

**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

United Electrical, Radio and Machine Workers of America,

Employee Organization,

and

Piqua City School District Board of Education,

Employer.

CASE NUMBER: 98-REP-06-0135

DIRECTION TO ELECTION
(OPINION ATTACHED)

Before Chairman Pohler, Vice Chairman Gillmor, and Board Member Verich: January 14, 1999.

On June 4, 1998, the United Electrical, Radio and Machine Workers of America ("Employee Organization") filed a Petition for Representation Election with the State Employment Relations Board ("Board") seeking to represent certain employees of the Piqua City School District Board of Education ("Employer"). On June 25, 1998, the Employer filed objections to the Employee Organization's proposed unit and proposed an alternative unit, adding the "transportation department" to the description of employees included in the unit. On July 27, 1998, the Board found reasonable cause to believe that a question concerning representation existed and directed this matter to hearing to determine whether the Employer's proposed unit was appropriate within the meaning of Ohio Revised Code § 4117.06 and, if so, which proposed unit was "the appropriate unit" within the meaning of Ohio Revised Code § 4117.06.

On November 20, 1998, a Recommended Determination was issued; the administrative law judge recommended that the Board find that the Employer's proposed unit was an appropriate unit, that the Employer's proposed unit was "the appropriate unit" for collective bargaining, and that the Board direct an election in the appropriate unit. Neither party filed exceptions to the recommended determination.

After reviewing the Recommended Determination and the record in this matter, the Board adopts the Findings of Fact, Analysis and Discussion, and Conclusions of Law in the Recommended Determination, incorporated by reference, and directs an election in the appropriate bargaining unit at a time and place established by the Representation Section Administrator in consultation with the parties.

The bargaining unit is described as follows:

INCLUDED: All classified employees in the following classifications and departments: Secretary, Receptionist, Clerk, Head Custodian, Custodian, Library Aide, Classroom Aide, Clerical Aide, Attendant/Special Assignment Aide, Electrician, Maintenance, Head Cook, Assistant Head Cook, Cook, and transportation department.

EXCLUDED: Substitutes; seasonal and casual employees; and confidential employees including Secretary to Superintendent, Secretary to Business Coordinator and Assistant Superintendent, Assistant to Treasurer, and Payroll Clerk.

As required by Ohio Administrative Code Rule 4117-5-07(A), no later than January 31, 1999, the Employer shall serve on the Employee Organization and shall file with the Board a numbered, alphabetized election eligibility list containing the names and home addresses of all employees eligible to vote as of the pay period ending just prior to January 14, 1999.

It is so directed.

POHLER, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

/s/ SUE POHLER, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this _____
day of _____, 1999.

/s/ LINDA S. HARDESTY, CERTIFIED LEGAL ASSISTANT

**STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

UNITED ELECTRICAL, RADIO & MACHINE	:	
WORKERS OF AMERICA (UE),	:	CASE NO. 98-REP-06-0135
	:	
Employee Organization,	:	
	:	
and	:	
	:	
PIQUA CITY SCHOOL DISTRICT	:	
BOARD OF EDUCATION,	:	
	:	<u>RECOMMENDED DETERMINATION</u>
Employer.	:	

I. INTRODUCTION

On June 4, 1998, the United Electrical, Radio and Machine Workers of America (UE)(“UE” or the “Employee Organization”) filed a Petition for Representation Election seeking to represent certain employees of the Piqua City School District Board of Education (the “School District” or the “Employer”). The petition sought an election in a unit of “[a]ll employees of the Piqua City School District in the following classifications: Secretary, Receptionist, Clerk, Head Custodian, Custodian, Library Aide, Classroom Aide, Clerical Aide, Attendant/Special Assignment Aide, Electrician, Maintenance, Head Cook, Assistant Head Cook, Cook.” On June 25, 1998, the Employer filed objections to the proposed unit. In addition, the Employer proposed an alternative unit by adding “transportation department” to the list of job classifications in the Employee Organization’s proposed unit.

