

D.R. NO. 2014-14

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

COUNTY OF SOMERSET,

Public Employer,

-and-

Docket No. RO-2013-043

SOMERSET COUNTY DRIVERS
AND AIDES ASSOCIATION,

Petitioner.

SYNOPSIS

The Director certifies by card check, the addition of non-supervisory dispatchers, administrative assistants and transportation assistants to the existing unit of drivers and aides employed by the County of Somerset in its transportation division. The Director finds sufficient facts demonstrating a community of interest between the petitioned-for titles and the existing unit titles. The Director also finds that the unit is appropriate in light of the Commission's policy favoring broad-based units and the statutory rights of eligible public employees to representation. Moreover, the Director determines that no substantial and material factual disputes exists to warrant an evidentiary hearing.

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Appearances:

For the Public Employer
Ruderman & Glickman, attorneys
(Mark S. Ruderman, of counsel)

For the Petitioner
Oxford Cohen, attorneys
(Sanford R. Oxford, of counsel)

DECISION

On February 21, 2013, Somerset County Drivers and Aides Association ("Association") filed a representation petition seeking to add the titles of dispatcher, administrative assistant and transportation assistant to its existing collective negotiations unit of all regularly employed nonsupervisory mini-bus drivers, motor coach operators, in-home service workers and transportation aides employed by the County of Somerset ("County"). The petition was accompanied by valid authorization cards signed by a majority of employees in the petitioned-for titles. The County opposes the petition, arguing that the

petitioned-for titles lack a community of interest with the existing unit.

We have conducted an administrative investigation. N.J.A.C. 19:11-2.2. By letter dated March 5, 2013, we notified the County of the petition, requested it to provide a list of employees identified in the petition and to post an enclosed Notice to Public Employees describing the petitioned-for unit. The County provided the list of employees and posted the enclosed notice on March 6, 2013. Based on the County's list, we have determined that a majority of the petitioned-for employees timely signed valid authorization cards designating the Association as their representative for purposes of collective negotiations.

On March 25, 2013, in an informal investigatory conference among the parties, the County objected to the petitioned-for unit, claiming that the petitioned-for titles do not share a community of interest with the extant unit. On April 15, 2013, we issued a letter requesting the parties to provide evidence in support of their respective positions. The parties filed letters. On May 6, July 15 and October 11, 2013, we issued letters, each one requesting the parties to include with their submissions certified facts. The Association and County provided certifications on October 7 and 17, 2013, respectively.

On March 24, 2014, I issued a letter setting forth tentative findings of fact, conclusions of law and a tentative determination that the petitioned-for titles share a community of interest with titles represented by the Association. I wrote of my intention to find that the petitioned-for unit is appropriate for collective negotiations. I invited the parties to file responses by the close of business on April 1, 2014. On April 1, 2014, the County filed a reply, including a supplemental certification. On April 1, 2014, the Association filed a response.

The County's reply asserts that a decision in this matter is premature because the conflicting certifications provided by the County and the Association in support of their respective positions set forth substantial and material factual disputes, which entitle it to an evidentiary hearing pursuant to N.J.A.C. 19:11-2.6(f).^{1/}

^{1/} This provision provides that in a representation proceeding, "[a] hearing shall be conducted: (1) [i]f it appears to the Director of Representation that substantial and material factual issues exist which, in the exercise of reasonable discretion, may more appropriately be resolved after a hearing; or (2) [i]f it appears to the Director of Representation that the particular circumstances of the case are such that, in the exercise of reasonable discretion, the Director determines that a hearing will best serve the interest of administrative convenience and efficiency."

As will be discussed in greater detail below, I find the County's arguments to be unpersuasive. The County's most recent submission reiterates many of the arguments made in its previous submissions. The County's most recent certification from Transportation Director Manfra offers no new facts. I find that no substantial and material factual disputes exist to warrant an evidentiary hearing. The disposition of this petition is properly based upon our administrative investigation. The facts are set forth below.

On November 20, 2009, we issued a certification of representative to the Association for the following unit: "All regularly employed nonsupervisory mini bus drivers, motor coach operators, in-home service workers, and transportation aides employed by the County of Somerset." This unit description is consistent with the parties' most recent collective negotiations agreement, extending from January 1, 2010 through December 31, 2012.

