

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Rockford Public Schools Dist. #205,)	
)	
Employer)	
)	
and)	Case No. 2022-RS-0001-C
)	
Rockford Association of Educational)	
Personnel, IEA-NEA,)	
)	
Petitioner)	

OPINION AND ORDER

I. Statement of the Case

Rockford Association of Educational Personnel, IEA-NEA (Union or Petitioner) filed a majority interest petition with the Illinois Educational Labor Relations Board (IELRB or Board) pursuant to Section 7 of the Illinois Educational Labor Relations Act (IELRA or Act), 115 ILCS 5/1, *et seq.*, seeking to add the following two titles or positions to its existing bargaining unit¹ of employees of Rockford Public Schools District 205 (District or Employer or Respondent): prevention initiative support professional, Grade 8 and translator/interpreter, Grade 8.² The District objected to the petition based on its contention that the petitioned-for unit is inappropriate because the petitioned-for positions do not share a community of interest with the positions in the existing unit. The parties appeared for a hearing before an Administrative Law Judge (ALJ). Following the hearing, the ALJ issued a Recommended Decision and Order (ALJRDO) finding that the petitioned-for unit was appropriate for the purposes of collective bargaining within the meaning of Section 7(a) of the Act. The District filed exceptions to the ALJRDO, and the Union filed a response to the exceptions. For the reasons discussed below, we affirm the ALJRDO.

¹ The Board most recently certified the bargaining unit in Case Number 84-RC-0074-C as:
INCLUDED: All full-time and regular part-time secretaries and clerical employees of Rockford School District #205 including: data entry operator, Range1, clerk-typist, Range1, switchboard operator/receptionist, Range 1, offset press operator, Range 2, senior clerk-typist, Range 3, Secretary, Range 3, account clerk, Range 4, Seniors Secretary, Range 5, office manager, Range 6.
EXCLUDED: Administrative Secretaries to the Superintendent of Schools, Senior Secretaries to Assistant Superintendents for: Instruction, Planning & Operations, Elementary Education, Secondary Education and Support Services, also Controller and School Treasurer, Director of Personnel, supervisors, managerial employees, confidential employees, short term employees and students as defined in the Act.

² The original petition sought to add the titles or positions of Prevention Initiative Specialist and Bilingual Translator to the existing unit. The Union amended the petition to change the titles of the petitioned-for positions to prevention initiative support professional, Grade 8 and translator/interpreter, Grade 8.

II. Factual Background

Except where indicated below, we adopt the facts as set forth in the underlying ALJRDO. Because the ALJRDO comprehensively sets forth the factual background of the case, we will not repeat the facts herein except where necessary to assist the reader.

III. Discussion

The Board's rules for processing majority interest petitions provide that exceptions to an ALJRDO must be filed no later than seven days after receipt of the ALJRDO. 80 Ill. Adm. Code 1110.105(k)(2)(A). However, the ALJRDO mistakenly cited the section of the Board's rules for processing unit clarification petitions, 80 Ill. Adm. Code 1110.160(c)(3), and stated the deadline for filing exceptions was fourteen days after receipt of the ALJRDO. In accordance with the direction given by the ALJ, the District's exceptions were filed fourteen days after it received the ALJRDO. Ordinarily, we would strike exceptions filed more than seven days after the receipt of an ALJRDO in a case like this. That is, we would refuse to consider them because they were late. But here, because the ALJRDO specifically said the deadline for exceptions was fourteen days, we will consider the exceptions timely under these very limited circumstances.

In determining whether a bargaining unit is appropriate, the Board is guided by Section 7(a) of the Act, which provides, in relevant part: "the Board shall decide in each case, in order to ensure employees, the fullest freedom in exercising the rights guaranteed by this Act." Pursuant to Section 7(a) of the Act, the Board considers the following community of interest factors to resolve unit determinations: employee skills and functions, degree of functional integration, interchangeability and contact among employees, common supervisor, wages, hours and other working conditions of the employees involved, and the desires of the employees. In this case, the question is whether the prevention initiative support professional, Grade 8 (PI) and translator/interpreter, Grade 8 (Translator) share a community of interest with members of the existing bargaining unit. From the outset of this case, the District argued that petitioned-for positions do not share a community of interest with the other members of the existing unit. After conducting a hearing and considering the testimony and evidence in the record, the ALJ found that there was a sufficient community of interest pursuant to Section 7(a) of the Act and recommended the petition be granted.