On July 27, 1998, after a preliminary investigation, the State Employment Relations Board (“SERB” or “Board”) found that a question concerning representation exists and directed this matter to hearing. Consequently, a hearing was conducted on September 17, October 2, and October 5, 1998, wherein testimonial and documentary evidence was presented regarding the relevant issues. Subsequently, both parties filed posthearing briefs.

II. ISSUES

- A. Whether the Employer’s proposed unit is an appropriate unit within the meaning of § 4117.06.¹
- B. Which proposed unit is “the appropriate unit” within the meaning of § 4117.06.

¹All references to statutes are to the Ohio Revised Code, Chapter 4117.

III. FINDINGS OF FACT ²

1. The Piqua City School District Board of Education is a “public employer” within the meaning of § 4117.01(B). (S.)
2. The United Electrical, Radio and Machine Workers of America (UE) is an “employee organization” within the meaning of § 4117.01(D). (S.)
3. The entire classified staff of the School District consists of approximately 145 employees, approximately 120 of which are covered by the Employee Organization’s Petition for Representation Election without the Transportation Department, four employees listed in Finding of Fact No. 7 below, and approximately 21 employees which are included in the Employer’s Objection to Petition for Representation and its proposed amendment to the Employee Organization’s proposed bargaining unit. (S.)
4. Four classified employees fall under the exclusion of § 4117.01(K) because the positions are confidential. These positions are Secretary to Superintendent, Secretary to Business Coordinator and Assistant Superintendent, Assistant to Treasurer, and Payroll Clerk. (S.)³
5. The approximately 120 employees covered by the Employee Organization’s Petition for Representation Election with the exception of the four employees listed in Finding of Fact No. 7, and the approximately 21 employees included in the Employer’s proposed amendment to the Employee Organization’s bargaining unit, are “public employees” within the meaning of § 4117.01(C). (S.)
6. There is no history of collective bargaining covering any of the employees in either party’s proposed bargaining unit. The Employer’s certificated teachers have an exclusive representative for collective bargaining purposes. (S.; T. 8-9.)
7. All nine-month employees have the same holidays; all twelve-month employees have the same holidays; all employees have two non-cumulative personal days; all employees earn sick leave

²References to the transcript and/or exhibits in the Findings of Fact are intended for convenience only and are not intended to suggest that such references are the sole support in the record for that related Finding of Fact. References to the parties’ stipulations are indicated parenthetically by “S.” References to the transcript of hearing are indicated parenthetically by “T.,” followed by the page number(s). References to the Employee Organization’s exhibits in the record are indicated parenthetically by “U. Exh.,” followed by the exhibit number(s). References to the Employer’s exhibits are indicated parenthetically by “Er. Exh.,” followed by the exhibit number(s).

³All parties acknowledge that the Piqua High School Building Operations Supervisor is not a supervisor pursuant to the criteria in § 4117.01(F).