The County is a public employer within the meaning of the New Jersey Employer-Employee Relations Act ("Act"). N.J.S.A. 34:13A-1, et seq. The following groups of County employees are each represented in separate collective negotiations units: facilities and services workers; corrections officers; employees in the prosecutor's office; recycling workers; roads and bridges workers; emergency dispatchers; and vehicle maintenance

employees. According to the County, no clerical or administrative employees are included in any of these units. The County claims that it has never recognized any negotiations unit that includes clerical or administrative staff. The parties agree that no majority representative of County employees currently represents any clerical or administrative employees.

Yvonne Manfra is the Director of the County's transportation division, and her title sits below the Director of Public Works on the County's organizational chart. Beneath Director Manfra sits Para-Transit Manager Leona Carrube and Community Transit Manager Steve Holzinger. Director Manfra directly supervises the titles coordinator/trainer, am dispatcher, transportation assistant, administrative assistant I and administrative assistant II. The Association seeks to accrete all these titles, except coordinator/trainer. One employee holds the am dispatcher title, and one employee holds the transportation assistant title. There are three administrative assistants.

Para-Transit Manager Carrube supervises bus aides and mini-bus drivers, titles included in the unit represented by the Association. Community Transit Manager Holzinger supervises motor coach operators, home delivered meal drivers, in-home service workers and the pm dispatcher. All of the titles supervised by Holzinger, with the sole exception of pm dispatcher, are also represented by the Association. The

Association now seeks to accrete the title of pm dispatcher to its existing unit. One employee currently holds this title.

The County argues that there is no community of interest because the duties of the petitioned-for titles are clerical and administrative in nature, while the duties of the titles currently in the unit are transportation-related. Citing Hamilton Tp. Bd. of Ed., D.R. No. 2004-14, 30 NJPER 93 (¶37 2004), the County asserts that in community of interest determinations, ". . . the focus is on the job duties performed." Id. at 94. Relying upon that precedent, the County contends that no community of interest exists between clerical employees and transportation employees as a matter of law because these groups of employees do not have similar job duties.

The County also argues that it is irrelevant whether there is common supervision between the petitioned-for titles and the units' current titles. It asserts that if common supervision had any bearing on a community of interest determination, then all the employees in a department could be in the same negotiations unit merely because they all could be hired, terminated and disciplined by its director.

The County concedes that there is regular interaction between the petitioned-for titles and the existing titles for the purpose of providing transportation services to County residents. However, it denies similarities in wages, benefits, evaluation

systems, work goals and work space. The County has not asserted what negotiations unit, if any, should include the petitioned-for employees.

The Association contends that its petition seeks an appropriate unit with the requisite community of interest between the petitioned-for titles and titles in its existing unit. The Association argues that its proposed unit is consistent with Commission precedent favoring broad-based units. It asserts that a community of interest exists because the petitioned-for titles and the employees represented by the Association have a common supervisor, i.e., Director Manfra. Additionally, the employees in the petitioned-for titles and existing unit share the same work location and work objective, namely, effectively providing certain transportation services to residents of Somerset County. In pursuit of that objective, the Association continues, the petitioned-for employees have regular interaction and communication with employees in the unit. The Association claims that in some instances, the petitioned-for titles perform the same work as the drivers and aides in the unit.

ANALYSIS

The Commission is responsible for determining the appropriate collective negotiations unit when questions concerning representation of public employees arise. N.J.S.A. 34:13A-6(d). When more than one unit is potentially appropriate,

the Commission must decide which unit configuration is the most appropriate. State v. Prof. Assn. of N.J. Dept. of Ed., 64 N.J. 231 (1974). The Act mandates that the Commission define the negotiations unit "with due regard for the community of interest among the employees concerned." N.J.S.A. 34:13A-5.3. To determine whether the requisite community of interest exists in a proposed unit, the Commission examines a number of factors, such as common employer, shared goals, common supervision, location of employment, job duties, and similarity in wages, hours and terms and conditions of employment. See State of New Jersey (State College Locals), D.R. No. 97-5, 24 NJPER 295, 297 (¶29141 1996); West Milford Bd. of Ed., P.E.R.C. No. 56, NJPER Supp. 218, 219 (¶56 1971). "[T]he importance of any one factor in a particular case depends upon how it interrelates with other factors." Piscataway Tp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272, 273 (¶15134 1984).