The District's first exception is that the ALJ incorrectly held that the Respondent, the District in this case, carried the burden of proof as to unit appropriateness. During the hearing,

over the District's objection, the ALJ directed the District to present its case-in-chief first based on his finding that the District had the burden of proof. In representation cases, the party asserting a position is excluded from a bargaining unit has the burden of proof. *Glenview Community Consolidated School District 34 v. Illinois Educational Labor Relations Board*, 374 Ill. App. 3d 892, 899, 874 N.E.2d 158, 164 (4th Dist. 2007); *County of Cook v. Illinois Labor Relations Board*, 369 Ill. App. 3d 112, 123, 859 N.E.2d 80, 89 (1st Dist. 2006). Furthermore, Section 1105.30(f) of the Board's Rules and Regulations regarding hearings in representation cases grants ALJs the authority to determine the order that parties present evidence. 80 Ill. Adm. Code 1105.30. Accordingly, the ALJ correctly placed the burden of proof on the District.

The District's second exception is that the ALJRDO incorrectly stated employees' work locations and, as such, should be overturned because the decision relied on functional integration based on common workspace. The District complains that the record shows there is only one member of the existing unit who works out of its Sterling Holley transportation building, but the ALJRDO erroneously stated several existing bargaining unit members work at, rather than out of, Sterling Holley. According to the District's exceptions, none of the Translators and only some of the PIs work at Sterling Holley. The ALJ found that the petitioned-for employees had a high degree of functional integration with at least one member of the existing unit. This still appears to be a plausible conclusion regarding some of the PIs, even when viewed from the version of the facts in the District's exceptions that one member of the existing unit and some PIs work out of Sterling Holley. Yet the ALJ did not find that the employees in the existing unit itself shared a great deal of functional integration because they held positions in essentially every department in every building across the District. As a result, whatever errors the ALJ may have made do not change the outcome of the decision. Whether some, all, or one of the petitioned-for positions are functionally integrated with some, all, one or none of the employees in the petitioned-for unit does not render the unit inappropriate. Whatever factual errors the ALJRDO may contain are minimal and do not warrant disturbing the underlying decision.

The District's next exception is that the ALJRDO relied on a few similarities between the petitioned-for employees and the employees in the existing unit in finding there was a community of interest and ignored evidence of the more frequent differences between these groups of employees. The Board has recognized that more than one appropriate bargaining unit

may cover the same employees. *Edwardsville Community Unit School Dist. No. 7*, 8 PERI 1003, Case Nos. 91-RC-0022-S, 91-RC-0023-S (IELRB Opinion and Order, November 21, 1991). The Board has rejected any requirement of maximum coherence or selection of a most appropriate unit if more than one potential configuration would be appropriate. *Id.* The Act does not require that a petitioned-for unit be the most appropriate unit, but rather an appropriate unit. *Black Hawk College Professional Technical Unit v. IELRB*, 275 Ill. App. 3d 189, 655 N.E.2d 1054 (1st Dist. 1995); *University of Illinois*, 7 PERI 1103, Case No. 90-RS-0017-S (IELRB Opinion and Order, September 13, 1991), *rev'd on other grounds*, 235 Ill. App. 3d 709, 600 N.E.2d 1292 (4th Dist. 1992). To refuse to find a bargaining unit appropriate because of the possible existence of a more appropriate alternative unit would not serve the statutory purpose of ensuring employees the fullest freedom in exercising the rights guaranteed them by the Act. *Board of Trustees of the University of Illinois*, 21 PERI 119, Case No. 2005-RC-0007-S (IELRB Opinion and Order, July 14, 2005), *aff'd*, No. 4-05-0713 Ill. App. Ct. (4th Dist. 2006) (unpublished order).

The District's final exception is that the ALJRDO ignored the historical pattern of recognition community of interest factor. The historical pattern of recognition, says the District, weighs against the inclusion of the petitioned-for positions in the unit that they have been historically excluded from since the unit's certification in 1984. However, in *Chicago Board of Education*, 18 PERI 1158, Case No. 2002-RS-0008-C (IELRB Opinion and Order, October 17, 2002), the Board determined that the historical pattern of recognition was not a factor because the employees that the union sought to add to the existing unit had not previously been represented. In this case, the PIs and Translators are not currently represented by any exclusive representative and have never been represented by any union. Therefore, as in *Chicago Board of Education*, the historical pattern of recognition is not a factor in this case.

