 3-25 (6-17-92) for the proposition that the proper standard is the most appropriate unit are misplaced. In the University of Cincinnati the Board determined that a small section of a large historical unit was not an appropriate unit.

In the City of Bowling Green the majority found that two petitioned-for departmental units were inappropriate where the city was attempting to integrate the two departments at issue and four different bargaining units already existed.

The City of Bowling Green did state a procedural requirement that an employer who makes a showing that the petitioned-for unit is inappropriate should be asked at the hearing to propose an alternate unit which it deems appropriate. However, the opinion specifically directs that only after the petitioned-for unit is independently found inappropriate and where the Petitioner expresses its wish to proceed to an election in an alternative unit, will an alternative unit be considered in order to "finalize unit determination in one proceeding". In summary, whenever a proposed unit is before the Board for an appropriateness determination,

and structure is fundamental to that inquiry.

Columbiana County Department of Human Services is responsible for several major programs including:

1. Income Maintenance
2. Child Support Enforcement
3. Jobs Program
4. Social Services
 - (a) Children's Services (which includes Kyer Home)
 - (b) Adult Services

The Department's table of organization (Joint Exhibit 2) shows five major sections under the Director, Wilma Carter. In addition to the 4 programs listed above, there is another section, administrative support staff, headed by an administrative supervisor. Of the 4 programs listed above, one, Income Maintenance, is headed by a Chief Public Assistance (PA) Supervisor; the second, Child Support Enforcement, is headed by an Investigator Supervisor; the third, Jobs Program, is headed by a Jobs Supervisor; and the fourth, Social Services, is headed by Chief Social Services Supervisor (a position that was vacant at the time of hearing). Social Services includes two sections: Children's Services, headed by the Children's Services Supervisor; and Adult Services, headed by the Adult Services Supervisor.

the Board shall consider that unit on its own by analyzing the relevant factors stated in §4117.06(B) as applicable to that specific unit according to 4117.05(A) and 4117.06(C).

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Although there are about 175 positions available in the department (Jt. Exh.3), the petitioned-for bargaining unit includes only about 22 positions in Children Services, one of the two sections in the Social Services program. None of the employees in the Department of Human Services is or was organized into a bargaining unit.

Ohio Revised Code (O.R.C.) §4117.06(B) provides:

The Board shall determine the appropriateness of each bargaining unit and shall consider among other relevant factors: the desires of the employees; the community of interest; wages, hours and other working conditions of the public employees; the effect of overfragmentation; the efficiency of operations of the public employer; the administrative structure of the public employer; and the history of collective bargaining.

There is no question that the petitioned-for employees share a community of interest. The narrower a unit is drawn, the more likely the employees will share similar interests. Wisely, however, the statute calls for analyzing all the factors mentioned above including the administrative structure and the efficiency of operation of the public employer. Otherwise, any group, no matter how small, which shares common interests could constitute an appropriate unit for collective bargaining. For example, it would normally be inappropriate to allow a unit composed of only four of 10 secretaries, where all 10 perform the same work and no job-related issues separate the four from the rest. Although such a unit would pass the "community of interest" test, it would not be administratively viable. On the contrary, any bargained-for differences in working conditions between the two groups of secretaries would likely bring about tension among the employees, different pay for the same classifications and the same job, administrative problems and a decline in efficiency. Balancing the factors in the

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above-cited section of the Revised Code involves more than approving a unit just on the basis of the extent of organization and some common interest among its employees.

Thus, where the petitioned-for unit consist of only a small group of employees within a large department, the Board will look for evidence that the community of interest of the small group is sufficiently distinct and unique in relation to other employees and administratively sensible to make their segregation appropriate.

In the case before us, the hearing officer found that the petitioned-for unit is sufficiently distinct to warrant a separate bargaining unit. We do not agree. To the contrary, we find significant evidence that the Children's Services employees share a wide community of interest with other department employees, outside the petitioned-for unit. While there are certain requirements unique to Children Services, like specific training and a different kind of liability, the record as a whole does not support the proposition that the petitioned-for unit is a rational separate and distinct group. The record shows that the employees in the petitioned-for unit share with other employees in the department the same state wage plans, the same County approved supplements, the same personnel policies, and the same fringe benefits such as holidays, sick leave, vacation leave, travel allowances and health insurance. The record also shows that the Department of Human Services has centralized personnel and fiscal functions and a department-wide layoff procedure. The findings of fact show that while there is minimal degree of interaction or interchange between Children's Services employees and employees in the Adult Services unit and in Child Support Enforcement, there is

interaction on an ongoing basis between Children's Services and the Administrative Support Staff Section where one clerical-technician answers approximately twenty calls per week from Children's Services employees in the field.

Even more problematic is the structure of the petitioned-for unit inasmuch as it cuts across certain classifications. Within certain classifications some employees would be in the petitioned-for unit and others would be out of it. The classifications Social Service Worker 2 and Social Service Worker 3 are used by the Department of Human Services not only in Children's Services (and these employees are in the petitioned-for unit), but also in Jobs Program and Adult Services which are excluded from the unit. The classifications Social Service Aide 1 and Social Service Aide 2 are utilized by the Department in Children's Services (in the petitioned-for unit) as well as in Adult Services (out of the unit). Moreover and in the same vein, the record also shows that there are "shared employees" who are employees in the Department of Human Services and perform duties for the Social Services unit but who are not assigned to work in that unit. Clearly, a bargaining unit which crosses classification lines and involves shared employees creates many administrative problems and hurts the efficiency of the operation.

While each of the above-mentioned factors by itself does not necessarily warrant a specific result, balancing all the factors in O.R.C.4117.06 leads us to the conclusion that the petitioned-for unit is not an appropriate unit and that carving out the Children's Services employees is not an option which will promote an orderly and constructive relationship

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the Public Employer and Its employees.

Smaller units, by their nature, may have very similar interests and objectives but in many cases bigger units are administratively more stable and more manageable. Where to draw the line is something to be determined on a case-by-case basis.

In the case before us the line should be drawn wider than in the petitioned-for unit.

Owens, Chairman and Pottenger, Vice Chairman, concur.

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