Several other considerations are also relevant with respect to unit determinations. The New Jersey Supreme Court has affirmed the Commission's policy favoring broad-based negotiations units over units structured along departmental or occupational lines. State v. Prof'l Ass'n of N.J. Dep't of Educ., 64 N.J. 231 (1974). The Commission has explained that broad-based units streamline negotiations by reducing the potential for such problems as "competing demands, whipsawing and

continuous negotiations . . ." that could result from negotiations with numerous smaller units. Id. at 241 (quoting State of New Jersey (Prof'l Ass'n), P.E.R.C. No. 68, NJPER Supp. 273 (¶68 1972)). The Commission also examines whether a proposed unit would lead to undue unit fragmentation or proliferation. Id. See also New Jersey State Coll. of Medicine & Dentistry, D.R. No. 77-17, 3 NJPER 178 (1977); Teaneck Tp., P.E.R.C. No. 88-20, 13 NJPER 721 (¶18270 1987). Additionally, the Commission considers the history of the negotiations units, the extent of organization of the petitioned-for titles, the desires of the parties and the Act's purpose. See Passaic Cty., P.E.R.C. No. 87-123, 13 NJPER 298 (¶18125 1987) recon. denied P.E.R.C. No. 87-141, 13 NJPER 483 (¶18179 1987); State of New Jersey (Human Services), D.R. No. 95-1, 20 NJPER 308 (¶25154 1994); Englewood Bd. of Ed., P.E.R.C. No. 82-25, 7 NJPER 516 (¶12228 1981). Lastly, the Commission must balance the need to find the most appropriate unit with the public employees' right to obtain representation. Univ. of Medicine and Dentistry of N.J., P.E.R.C. No. 84-28, 9 NJPER 598, 600 (¶14253 1983); Bergen Cty. (Physicians and Dentists), D.R. No. 87-3, 12 NJPER 619, 620 (¶17234 1986).

Applying the above considerations to the facts in this matter, the petitioned-for unit is appropriate. I find that a sufficient community of interest exists between the petitioned-

for titles and the titles in the existing unit, based upon the following factors.

Location of Employment:

The parties dispute whether the petitioned-for titles share the same work location with the titles in the existing unit. The County argues that petitioned-for titles do not have the same work location. Transportation Director Manfra certified that the only occasions when the employees in the existing unit share work space with the employees in the petitioned-for titles are when the employees represented by the Association enter the office to punch in and collect paychecks and assignments. Other than these instances, the drivers remain in their assigned buses and on the road for the rest of the workday. Manfra also certified that the buses are stationed over a thousand feet from the office where the petitioned-for titles spend their workday.

The Association asserts that the petitioned-for employees share work space with unit employees. Association President Peterson certified that the transportation division's office, located at 750 East Main Street in Bridgewater, included a break room that was recently relocated to a trailer about fifty (50) feet from the building. He certified that both drivers and the petitioned-for employees punch-in using the same time clock in the main building. He certified that the buses are parked and serviced at the same location. The Association's bulletin board

is in the main building at 750 East Main Street. Information from the County pertaining to both drivers and office staff is posted on bulletin boards also located in the main building. Peterson further certified that the drivers obtain their daily manifests at the dispatch window.

Peterson also provided copies of seven photographs, together with his certification. Peterson certified that one picture shows the window in the main office where drivers pick up their manifests. Another photograph shows the time clock where both the petitioned-for titles and titles in the unit punch-in for work. An additional photograph shows a bulletin board where all employees can get information. According to Peterson, this bulletin board displays work rules covering all transportation employees as well as required legal notices. A fourth photograph shows another bulletin board in the main office where standby drivers can see any assignments they have received for the following day's work. A fifth photograph shows the Association's bulletin board, which is located on the side of the office where the dispatchers work. Peterson certified that a sixth photograph shows buses being serviced at 750 East Main Street. The final photograph shows the area near the entrance of the transportation office, with the staff parking lot, break room trailer and the bus parking lot visible in the background.