IV. Order

We find that the petitioned-for unit is appropriate under Section 7 of the Act and affirm the ALJRDO. The Executive Director is directed to process the petition in accordance with this opinion and order.

V. Right to Appeal

This Opinion and Order is not a final order of the Illinois Educational Labor Relations Board subject to appeal. Under Section 7(d) of the Act, "[a]n order of the Board dismissing a representation petition, determining and certifying that a labor organization has been fairly and

freely chosen by a majority of employees in an appropriate bargaining unit, determining and certifying that a labor organization has not been fairly and freely chosen by a majority of employees in the bargaining unit or certifying a labor organization as the exclusive representative of employees in an appropriate bargaining unit because of a determination by the Board that the labor organization is the historical bargaining representative of employees in the bargaining unit, is a final order.” Pursuant Section 7(d) of the Act, aggrieved parties may seek judicial review of this Opinion and Order in accordance with the provisions of the Administrative Review Law upon the issuance of the Board’s certification order through the Executive Director. Section 7(d) also provides that such review must be taken directly to the Appellate Court of a judicial district in which the Board maintains an office (Chicago or Springfield), and that “[a]ny direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.” The IELRB does not have a rule requiring any motion or request for reconsideration.

Decided: **July 20, 2022**
Issued: **July 20, 2022**

/s/ Lara D. Shayne
Lara D. Shayne, Chairman

/s/ Steve Grossman
Steve Grossman, Member

/s/ Chad D. Hays
Chad D. Hays, Member

/s/ Michelle Ishmael
Michelle Ishmael, Member

/s/ Gilbert F. O’Brien
Gilbert F. O’Brien, Member

Illinois Educational Labor Relations Board
160 North LaSalle Street, Suite N-400
Chicago, Illinois 60601
312.793.3170 | 312.793.3369 Fax
elrb.mail@illinois.gov

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Rockford Association of Educational Personnel, IEA-NEA,)	
)	
Petitioner,)	
)	
and)	Case No. 2022-RS-0001-C
)	
Rockford Public Schools District #205,)	
)	
Respondent)	
)	

Administrative Law Judge’s Recommended Decision and Order

On July 23, 2021, Rockford Association of Educational Personnel, IEA-NEA (Union), filed a majority interest self-representation petition with the Illinois Educational Labor Relations Board seeking to add the positions of Prevention Initiative Specialist and Bilingual Translator to an already existing bargaining unit comprised of certain employees of Rockford Public Schools District #205 (District). (ALJ Ex. 2). On August 12, 2021, the petition was amended to change the titles of the petitioned-for positions to Prevention Initiative Support Professional – Grade 8 and translator/interpreter, Grade 8. (ALJ Ex. 3). On August 13, 2021, the District issued a response to the petition, objecting to the inclusion of the petitioned-for job titles on the grounds that the new additions would not constitute an appropriate unit. (ALJ Ex. 4). The parties appeared before the hearing before the undersigned Administrative Law Judge on December 15, 2021. At the hearing, both parties had the opportunity to call, examine, and cross-examine witnesses, introduce documentary evidence, and present arguments. Both parties filed post-hearing briefs.

I. Findings of Fact

During the hearing, Matthew Zediker, Suany Rodriguez-Parham, Kimberly Nelson, Paula Crossno, and Nichole Giovanni testified on behalf of the District. (R. 17, 55, 99, 133, 161)¹. Jalina Cervantes and Carolina Rodriguez testified on behalf of the Union. (R. 192, 224). I find that the District is an educational employer within the meaning of Section 2(a) of the Act and subject to the jurisdiction of the Board. The Union is a labor organization

¹ References to (R. ###) refer to the Record of Proceedings from the hearing in this matter. Citations to “ALJ Ex. #” refer to documents entered into evidence as ALJ Exhibits. The Union’s Exhibits will be labeled “Petitioner Ex. #” and the District’s Exhibits will be referred to as “Respondent Ex. #”.

within the meaning of Section 2(c) of the Act and the exclusive representative within the meaning of Section 2(d) of the Act of the following bargaining unit comprised of certain of the District's employees:

Included: All full-time and regular part-time secretaries and clerical employees of Rockford School District #205 including: data entry operator, Range 1; clerk-typist, Range 1; switchboard operator/receptionist, Range 1; offset press operator, Range 2; senior clerk-typist, Range 3; Secretary, Range 32; account clerk, Range 4; Senior Secretary, Range 5; office manager, Range 6.