- in accordance with the Ohio Revised Code and accumulate to a maximum of 200 days; all employees are covered under the same maternity/child care policy; all employees are covered under the same assault leave policy; and all employees are covered under the same appearance in court policy. (S.; T. 9-12.)
8. All categories of classified employees' job classifications have 13-step wage progression schedules except for Bus Drivers, whose wage progression schedule has 25 steps. (S.; T. 12-13.)
 9. The Piqua City School District consists of seven elementary schools, two junior high schools, and one high school. (U. Exhs. 2, 8, 9.)
 10. Until 1996, Bus Drivers' annual salaries were based upon the length of their routes. There were three route categories, "long," "medium," and "shuttle." In 1996, the School District began paying Bus Drivers an hourly rate. Each school year, Bus Drivers routes are timed in minutes per day. Bus Drivers are now paid for their driving time, with an additional sixty minutes of pay each workday for pre-trip warm-up and inspection requirements, bus cleaning and maintenance, activities related to pupil discipline, and fueling. The minutes are then converted to hours to calculate each bus driver's annual salary. The additional hour of pay per day represents an average; over the course of a week, the district calculated that Bus Drivers spend about five hours on their non-driving duties. (T.144-146, 252-255, 332-337, 462-466; U. Exh. 8 at 19; U. Exh. 11.)
 11. At the beginning of each school year, Bus Drivers indicate their interest in driving for field trips. Field trips are then assigned throughout the year to interested Bus Drivers based on availability and seniority. (T. 160, 252-253.)
 12. Classified employees work from 3 to 8 hours per day. Custodial and maintenance personnel work 40 hours per week on a year-round basis. Secretaries work from 202-260 days per year. The majority of the other classified positions are scheduled on a school-year basis, approximately 182-186 days per year. Bus Drivers' average work week is 29.9 hours, excluding field trips; Classroom Aides, 31.5 hours; Library Aides, 31.2 hours; food service workers, 23.9 hours; and secretaries, excluding those stipulated as confidential, 35.3 hours. (U. Exh. 5.)
 13. The range of hourly rates for secretarial personnel is \$7.37 to \$16.72; for treasurer's office personnel, \$9.41 to \$14.12 (excluding those positions the parties have stipulated are confidential); for maintenance and custodial personnel, \$9.20 to \$20.09 per hour; for aides, \$6.66 to \$9.66 per hour, and for Bus Drivers, \$11.55 to \$18.48 per hour. For field trips, Bus Drivers receive a flat hourly rate of \$8.15, with a per-trip minimum of \$17.45. The average hourly wage for Bus Drivers is \$16.44; for Classroom/Attendant Aides, \$7.67; for Custodians, \$13.39; for food service personnel, \$8.98; for Library Aides, \$8.62; for maintenance personnel, \$ 13.13; for secretaries, \$ 11.90. (U. Exh.4, 5.)

14. Steps within each classification are calculated based on an employee's seniority. Classified employees other than Bus Drivers receive yearly step increases in years 1 through 10, 15, and 20. When the School District converted the Bus Drivers' pay from run-based to hourly, it created a 25-step wage progression for Bus Drivers. Bus Drivers receive yearly step increases in years 1 through 24. (T. 471-472.)
15. Classified employees in different classifications have different job descriptions and duties. (T. 709-710; U. Exh. 3.)
16. Classified employees have limited interaction with employees in different classifications. Bus Drivers spend the bulk of their work time on their buses, transporting students. Bus Drivers interact on an as-needed basis with school building secretaries, aides, and custodians. Library Aides spend most of their time in the school library at their assigned school, and interact with the School Building Secretary and Custodian on an as-needed basis. Cooks work in a school building cafeteria and interact with the School Building Secretary and aides working lunch duty on an as-needed basis. Classroom Aides receive their assignments from teachers and work primarily with students. Building Custodians interact with other building personnel on an as-needed basis. (T. 153-156, 507-508, 538, 556, 558, 613-615, 682, 692, 716-717, 727-730, 841, 866.)
17. The School District has health, dental, and life insurance plans available for classified employees. Employees working at least 7 hours per day are eligible for the maximum Employer contribution to the premium for these benefits. Employees working less than seven hours per day receive a pro-rated Employer contribution, calculated on the basis of percentage of a seven-hour day worked by the employee. This system of determining the Employer contribution has been in effect since approximately 1991. Employees who were on the payroll at the time this system was implemented, but who work fewer than seven hours per day, are "grandfathered" into this system and receive the maximum Employer contribution. Until 1996, Bus Drivers' eligibility for health insurance was determined under a different policy dealing with the length of their runs. Under the former policy, a "long run" was assigned 6 points, a "medium run," 5 points, and a "shuttle run," 2 points. Drivers with at least 8 points were eligible to receive the maximum employer contribution. Bus Drivers who had been eligible under the former system were "grandfathered" in 1996 when their rates of pay were converted to hourly. The result of grandfathering is that currently, all Bus Drivers are eligible for the maximum Employer contribution for health insurance. Any new hires will be eligible for benefit contributions according to the seven-hour day policy. (T. 435-440, 483, 485-486, U. Exh. 1, policy D-7.00.)
18. Tim Reed, the School District's Business Coordinator, has overall responsibility for the

classified employees. Mr. Reed directly supervises the transportation and maintenance department employees. He is involved in recommending the hiring and disciplining of aide, custodial, food service, maintenance, secretarial, and transportation personnel; he cooperates with administrators and building principals in their supervision. Mr. Reed also is the School District's Civil Service Coordinator. Some Library and Classroom Aides are excluded from civil service rules. (T. 228-229, 233-234, 287; U. Exh. 3.)