The Association's certifications demonstrate that the transportation division treats the employees in the existing unit as well as the petitioned-for employees as having the same work location. The division communicates with both groups of employees by posting work-related notices on bulletin boards in the main building. It requires both groups of employees to perform important administrative responsibilities at the main building, including clocking their work hours, collecting paychecks, and obtaining daily work assignments. The division's website identifies the location of the Transportation Division as 750 East Main Street (<http://www.co.somerset.nj.us/publicworks/transportation/index.html> accessed on April 15, 2014), further demonstrates that all the employees of the Transportation Division are assigned to a common work site.

I find that the petitioned-for titles share the same work location with the drivers and aides. Although Manfra certified that the buses are parked about one thousand feet from the main building and that drivers and aides are often on the road, the relatively short distance between the bus parking lot and the main building, and the differing nature of specific job duties once the employees arrive at 750 East Main Street, do not overcome all of the other facts indicative of single work

location. Therefore, this factor supports a finding of a community of interest.

I further find that the conflicting positions of Manfra and Peterson in their respective certifications regarding whether the petitioned-for titles and existing unit titles share the same work location, do not warrant an evidentiary hearing. Director Manfra's most recent certification reiterates facts set forth in her previous certification and does not offer any new facts about work locations. While employees in the unit titles primarily spend their work day on the road as Manfra certified, other undisputed facts, such as the practice of unit employees punching in, collecting paychecks, obtaining assignments and receiving work-related notices in the main office, all support my finding that the petitioned-for titles and existing unit titles share the same work location. Although the County obviously disagrees with my evaluation, this disagreement does not create a substantial and material factual dispute warranting an evidentiary hearing.

Common Supervision:

The County asserts that there is no common supervision over the petitioned-for titles and the titles in the existing unit. Director Manfra certified that all of the petitioned-for titles, with the exception of pm dispatcher, report directly to her. The pm dispatcher reports directly to the community transit manager. Director Manfra also certified that no title in the existing

bargaining unit reports directly to her. Instead, the County claims that either the community transit manager or the para-transit manager are the supervisors of the titles in the existing unit. Therefore, the County contends that no common supervisor exists when all but one of the petitioned-for titles have a supervisor that is different from the supervisor of the existing unit.

The Association counters that common supervision exists between the petitioned-for titles and titles included in the unit. Association President Peterson certified that Director Manfra oversees the entire department, and has authority to hire, fire and discipline all of its employees, including the para-transit manager and the community manager. He certified that Manfra has disciplined both unit employees and employees in the petitioned-for titles. The Association argues that Para-Transit Manager Leona Carrube also has supervisory authority over both petitioned-for titles and unit titles. Peterson's certification cites a disciplinary notice issued by Manfra to a petitioned-for administrative assistant, providing in pertinent part: "Miss Carrube attempted to correct your behavior, in response to her directives you state 'I don't care what you say' or words to that effect."^{2/}

^{2/} Peterson referenced attached disciplines that Manfra issued to the petitioned-for title of administrative assistant and (continued...)

I find that the petitioned-for titles and existing unit titles have common supervision. It appears from the certifications, the County's organizational chart and the Director's job description, that Manfra is the head of the transportation division and oversees its operations. In her capacity as head of the transportation division, Manfra has the authority to hire, discharge, and discipline any title within the division. According to Peterson's certification, Manfra has disciplined individuals who occupy both petitioned-for and represented titles, and the County did not specifically rebut Peterson's certification on this point. All but one of the petitioned-for titles report directly to Director Manfra. Additionally, she directly supervises the para-transit manager and community transit manager. She is also a supervisor of the existing unit titles and the pm dispatcher because those titles directly report to either the para-transit manager or the community transit manager.

Moreover, the County's job descriptions indicate that Director Manfra has direct authority over not only most of the petitioned-for titles, but over the existing unit titles as well. For example, the job descriptions of the motor coach operators, mini-bus drivers, in-home service workers, transportation aides,

2/ (...continued)
to various drivers by way of example, but no such attachments were provided.

and home delivered meals drivers provide that they should "perform additional duties as assigned by community transit manager, para-transit manager, transportation coordinator or transportation director." All of the titles that would "perform additional duties" are within the existing unit.