Excluded: Administrative Secretaries to the Superintendent of Schools, Senior Secretaries to Assistant Superintendents for: Instruction, Planning & Operations, Elementary Education, Secondary Education and Support Services, also Controller and School Treasurer, Director of Personnel, supervisors, managerial employees, confidential employees, short-term employees and students as defined in the Act.

(Employer's Pre-Hearing Memorandum, ALJ Ex. 7 at 5-6).

The unit has not been updated, amended, or clarified since the original certification. The Union and the District are parties to a collective bargaining agreement for the above-referenced unit with an effective date of July 1, 2018 through June 30, 2021. (R. 9-10, ALJ Ex. 7 at 6). The parties subsequently extended the contract for one year because of the COVID-19 pandemic. (R. 9-10, ALJ Ex. 7 at 6).

Matt Zediker is the Chief Human Resources Officer for the District. (R. 17). He has been in the position for five years. (R. 17). He is responsible for maintaining job descriptions for office professionals. (R. 18). There are three levels of office professionals, referred to as office professional level one, office professional level two, and office professional level three. (R. 19). The difference between the levels has to do with the level of responsibilities involved with the position. (R. 19). Employees in these positions typically have little discretion because their duties and responsibilities have processes established by the District for them to follow. (R. 20). Some of their duties do require some discretion, however, especially for positions held by office professional level three employees. (R. 149-50, 156). The unit, referred to as the Educational Office Personnel Association (hereinafter "EOPA" or "the EOPA unit"), contains approximately 140 to 150 members. (R. 22). Office professionals do not belong to one overarching department but work throughout the

District. (R. 23). There are six bargaining units of employees of the District. (R. 43). None of those units have ever included the PIs or the translators. (R. 43).

District employees are trained on several computer platforms, including but not limited to E-School Plus, Business Plus, Info Finder, Raptor, Destiny, Cognos, and In Touch. (R. 135). E-School is a student information system used to input demographic information, grades, attendance, discipline, and student success plans. (R. 135). Members of the EOPA unit at issue in this petition do not input grades, but they do input other information into the E-School system. (R. 135). Other employees who are not members of the EOPA unit also input data into E-School. (R. 136). Business Plus is the District's purchasing system, used by EOPA members as well as finance staff and some administrators. (R. 136). Info Finder is the District's transportation system. (R. 136). Raptor is a security system that also handles visitor and volunteer management. (R. 136). Destiny is the library system. (R. 137). Cognos is a system that brings data together from multiple locations and links them all together. (R. 138). Employees are trained on these systems by EOPA members who hold office professional level three positions. (R. 138-141). The two positions at issue in this petition do not receive training from office professional level three employees, but level three office professionals do answer questions posed by people who are in petitioned-for positions. (R. 143).

The first position at issue here is the prevention initiative support professionals (hereinafter referred to as PIs), previously known as the prevention initiative support specialist until recently. (R. 23-24, District Exhibit B)². The PIs are overseen by the Executive Director of Early Childhood for the District, Kim Nelson, falling under the family services program under Supervisor of the Prevention Initiative Program, Nichole Giovanni. (R. 99, 101, 103). There are currently 12 PIs employed by the District. (R. 162). The District changed the name of the position from prevention initiative support specialist to prevention initiative support professional in order to avoid confusion with another job title of prevention initiative specialist. (R. 24). There also is a job title of lead prevention initiative support professional, but that position is not part of this petition. (R. 25, 162, District Ex.

² There are, technically, two positions contained within the category of prevention initiative support professional as petitioned for here: the prevention initiative support professional and bilingual prevention initiative support professional. As the only difference between the two positions is that the latter requires knowledge of a second language, I will treat them both as the same position for the purposes of this Order.

D). PIs are evaluated by Nichole Giovanni once a year. (R. 125). Giovanni also works with PIs on two hours per month of reflective supervision. (R. 125-26).