19. The School District receives funding from local real and personal property taxes, from a school district income tax, and from the State of Ohio. Students also pay a small annual supply fee. The Treasurer and Superintendent prepare the annual budget, with input from the Building Coordinator, the Student Services Administrator, the Elementary Coordinator, and the Technology Coordinator. (T. 499-501.)
20. Bus Drivers are permitted either to park their buses at their homes, or to park them at the bus garage. The bus garage is located at the administration building. (T. 261-262, 547.)
21. Bus Drivers and food service employees meet with other employees in their same classifications just prior to the beginning of the school year to go over plans for the year. Cooks attend monthly meetings with the district's Food Service Coordinator, Jane Rudd. Library Aides attend monthly meetings with the district's certified Librarian. (T. 740, 865, 895.)
22. Building principals typically prepare the annual evaluations of the classified employees who work in their buildings. The Food Service Coordinator co-signs the evaluations of school building-based food service personnel. Mr. Reed prepares the annual evaluations of the Bus Drivers and the Bus Mechanic. (U. Exhs. 19, 20, 22.)
23. In 1996, when the School District converted the Bus Drivers to hourly pay, it surveyed area districts and determined that the Bus Drivers are paid above average wages, approximately two dollars an hour higher than Bus Drivers in other area districts. The School District also determined that secretaries and treasurer's office employees were being paid below average wages. As a result, the salaries of secretaries and treasurer's office employees were increased by as much as 40 percent during a two-year phase-in, the 1996-1997 and 1997-1998 school years. The salaries of some Bus Drivers were frozen because the pay they had been receiving under the old run-based system exceeded the highest rate of pay in the School District's new hourly range. The School District also set up the Bus Drivers' salary range with a larger number of smaller step increases to lengthen the number of years it would take for Bus Drivers to reach the maximum rate in the range. With the exception of these changes, over the past ten years all classified employees in the School District have received the same annual percentage increases in their wages, a percentage matching that given to the School District's certificated teachers. (T. 409-413, 420-421, 424, 468, 471-480, 494.)
24. Bus Drivers are required by law to undergo an annual physical examination; to annually provide a driver's abstract; to have a commercial driver's license with passenger endorsement; and to complete four hours of in-service training each year. Every five years, they must also complete a pre-service training. (T. 121-123, 534.)

25. Classroom Aides are required to be certified by the State of Ohio. (T. 706-707.)
26. All classified employees have an equal opportunity to bid on all classifications of positions for which they are eligible to apply. Seniority with the Employer is determined on a district-wide basis. (T. 247-248.)
27. Over the past 13 years, nine classified employees have transferred to different positions with the Employer. These include transfers within the aide classification from Classroom Aide to Library Aide; from Classroom Aide to secretary; from food service worker to Food Service Secretary/Treasurer's Office Clerk; from food service worker to secretary; and from custodian to maintenance. (T. 798-803; U. Exh. 20.)
28. For the past three or four years, the School District has had a Classified Communications Committee. The committee includes representatives from each group of classified employees. The committee was set up as an "open line" to the Superintendent to air difficulties and ask questions. The committee discussed the restructuring of the Bus Drivers' pay system, but did not discuss dollar amounts. (T. 623, 627- 628, 630-632.)
29. The factor of the desires of the employees as set forth in § 4117.06(B) does not weigh in favor of either party's proposed bargaining unit. (S.; T. 196.)⁴