I further find that the conflicting positions of Manfra and Peterson in their respective certifications regarding whether the petitioned-for titles and existing unit titles share a common supervisor do not warrant an evidentiary hearing. Director Manfra's most recent certification reiterates the same assertions she made in her previous certification and does not offer any new facts for consideration pertaining to this factor. Therefore, it does not necessitate a different analysis or conclusion. It is undisputed that Manfra is the head of the Transportation Division, that she oversees its operation, that she has the authority to hire, discharge and discipline any title in the division, that the County's organizational chart shows that she directly supervises most of the petitioned-for titles and also directly supervises two titles that are responsible for supervising the existing unit titles, and that the County's job descriptions for existing unit titles identify Director Manfra as a title who can assign job duties to them. Nowhere in Manfra's certifications does she assert that the County's organizational documents and job descriptions are incorrect. Instead, Manfra

certified that she is not the direct supervisor of the existing unit titles, and the County uses this point as a basis for arguing that there is no common supervision. Although the County may disagree with my evaluation that the facts support a finding of common supervision, such disagreement does not evidence a substantial and material factual dispute, which would warrant an evidentiary hearing.

The County argues alternatively that common supervision is not a relevant factor in determining whether a community of interest exists among titles in a proposed unit. Instead, it asserts that "to suggest otherwise would be tantamount to suggesting that all employees in a particular municipality's department of public works must be within a single bargaining unit, notwithstanding the fact that they do not share any 'community of interest,' simply because they can all technically be hired or fired by the DPW Director."

Common supervision is one of several relevant factors used in community of interest determinations. See State of New Jersey (State College Locals), 24 NJPER at 297. Therefore, a unit of public works employees could be appropriate with the requisite community of interest, depending on the particular circumstances of that case. Moreover, a lack of common supervision among titles in a proposed unit does not necessarily preclude a finding of a community of interest. See e.g., State of New Jersey (State

College Locals), 24 NJPER at 298 (finding a unit consisting of over two thousand adjunct faculty employed by seven different state colleges and a state university to be appropriate); Bergen Cty. Hous. Auth., D.R. No. 88-37, 14 NJPER 449, 450 (¶19185 1988) (finding a unit of all blue and white collar employees of the Authority to be appropriate).

Job Duties:

The parties dispute whether there is sufficient similarity in job duties to support a finding of a community of interest. The County asserts that there is no commonality of functions between the existing unit titles and the petitioned-for titles. Transportation Director Manfra certified that the petitioned-for titles spend significant time using computers daily; the titles represented by the Association do not. Instead, buses are equipped with mobile data terminals ("MDTs"), which she described as essentially modernized versions of vehicle manifests. Director Manfra also certified that the motor coach operators and mini bus drivers, who are already included in the existing unit, must work in an outdoor environment, sometimes in inclement weather. By contrast, the petitioned-for titles do not work in an outdoor environment. Director Manfra further certified that the titles in the existing unit have employee manuals specific to their particular job title, but the petitioned-for titles do not have their own employee manuals. Additionally, the petitioned-

for titles are evaluated under what is known as the "Hay point system," while employees represented by the Association are not evaluated under that system. The County argues that the differing nature of the job duties of the petitioned-for titles and the unit titles caused one of its employees to leave the administrative assistant position to return to the driver position for which the employee was originally hired. The County's most recent submission simply repeats its argument that the job duties vary so greatly that they preclude a finding of a community of interest.

The Association argues that there is a sufficient similarity because the petitioned-for titles on occasion have performed the work of drivers.

I find that the petitioned-for titles and existing unit titles do not have similar job duties. Although the County concedes that some of the petitioned-for titles have worked as drivers, the County explained that such an assignment arises when there is a shortage of available back-up drivers to provide meals to seniors, and the Association did not demonstrate that such coverage occurred with sufficient frequency to conclude the petitioned-for titles perform the same work. Therefore, this particular factor does not support a finding that a community of interest exists.

Similar Skill Level:

The County claims that the petitioned-for titles and the represented titles do not possess similar skill levels. The County contends that all of the petitioned-for titles require a minimum of a high school diploma and two years of office experience, and the drivers are not required to have any educational or office experience. The County also argues that a commercial driver license (CDL) is a requirement for unit titles, but not for the petitioned-for titles.