The PI positions are funded by a grant awarded by the State Board of Education and a grant funded by the federal government. (R. 103). They are required to hold a Bachelor's degree with relevant experience in social work, psychology, or other related fields of study. (R. 36, 104, 177). They also are required to complete a one week training program based on the District's curriculum, and another training program on the District's developmental screening tool, as well as 60 hours of training in their first year and 20 hours per year after. (R. 104-05, 177). Based on their level of education, PIs register with the state's Gateways database and receive a level of credential, referred to as a Gateway level. (R. 105, 178).

The PIs work out of a building the District refers to as Sterling Holley, an administrative building separate from the central office. (R. 29). They are assigned to the Early Childhood department. (R. 29). Their pay falls under Grade 8 of the District's salary range, determined not through reference to any collective bargaining agreement but through a pay scale established by Zediker and approved by the District's Board of Education. (R. 30-31). In establishing what the salary range would be for an employee on Grade 8 of the District's salary scale, the District considers the tasks, responsibilities, and decision-making ability, among other factors, assigned to the job title. (R. 30). They work a 12-month year. (R. 35). They typically work from 8:00-4:30. (R. 179).

PIs work with families of children aged three and under. (R. 37, 163). They conduct home visits, connect families with resources, and work with parents on parental skills around academics and social-emotional development. (R. 37). They conduct assessments to determine which children qualify for their services, but the District also employs a placement and screening specialist, also known as a recruiter, to assist in performing those duties. (R. 109, 165-66). PIs also create goals for families and provide information about community resources. (R. 163). They teach parents how to further their child's development and work on skills to get the children ready for pre-school. (R. 163). Families are assigned to PIs by Giovanni. (R. 169). A PI is required to conduct home visits at least every other week to children to which the PI is assigned, except that they conduct visits weekly for the first eight weeks. (R. 107, 164, 167). The PIs prepare their own lesson plans for home visits, including gathering materials for sessions or assessments. (R. 172-73). Home visits last anywhere from forty-five to seventy-five minutes. (R. 167). Prior to the COVID-19 pandemic, they conducted in-home visits but have been doing virtual visits until recently.

(R. 107, 165). The decision to hold visits virtually or in-person is mostly made by the family and the PI, followed by a discussion with Giovanni. (R. 167-68). Every six months, they also conduct a life skills progression, which is an assessment of the family and where the parents are at that time. (R. 173). About half of their work is performed during home visits, and the other half is performed at Sterling Holley. (R. 175-76). When they work from Sterling Holley, they may be conducting workshops for families, doing virtual visits, completing case notes, or preparing for a visit. (R. 175-76). PIs must complete their case notes within two business days of a visit. (R. 176). They also go into the community to talk about the program or recruit families for the program. (R. 176).

They do not use professional or administrative office staff to assist with their home visitation work. (R. 111). PIs have their own case management system called Visit Tracker, into which they input their case notes. (R. 112-13, 170). PIs are required to input their own case notes and would not be able to get an office professional to input them on the PI's behalf, in part to maintain confidentiality. (R. 114, 188). They also organize and conduct one to two workshops per month for the families of the children. (R. 121-22, 241). They perform clerical work only insofar as they input their notes from home visits into a system and maintain their own case files. (R. 38, 171, 241). They have access to student records other than the systems in which they input notes from their home visits. (R. 46).

The Early Childhood Department, of which the PI position is part, has one member of the EOPA unit. (R. 123, 179). That employee does the timekeeping, payroll, purchase orders, inputs data into the enrollment system, provides assistance to PIs in creating and executing workshops, and is responsible for the annual reporting required for the grants that fund the PI program. (R. 123, 184-85, 241-42). The EOPA member does not play any role in assessing potential enrollees, does not attend home visits, and does not enter any case notes or family assessment information. (R. 123-24, 181-82). They track the timeliness of PI's work and submit monthly reports that include information like the number of children in the program or the number of assessments conducted that month. (R. 182-83). The EOPA member that works for Early Childhood is also supervised by Nichole Giovanni. (R. 126, 179). This EOPA member does not take part in reflective supervision. (R. 127). They are paid through the same grants as the PIs. (R. 130-31, 179).

The second position at issue is the bilingual translator/interpreter (hereinafter referred to as translators). (R. 26, District Ex. C). The District currently employs Spanish and Arabic translators. (R. 26-27). The translators work out of the District's central office.