IV. ANALYSIS AND DISCUSSION

A. The Standards to be Applied in Unit Determinations

⁴The parties' representatives disputed the legal definition of this factor during the prehearing and throughout the first day of hearing. The Employee Organization took the position that the desires of the employees is synonymous with the extent of organization and that no evidence other than the Employee Organization's petition for election was relevant to this factor. The Employer sought to introduce affidavits and/or testimony that the Bus Drivers wanted to be included in the bargaining unit. (Er. Exh. 6[(proffered)]; T.114, 169-170.) The Employee Organization wanted to be able to cross-examine the bus driver witnesses about their desire for union representation. The Hearing Officer sought to limit the evidence introduced on this factor because of concerns that impermissible "polling" of employee witnesses could occur. (T. 170-171, 187-188, 189-190.) In an effort to move beyond this issue, the Hearing Officer proposed and the parties agreed to this stipulation. Compare In re University of Akron, SERB 95-005 (4-21-95)("University of Akron"), at 3-31 ("Evidence regarding the desires of the employees is not compelling here.").

In State ex rel. Glass, Molders, Pottery, Plastics & Allied Workers v. SERB (1994), 70 Ohio St. 3d 252, 1994 SERB 4-64 (“GMPP II”), the Ohio Supreme Court set forth procedural guidelines for unit determinations when the employer objects to the unit description proposed by the employee organization or when more than one proposed unit description is pending before SERB. SERB’s first opportunity to apply these procedural guidelines was in In re St. Marys City School District Bd Of Ed, SERB 95-007 (4-21-95)(“St. Marys”). In St. Marys, the Board stated that an employer who objects to the employee organization’s proposed unit has the burden to show by substantial evidence that the objectionable unit is inappropriate. If the employer carries its burden of proof, the petitioned-for unit will not be found to be appropriate. If, on the other hand, the employer fails to carry the burden of proof by substantial evidence, and the employer has proposed a unit description different from the one petitioned for by the employee organization, SERB will consider both units when it determines the appropriate bargaining unit.

Section 4117.06(B) provides as follows:

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 over-fragmentation; the efficiency of operations of the public employer; the administrative structure of the public employer; and the history of collective bargaining.

This framework is utilized in determining by comparison the appropriate bargaining unit when more than one proposal is before SERB for consideration. St. Marys, supra, at 3-47. Furthermore, the determination of the appropriate unit is not to be based on *a priori* reasoning, but rather must be made on a case-by-case basis, examining the particular facts involved and analyzing all relevant factors. Id.

In this case, the Employer filed objections to the unit proposed in the UE’s Petition for Representation Election, and the Employer also proposed an amendment to the UE’s petitioned-for unit in which it described a bargaining unit different from the UE’s. In its posthearing brief, the Employer does not contend that the UE’s proposed unit is not an appropriate unit. Rather, the Employer contends that its proposed unit is also an appropriate unit and that, pursuant to the procedure and analytical framework set forth by the Ohio Supreme Court in GMPP II and by SERB in St. Marys, SERB should determine that the Employer’s proposed unit is “the appropriate unit” for purposes of collective bargaining and direct an election in that unit.

The Employee Organization contends that its proposed unit is an appropriate unit, that the Employer’s proposed unit is not an appropriate unit, and that even if the Employer’s unit is determined to be an appropriate unit, the Employee Organization’s proposed unit is “the

appropriate unit" for collective bargaining purposes.

B. Each of the Proposed Units is "An Appropriate Unit"

Each party has proposed a large unit consisting of multiple classifications of employees. The Employer does not dispute that the UE's proposed unit is an appropriate unit, acknowledging in its brief at p.3, "[t]he simple fact is that the Union's proposed unit has several counterparts in several school districts throughout Ohio." The Employer has not demonstrated by substantial evidence that the UE's proposed unit is inappropriate. Thus, under GMPP II and St. Marys, the UE's petitioned-for unit is appropriate.

The Employer's proposed unit is comprised of all 120 employees in the 14 classifications listed in the UE's proposed unit, plus the 21 employees in the transportation department. Similar wall-to-wall units of classified employees have been found by SERB to be appropriate. St. Marys, supra, at 3-47. Thus, according to GMPP II and St. Marys, awaiting comparison in this case are two appropriate units.