I find that the skill levels for the petitioned-for titles and the represented titles are similar. Contrary to the County's claim, some of the petitioned-for title job descriptions do not have an education requirement. The County's job descriptions for the am dispatcher and pm dispatcher do not set forth any education requirements, just as the job descriptions for the unit titles do not. Additionally, not all of the titles in the existing unit require a CDL or even a drivers license. The job descriptions for in-home service worker and home-delivered meals driver require only a valid driver license rather than a CDL. Moreover, like the petitioned-for titles, the unit title of transportation aide lacks any type of driver license requirement. With the exception of the job description for administrative assistant I, the job descriptions for both the petitioned-for titles and the represented titles require strong communication

skills and/or customer service skills. The County has occasionally used administrative assistants to perform the work of drivers.

I disagree with the County's contention that a substantial material dispute exists because the skill requirements identified in County's job descriptions conflict with the skill requirements identified in Manfra's certifications. Nowhere in Manfra's certifications did she claim that the County's job descriptions were incorrect or offer new facts for consideration under this factor. Additionally, even if I were to ignore the County's job descriptions, I would still find that the job skills are sufficiently similar as demonstrated by the undisputed fact that office workers have occasionally performed the work of drivers. Therefore, the County has not raised any factual conflicts that rise to the level of a substantial factual dispute.

Similarity of Hours, Wages and Benefits:

The parties disagree about whether there is similarity in hours, wages and benefits between the petitioned-for and represented titles. The County maintains that the petitioned-for titles' work hours are not comparable to those of unit employees because a collective negotiations agreement governs the latter's hours. It also argues that the wages of the petitioned-for titles differ from the wages of unit employees because the petitioned-for titles are eligible for compensatory time and are

less likely to work overtime. The County also maintains that the salaries of the petitioned-for and represented titles are too dissimilar to support a finding of a community of interest. The County concedes that the transportation division employees have similar benefits with respect to leave time, healthcare and dental care. It notes however, that the sick leave allocation to the unrepresented employees was frozen in 2007, unlike the represented titles. Finally, the County contends that the petitioned-for titles lack sufficient similarity in benefits because they were immediately impacted by the new healthcare contribution requirements recently imposed pursuant to Chapter 78, P.L. 2011, while the Association's titles were exempt from the law's impact until their collective negotiations agreement expired on December 31, 2012.

I find that the two groups share a community of interest regarding their hours, wages and benefits. All of the titles in the proposed unit work forty hours per week, and all are eligible for overtime. Both the petitioned-for titles and the represented titles receive holiday pay. These similarities are not outweighed by the fact that the represented titles are not contractually entitled to compensatory time off. The salary ranges of the petitioned-for titles and the current unit titles are comparable and within the salary ranges of many other certified units. The minibus drivers and motorcoach operators

have a base salary of \$40,588 and \$41,764, respectively, while the salaries of the petitioned-for titles range from \$33,279 to \$50,326. The same may be said of the benefits among the titles in the proposed unit. The differences in benefits identified by the County are minor and may even be a function of the unrepresented status of the petitioned-for titles. For example, if the petitioned-for titles had been represented by any employee organization with an agreement in effect when the health care reforms under Chapter 78, P.L. 2011 were implemented, those titles would have been protected from changes until that agreement expired.

The County's most recent reply criticizes as speculative the notion that some differences in benefits identified by the County may be attributed to the unrepresented status of the petitioned-for titles. The criticism misses the point. If the petitioned-for titles were included in the negotiations unit represented by the Association when Chapter 78 took effect, the impact on their health care contributions and the contributions of existing unit titles would not have occurred until the expiration of the Association's contract. This is not speculation. It is an express statutory protection provided to titles in negotiations units that had a contract in effect, such as the instant unit represented by the Association.

I also find that the conflicting positions of Manfra and Peterson in their respective certifications regarding whether they view as similar the hours, wages and benefits of the petitioned-for titles and existing unit titles, do not warrant an evidentiary hearing. Manfra's most recent certification repeats her previous certification and does not offer any new facts regarding this factor. A different analysis or conclusion is not warranted. It is undisputed that all of the titles in the proposed unit work forty hours per week, are eligible for overtime, eligible for holiday pay, and would have salaries ranging from the low thirty-thousands to the low fifty-thousands. The County conceded that both groups had similar vacation, personal and sick leave benefits. The undisputed facts demonstrate similar hours, wages and benefits among petitioned-for titles and those in the existing unit. A hearing on the matter is not warranted.