(R. 31). They are assigned to the Bilingual Department, which is under Executive Director Misael Nascimento. (R. 31, 88). Translators are supervised by Suany Rodriguez-Parham. (R. 55). They are paid hourly with a wage determined in a process like the one discussed previously for salaried employees. (R. 32). The District considers education, experience, internal and external equity, and the general labor market for similar positions. (R. 32). They are required to hold a high school diploma or GED and to demonstrate proficiency in their target language. (R. 36-37, 75-76). Translators are required to abide by a code of ethics similar to that used by legal or medical interpreters and translators that requires them to remain neutral and professional, and that communications are to remain confidential. (R. 78, 84). They also require technical skills including knowledge of the terminology used by the District in various contexts including special education and expulsion hearings. (R. 81). The act of translating or interpretation requires a significant amount of discretion in order to avoid colloquialisms or regionalisms without changing the meaning of the original communication or document, and to avoid accidentally offending the parents and members of the community that they work with. (R. 80-84). Their starting salary is \$16/hour and they work 40 hour weeks. (R. 205-07). They have a 12-month school year. (R. 206).

Translators perform two general duties: translating written communications and interpreting verbal conversations. (R. 38, 58). They primarily support the District, but they sometimes are used to help at school buildings. (R. 38). Translators also work with building principals in drafting communications in the translator's target language. (R. 38, 64). The translators work typical working hours, either from 7:30-4:00 or 8:00-4:30. (R. 57). They are 12-month employees. (R. 58). They mostly work out of the administrative building but go to schools for IEP meetings or evaluations for students. (R. 59). Recently, because of the pandemic, many of their duties in interpreting verbal conversations occurs through Zoom, and the translator is working out of their office. (R. 195). When an interpretation is to take place via Zoom, the translator creates the meeting room, invites the participants, and arranges channels so that the speakers of each language can select their own language channel. (R. 196). If translation or interpretation is required in a language for which the District does not employ a translator, the translators arrange for speakers of the target language to perform the required service. (R. 197-98).

Another circumstance where a translator might need to go out to a school building is for a "Manifestation Determination" meeting, where a student does something that violates the District's Code of Conduct, and a determination must be made as to whether the

student's actions had any relationship to the student's disability. (R. 60). Because of the COVID-19 pandemic, they sometimes work remotely through Zoom, but usually engage in duties in-person. (R. 61). When translators engage in interpretation of oral conversations, they do "simultaneous interpretation," a technique that requires the translator to speak in the target language at essentially the same time that the person being interpreted is speaking in English. (R. 61). Simultaneous interpretation requires a specific type of training. (R. 62).

Translators do not input student or parent data but they use E-School to access that information. (R. 66, 85). They also access Power School for the Special Education Department, particularly when they need to translate IEPs. (R. 86). They do not use clerical or administrative assistance for their translation duties. (R. 67). They receive job requests through the District's project management system but do their own scheduling. (R. 68-69, 72). They manage requests through Google spreadsheets. (R. 203).

The translators work with one EOPA member. (R. 201). The translators work with her on payroll. (R. 74-75, 201). The EOPA member that handles payroll for the translators reports directly to Misael Nascimento. (R. 88). The department that employs the translators has a website which was once kept up to date by one of the translators, but that responsibility has been taken over by this EOPA member. (R. 201). Translators work out of the 7th floor of the Sterling Holley administrative building. (R. 91, 193), with about 15 or 20 other individuals including EOPA members such as the one that handles the translators' payroll. (R. 92, 194, 214). The office professionals on the 7th floor do not assist translators, though they may ask the translators to provide interpretation services for parents that call but are unable to communicate with the office professional that answers the phone. (R. 94).

Apart from translators, the District also employs Family Support Specialists, who provide support to students and parents in the school buildings³. (R. 64). The Family Support Specialists are not a member of any bargaining unit. (R. 72). Along with Spanish and Arabic, Family Support Specialists also speak Karen and Swahili, but they do not perform simultaneous interpretation like the translators do. (R. 64-65). Family Support specialists are not tested in their target languages in the same way that the translators are. (R. 66).

³ The Family Support Specialist position is not part of the present petition.