C. The Determination of the Appropriate Unit By Comparison

The parties have stipulated that the factor of the desires of the employees does not, on balance, favor either unit. There is no history of collective bargaining among the Employer's classified employees; thus, this factor is not relevant. Furthermore, the effect of over-fragmentation is not at issue, as there are no other units of classified employees. St. Marys, supra, at 3-48.

Community of interest, including wages, hours, and other terms and conditions of employment, is probably the most flexible factor. Smaller units with less variety of classifications have tighter community of interest than larger units with more variety of classifications. However, historically, wall-to-wall units have been held appropriate, even where the only community of interest the employees have is their common employer. St. Marys, supra, at 3-48. Additional factors to be considered in analyzing community of interest include a similarity in job functions, geographic proximity, common supervision, the degree of employee interchange and operational integration. University of Akron, supra, at 3-31; In re Stark County Bd of Mental Retardation and Developmental Disabilities, SERB 93-018 (12-16-93) ("Stark Cty."). In examining the two large proposed units, there are numerous similarities and some differences. The significance of these similarities and differences must be examined.

First, wages vary greatly from classification to classification. For example, the hourly rate for Classroom Aide, classification A-2, ranges from \$ 6.66 to \$8.02. The hourly rate for second and third shift custodians, classification BC-2, ranges from \$9.20 to \$13.84. The hourly rate for Electrician, classification DM-1, ranges from \$15.17 to \$20.09. The hourly rate for Bus Drivers ranges from \$11.55 to \$18.48. Clearly, an examination of wage ranges alone does not provide a basis to distinguish the Bus Drivers from the other classifications proposed for

inclusion in the bargaining unit. Moreover, while custodial and maintenance personnel work 8 hours per day year-round, the hours of other employees vary greatly. Many, including aides, cooks, and Bus Drivers, are part-time, school year-based positions. Again, this criterion does not provide a basis to single out transportation personnel.

In each party's proposed unit there are several job classifications, each of which has distinct duties and working conditions. In examining the job descriptions⁵ of broader categories of classifications, such as secretaries, Classroom Aides, Library Aides, Attendant Aides, food service personnel, custodians, maintenance, and transportation, it is clear that different classifications have different responsibilities and that employees in different classifications work independently. The Bus Drivers transport students to and from school buildings. The maintenance classification of Warehouse/Delivery delivers food, supplies, furniture, and equipment to School District buildings. The Bus Mechanic keeps the buses and other school vehicles in working order. The custodians keep the cafeterias, classrooms, and building hallways clean and assist the Bus Drivers with materials needed to clean up their buses when students become ill in transport. The maintenance department keeps the buildings, grounds, and athletic fields in good repair. The food service staff keeps the students fed and the proceeds counted. Library Aides spend most of their day in a school library, maintaining materials and helping students find the information they need. Classroom and Attendant Aides work with individual students, groups of students, and teachers, helping to ensure that homework gets done, that tests are taken, and that students get where they need to go. And the secretaries relay messages to and from employees in all of these classifications as well as to and from teachers and administrators.

The classified employees interact on an incidental, as-needed basis. A custodian or maintenance employee may help a cook reach an item from a high shelf; a custodian may bring a bucket and mop to the library or to a school bus; a Bus Driver may bring a message about a discipline problem to the school secretary or ask a student to do the same; a Cook may ask an aide for assistance with a student in the lunch line; the Building Secretary may bring the lunch count to the kitchen or ask a student to do the same. Maintenance personnel assist custodians as needed. Some aides fill in for secretaries during a 30-minute lunch break; other aides have never done so. These incidental interactions illustrate that, broadly speaking, *all* classified employees depend upon each other to get their work done. The UE's argument that the Bus Drivers' interactions with other categories of classified employees are significantly different from, and less frequent than, the interactions among other classifications of employees is not supported by the record. The UE also points out that since 1985, nine employees in the UE's proposed unit have transferred to different classifications within the proposed unit, while no employee has transferred to the position of Bus Driver. However, these transfers are not significant occurrences in a proposed unit of 120 employees.