Interaction Among Titles:

The parties disagree about whether the level of interaction between the petitioned-for titles and the represented titles supports a finding of a community of interest. The County asserts that the titles interact only to the extent that the petitioned-for titles regularly take calls from clients and communicate with the drivers to provide the requested transportation service. Director Manfra certified that the

titles already represented by the Association spend their work day in an outdoor environment, while the petitioned-for titles remain in the office.

Association President Peterson asserts that there is regular communication between the employees in the petitioned-for titles and the drivers. He certified that employees in the petitioned-for titles and the employees represented by the Association communicate daily on cancellations, route deviations, issues with passenger pickups and directions. Peterson certified that employees holding the petitioned-for titles communicate with drivers about passenger pick-ups and drop-offs via a two-way radio. If a passenger does not promptly exit a residence for a pick-up, the driver will contact the office, and the office in turn contacts that passenger and reports back to the driver. Peterson also certified that the MDT system communicates information between employees in the petitioned-for titles and the drivers.

I find that there is a sufficient level of interaction between the petitioned-for titles and represented titles to support a finding of a community of interest. The certifications of Manfra and Peterson demonstrate that there is regular and daily communication among titles in the proposed unit, albeit the petitioned-for titles are in the office and represented titles are on the road.

Shared Goals:

The parties dispute whether the proposed unit has common goals. The County asserts that there is no evidence of common goals because the performance objectives of the petitioned-for titles vary significantly from the performance objectives of the titles represented by the Association. It notes that the job goals of the petitioned-for titles relate to computer work while the job goals of the represented titles relate to the transportation of County citizens. The Association counters that all the titles in the proposed unit share the goal of providing certain transportation services to County residents.

I find that both the petitioned-for titles and represented titles have the common goal of providing efficient transportation services to the County's residents. The County views the factor of common goals narrowly, limiting objectives to the specific job duties of each particular title, as set forth in each applicable job description. By such a standard, a unit of school food service workers, school bus drivers and school janitors would lack a community of interest because the titles have different performance objectives. We have repeatedly found a community of interest among titles where the common goal was defined broadly as providing a particular government service. See e.g., Lakewood Hous. Auth., D.R. No. 91-5, 16 NJPER 474 (¶21203 1990) (finding a unit of blue collar maintenance and clerical employees to be

appropriate where employees share the common goal of efficient provision of housing authority's services to tenant population); Monmouth Cty. Judiciary, D.R. No. 89-38, 15 NJPER 389, 391 (finding the addition of court aides and attendants to the existing unit of judiciary support staff employees where the all titles shared the common goal of efficient operation of the court system).

I further find that the conflicting positions of Manfra and Peterson in their respective certifications regarding whether the petitioned-for titles and existing unit titles share the same goals do not warrant an evidentiary hearing. Manfra's most recent certification repeats the same assertions she made in her previous certifications and does not offer new information regarding this factor. Therefore, a different analysis or conclusion is not warranted. As discussed, the County's position that goals should be determined by titles' performance standards is rejected because it does not comport with our precedent that broadly defines shared goals to be the provision of a particular government service. The County's disagreement with our broader understanding of shared goals does not amount to a substantial, material factual dispute.

The County also emphasizes that the individual job duties differ among the titles in the proposed unit. It cites Hamilton Tp. Bd. of Ed., D.R. No. 2004-14, 30 NJPER 93, 94 (¶37 2004), for

the proposition that the specific job duties between administrative or clerical titles and transportation-related titles are too dissimilar for a community of interest to exist.

In Hamilton Tp. Bd. of Ed., the Director of Representation dismissed a clarification of unit petition in which a union representing full-time school secretarial personnel sought to add the title of transportation technician to its negotiations unit. The Director found that the transportation technician shared a greater community of interest with titles in another unit represented by the Hamilton Township Education Association, which had indicated its willingness to represent the title. The Association also represented a broad-based unit that included bus drivers and relief driver/helpers. The Director reasoned that the transportation technician mainly performed job duties similar to those performed by the bus drivers and relief drivers/helpers.