Members of the EOPA unit are paid pursuant to the collective bargaining agreement agreed upon by the parties. (R. 33). Members of the unit are considered hourly employees who are eligible for overtime. (R. 33). Generally speaking, EOPA members are paid at a lower rate than the translator/interpreters, depending on the level of the bargaining unit member and whether they are 10- or 12-month employees. (R. 34). EOPA members are generally required to have a high school diploma or GED. (R. 36).

The EOPA membership also performs a broad range of duties, many but not all falling under the general heading of clerical support work. EOPA unit members are primarily responsible for inputting student data into the District's computer systems. (R. 39). Their duties vary depending on their level, the department they work for, and the location where they work. (R. 48-49). Some of their duties might include maintaining records, scheduling meetings, data entry, filing, making spreadsheets, entering both student and sometimes employee attendance, and sometimes interacting with parents. (R. 49, 150-51). They are also sometimes responsible for answering telephone calls, but other employees will answer calls if the unit member is unavailable. (R. 92). Office professional level three employees have positions that often require a significant amount of responsibility, including the training of other office professionals, principals, and support staff, entering purchase orders, and working with lower level office professionals on remediation plans. (R. 134-137). They are not required to register in the Gateways program. (R. 106). Prior to the COVID-19 pandemic, unit members and non-unit members used a common break room. (R. 201-02). They also can use the same printing equipment and park in the same parking lots. (R. 202-05).

Both members of the EOPA unit and employees not part of the bargaining unit have the same benefits. (R. 45). Health insurance premiums for bargaining unit members are set at 12.5% of the monthly premium, as determined through collective bargaining, though the District's Board of Education has indicated that it would like to raise the contribution for unit members to 20%. (R. 41, 46). Employees not in the bargaining unit pay 20% of the monthly premium. (R. 41). All employees at issue in this petition are enrolled in the IMRF pension plan. (R. 42). Non-bargaining unit members receive 20 vacation days per year, 18 sick days, and two personal days. (R. 207). All District employees that work out of Sterling Holley use the same parking lot. (R. 221).

II. Issues and Contentions

The District contends that the Prevention Initiative Support Specialist and Bilingual Translator/Interpreter positions should be excluded from the bargaining unit because there is no community of interest between the petitioned-for job titles and the existing bargaining unit, and that the Union's proposed unit would therefore be inappropriate. The Union argues that the petitioned-for unit is appropriate.

III. Discussion and Conclusions of Law

Section 7 of the Illinois Educational Labor Relations Act grants the IELRB the authority to recognize bargaining units that contain employees with an identifiable community of interest in a way that grants employees the "fullest freedom" in exercising the rights guaranteed by the Act. 115 ILCS 5/7 (2021). In determining whether a unit is appropriate, the IELRB considers factors such as "historical pattern of recognition, community of interest, including employee skills and functions, degree of functional integration, interchangeability and contact among employees, common supervision, wages, hours, and other working conditions of the employees involved, and the desires of the employees." 115 ILCS 5/7(a) (2021). Section 7(a) does not require that a unit be the most appropriate unit, only that the unit be an appropriate unit. Sandburg Faculty Association v. IELRB, 248 Ill. App. 3d 1028, 1036 (1st Dist. 1993).

Any unit appropriateness analysis for this unit must take into account the diverse nature of the work already performed by EOPA members. See Thornton Township High School Dist. 205, 2 PERI 1103 (IELRB Opinion and Order, August 20, 1986) (community of interest and unit appropriateness should be examined "in the total context in which they are being considered and in light of all the surrounding circumstances [. . .]") Because they hold positions in essentially every department in every building across the District, EOPA members do not have a great degree of functional integration, do not share common supervision, and do not necessarily come into frequent contact with one another in the course of their everyday duties. Many of them perform the same or similar duties regardless of their job site or department, so there is a degree of interchangeability, and the hours and terms and conditions of employment appear to be similar throughout the unit. In the context of the unit as currently comprised, both the PIs and translators seem to share a sufficient community of interest to form an appropriate unit with the existing members of EOPA.