Geographically, the classified employees are dispersed throughout the district in school

⁵U. Exh. 3.

buildings and the administration building. While the Bus Drivers stop in the bus garage attached to the administration building on a weekly basis, they spend most of their work hours on their buses. For purposes of supervision, classified employees who work in school buildings typically report to that school's building principal and sometimes also to an overall administrator such as Mr. Reed, for custodial and maintenance personnel, or Ms. Rudd, the Food Service Coordinator, for food service personnel. Different classifications of employees receive direction from different individuals. For example, Classroom Aides receive assignments from teachers. Head Cooks direct Assistant Head Cooks and Cooks. Other employees do not receive direction on a daily basis but attend periodic meetings. There are monthly meetings for food service workers and Library Aides. The evaluation forms for classified employees have different performance factors for rating, based on each classification's job description. In short, many classified employees have more in common with each other than with employees in other classifications. This is expected in a large unit with different classifications of employees. St. Marys, supra, at 3-46.

However, there are similarities as well. All classifications of classified employees have the same holidays, personal days, sick leave eligibility, maternity/child care policy, assault leave policy, and appearance in court policy. All classified employees have the same eligibility for employer-sponsored health, dental, and life insurance plans. Classified employees have district-wide seniority, and all are eligible to bid on vacancies for which they are qualified. All classified employees receive the same annual percentage increase in their wages. In comparing the two units, each with multiple classifications, there is no basis in community of interest to support the exclusion of one relatively small group of employees. On balance, this factor favors the wall-to-wall unit proposed by the Employer.

In the area of administrative structure and efficient operation of the public employer, the evidence shows that the Employer's budget and personnel functions are centralized and affect the employees in question without distinction by classification. The School District's Business Coordinator oversees the civil service rules that apply to a majority of the classified employees, as well as recommendations for hiring, termination, and discipline. The payroll process is centralized in the Treasurer's office. The 1996 salary study included all categories of classified personnel. This factor further supports a joinder of the classified employees in a single bargaining unit.

Finally, although not by itself controlling, in examining "other relevant factors" under § 4117.06(B), there is the consideration of prudent labor policy. As this Board has stated, such policy "should restrict the exercise of chipping away small parts of bargaining units, especially in small jurisdictions....[S]uch over-fragmentation is a burden on the employer and the taxpayer, and it does not serve the employees well." St. Marys, supra, at 3-48.

The Employee Organization has devoted much of its brief to highlighting the differences between the Bus Drivers and the remaining classifications of employees. In addressing the UE's arguments, two considerations are important. First, it is important to remember that the Employee Organization is *not* advocating the *creation* of a small unit consisting primarily of the

Bus Drivers. Rather, the Employee Organization is desirous of a relatively large unit of approximately 120 employees, consisting of all classifications of the Employer's classified employees *other than* the 21 in the transportation department. The Employer's proposed wall-to-wall unit is only about 16.5% larger than the UE's proposed unit. Second, "[t]he issue is not whether differences in working conditions exist among the employees in the petitioned-for unit, but whether such differences warrant placing these employees in separate bargaining units." St. Marys, at 3-46. The differences in this case do not warrant the exclusion of the transportation department employees.

The UE attempts to argue that Bus Drivers are paid for time not actually worked. However, the testimony at hearing was clear and consistent that routes are timed to the minute on an annual basis, rarely vary more than two minutes from the average time, and that the sixty additional minutes per day for non-driving duties was an accurate assessment on a weekly basis. As with the remaining classified employees, Bus Drivers receive pay over and above their annual salary notices only when they work extra assignments. The UE also argues that the wage disparity between Bus Drivers and the remaining classified employees justifies their exclusion. Yet, Bus Drivers are not the highest paid classification. Moreover, the Employer recognized in 1996 that Bus Drivers' pay was above average and, to that end, lengthened the amount of time it will take for Bus Drivers to reach the highest point on their wage scale. This is why Bus Drivers have more steps in their wage progression, not to give them a special benefit. The UE implies that bus driver wages are a sore spot for other employees. Yet, at hearing, the Library Aide who testified in the UE's case in chief stated that she felt that bus driver wages are justified by their high level of responsibility for student safety, and the majority of the employees who testified at hearing had never discussed, and did not know of, the drivers' wages prior to seeing Union Exhibits 4 and 5 at the hearing. Finally, the mere existence of higher wages or split shifts will not vacate community of interest. Stark Cty., supra, at 3-108; In re Northwest Local School Dist Bd of Ed, SERB 84-007 (10-25-84).