The County's reliance on Hamilton Tp. Bd. of Ed. is misplaced. That decision arose in the context of a clarification of unit petition. A clarification of unit petition seeks to determine whether a particular title falls within the scope of an existing unit with an established representational status. See Clearview Reg'l Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977) (distinguishing clarification of unit petitions from other representation petitions). In such cases, the Commission will examine the particular job duties of each petitioned-for title to

determine whether the title is within the scope of the unit definition. Id. at 251. Therefore, the central inquiry in Hamilton Tp. Bd. of Ed. was on specific job duties of the transportation technician because such facts enable the Director to determine whether the title of transportation technician was encompassed within the scope of an existing unit of secretarial personnel or the scope of an existing broad-based unit.

By contrast, the instant matter involves a representation petition, wherein public employees have exercised their statutory right to choose an exclusive representative and a majority representative seeks to change the scope of its unit by adding the titles of those employees. A "community of interest" demands a multi-factor analysis; job duties are merely one relevant factor. See State of New Jersey (State College Locals), D.R. No. 97-5, 24 NJPER 295, 297 (¶29141 1996); Piscataway Tp. Bd. of Ed., 10 NJPER at 273. "The test for community of interest has never been that employees perform the same jobs or use precisely the same knowledge and skills to complete assignments." See Lakewood Hous. Auth., 16 NJPER at 474. As the Commission has explained:

Given the policy considerations of this statute, the Commission believes that the characteristics of a particular profession should not be the determinant in establishing units for negotiations. If community of interest is equated with and limited to such characteristics, the stability and harmony which this Act was designed to promote are in jeopardy.

State v. Prof. Assn. of N.J. Dept. of Ed., 64 N.J. 231, 241 (1974) (citing State of New Jersey (Prof'l Ass'n), P.E.R.C. No. 68, NJPER Supp. 273 (¶68 1972). Therefore, different job duties among titles in a proposed unit will not defeat a finding of a community of interest that is supported by other relevant factors. See Monmouth Cty. Judiciary, 15 NJPER at 391 (finding community of interest existed between court aides and other judicial support personnel despite differences in job duties).

Accordingly, the Director's conclusion in Hamilton Tp. Bd. of Ed. that the job duties of the transportation technician prevented its inclusion in an existing unit of secretarial personnel when a broad-based unit was available does not control whether a community of interest exists among a proposed negotiations unit consisting of administrative assistants, dispatchers, drivers and aides in a county's transportation division where no broad-based unit alternative is available.

Other considerations also support the appropriateness of the petitioned-for unit. The addition of the administrative and transportation assistants to the Association's existing unit does not risk undue fragmentation or proliferation because no unit of clericals employed by the County has been organized. The addition of the dispatchers to the existing unit also does not risk undue fragmentation or proliferation because the only other County employees with dispatching duties are the emergency

dispatchers and that title is already organized. The petitioned-for unit is consistent with Commission policy favoring broad-based units. Moreover, the assistants and dispatchers have a statutory right to representation, and their exercise of this right weighs in favor of their accretion to the Association's unit. There are no other existing units available to these employees, and a petition seeking representation of only the administrative assistants and dispatchers would not avoid unit proliferation. Under the totality of the circumstances, the instant petition constitutes an appropriate unit with the requisite community of interest.

I find that the following unit is appropriate for collective negotiations:

Included: All regularly employed nonsupervisory dispatchers, administrative assistants, and transportation assistants to be added to the existing unit of mini bus drivers, motor coach operators, in-home service workers, transportation aides, and home delivered meal drivers employed by the County of Somerset.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; professional employees, craft employees, police, casual employees, and all others employed by the County of Somerset.

The Association has met the requirements of the Act, and it is entitled to certification based upon the authorization cards from a majority of the employees in the petitioned-for titles.

ORDER

I certify Somerset County Drivers and Aides Association as the exclusive representative of the unit described above, based upon its authorization cards.^{3/}

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Gayl R. Mazuco

DATED: April 16, 2014
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by April 28, 2014.

^{3/} An appropriate Certification of Representative will issue with this decision.