The UE additionally argues that Bus Drivers should be excluded from the bargaining unit because their work subjects them to complaints from parents and other motorists. Yet, the exhibits, dating back to 1981, and the testimony at hearing reveal that such instances are infrequent. Furthermore, Bus Drivers are by no means the only group of classified employees who have contact with students and, thus, could be subject to parental complaints. The UE also argues that Bus Drivers have different discipline rules. While obviously different rule infractions exist for employees in different classifications, the fact remains that Bus Drivers, like all classified employees with the possible exception of some aides, are covered by a system of progressive discipline as indicated in the exhibits cited by the UE and as described by the School District's Business Coordinator at hearing. Many of the performance-related memoranda contained in the UE's exhibits concern tardiness--an offense by no means confined to a certain classification of employees. Furthermore, the disciplinary matters on which the Employer sought the advice of legal counsel--inappropriate contact with a student, and an unexcused absence from a training class--are hardly the types of matters that can be considered unique to Bus

Drivers.⁶

Essentially, the UE's final argument is that Bus Drivers have a heightened eligibility for the maximum employer-paid health insurance contribution due to "grandfathering." However, the UE acknowledges that insurance eligibility rules were changed in 1996, and that Bus Drivers are now treated like all other classified employees. Furthermore, other employees were "grandfathered" in 1991 when the 7-hour day eligibility policy was put in place. Bus Drivers are not the only employees who, through "grandfathering," receive a different level of benefit eligibility than they otherwise would receive under the policy. Thus, this "difference" does not warrant the exclusion of the Bus Drivers.

The relevant factors demonstrate the appropriateness of a wall-to-wall bargaining unit in this case.

V. CONCLUSIONS OF LAW

Based upon the entire record herein, the following Conclusions of Law are recommended:

1. The United Electrical, Radio, and Machine Workers of America (UE) is an "employee organization" within the meaning of § 4117.01(D).
2. Piqua City School District Board of Education is a "public employer" within the meaning of § 4117.01(B).
3. The following described unit is appropriate for collective bargaining:

INCLUDED: All classified employees in the following classifications and departments: Secretary, Receptionist, Clerk, Head Custodian, Custodian, Library Aide, Classroom Aide, Clerical Aide, Attendant/Special Assignment Aide, Electrician, Maintenance, Head Cook, Assistant Head Cook, Cook, and transportation department.

EXCLUDED: Substitutes; seasonal and casual employees; and confidential employees including Secretary to Superintendent, Secretary to Business Coordinator and Assistant Superintendent, Assistant to Treasurer, and Payroll Clerk.

VI. RECOMMENDATIONS

Based upon the foregoing, the following is respectfully recommended:

1. The State Employment Relations Board adopt the Findings Of Fact and Conclusions Of Law set forth above.

⁶ T. 130-134, 593; U. Exh. 8, at 21; U. Exhs. 22, 23.

2. The State Employment Relations Board issue a Directive pursuant to § 4117.07 directing a representation election to be conducted in the bargaining unit described above as appropriate in Conclusion of Law No. 3.

ISSUED and **SUBMITTED** to the State Employment Relations Board in accordance with Ohio Administrative Code Rule 4117-1-15 and **SERVED** on all parties listed below by Certified U. S. Mail, return receipt requested, this 19th day of November, 1998.

/s/ BETH C. SHILLINGTON
Administrative Law Judge

John A. Podgurski, Esquire
5885 Landerbrook Drive
Suite 205
Cleveland, Ohio 44124

Eugene Elk
United Electrical, Radio &
Machine Workers of America (UE)
One Gateway Center, Suite 1400
Pittsburgh, Pennsylvania 15222