Here, the employees in the petitioned-for positions clearly desire to be part of the unit. On August 13, 2021, simultaneous with the filing of its objections to the Union's proposed additions to the bargaining unit, it submitted a list of employees in the petitioned-for positions and sample signatures for employees in those positions. While this list did not include the bilingual prevention initiative support specialists, from the list of 11 employees, the Union submitted valid signed and dated authorization cards for nine of those employees. In its list of employees attached to its pre-hearing memorandum dated December 10, 2021, the District listed 15 employees, including bilingual PIs, and the Union's representation cards covered 10 of those employees, not counting employees who no longer worked for the District as of the date that the District's memorandum was submitted but including employees hired between August 13 and December 10 for which the Union had no opportunity to request authorization for representation. It is, therefore, clear that the Union represents a majority of employees in the petitioned-for positions, and that employees in those positions wish to be represented in the EOPA unit.

There is no historical pattern of recognition to speak of for either the PI or translator positions. The unit at issue in this petition was established in 1984, the first year of the IELRA, and has not been changed since. The PIs and translators have never been a part of any unit, nor have they been explicitly excluded from any unit. The unit contains a range of employees spread across three separate levels in many distinct roles throughout the District. Most, but not all, work in the District's school buildings, where they are supervised by the principal or assistant principal at that school. However, several work at the District's administrative building known as Sterling Holley as well.

The PIs also work in Sterling Holley. They work the same or substantially similar hours as EOPA members. They have the same health benefits, with the sole exception of employee contribution, and they are paid not dissimilar wages. They share a common supervisor with one member of the unit and that member of the unit is assigned solely to the PI program. PIs are paid through federal and state grants. Those same grants pay the salary of the EOPA member that the PIs work with. The EOPA member is also involved with the work the PIs do, especially in assisting with parent workshops. Accordingly, the PIs have a high degree of functional integration with at least one member of the bargaining unit. Based on this functional integration, the similar wages, hours, and terms and conditions of employment and common supervision, I find that including the PIs in the established EOPA bargaining unit would be appropriate.

Similarly, the translators do the majority of their work out of Sterling Holley. They also work substantially the same hours, are paid similar wages, and share many of the same terms and conditions of employment with EOPA members. Like the PIs, they share common supervision with a member of the EOPA unit. Also like most EOPA positions, the translator positions require only that the employee have a high school diploma or GED. The translators access data from District databases, input data into spreadsheets, schedule meetings, interact with parents, and assist EOPA members with translation or interpretation duties as needed. In this sense, they share many of the same factors as the PIs above, with an added similarity in job skills and functions. Accordingly, I find that including the translators in the bargaining unit would also be appropriate.

Based on the foregoing, I find that the unit is appropriate, that the Union represents a majority of the petitioned-for employees and there are no issues of fraud or coercion and that, therefore, the Union's petition should be granted.

IV. Recommended Order

Accordingly, I hereby recommend that the Union's petition be granted and the unit modified as follows:

Included: All full-time and regular part-time secretaries and clerical employees of Rockford School District #205 including: data entry operator, Range 1; clerk-typist, Range 1; switchboard operator/receptionist, Range 1; offset press operator, Range 2; senior clerk-typist, Range 3; Secretary, Range 32; account clerk, Range 4; Senior Secretary, Range 5; office manager, Range 6; prevention initiative support specialist, Grade 8; bilingual prevention initiative support professional, Grade 8; and translator/interpreter, Grade 8.

Excluded: Administrative Secretaries to the Superintendent of Schools, Senior Secretaries to Assistant Superintendents for: Instruction, Planning & Operations, Elementary Education, Secondary Education and Support Services, also Controller and School Treasurer, Director of Personnel, supervisors, managerial employees, confidential employees, short-term employees and students as defined in the Act.

V. Right to File Exceptions

Pursuant to Section 1110.160(c)(3) of the Board's Rules and Regulations, Ill. Admin. Code, tit. 80, ¶ 1110.160, the parties may file written exceptions to this Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after receipt of this decision. Exceptions and briefs must be filed with the Board's General

Counsel. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions. Under Section 1100.20 of the Board's Rules, Ill. Admin. Code tit. 80, ¶ 1100.20, parties must send a copy of any exceptions they choose to file to the other parties and must provide the Board with a certificate of service. A certificate of service is "a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service." Ill. Admin. Code tit. 80, ¶ 1100.20(e). If a party fails to send a copy of its exceptions to the other parties or fails to include a certificate of service, that party's appeal rights with the Board will end.

Dated: May 6, 2022

Issued: Chicago, Illinois

/s/ Nick Gutierrez

Nick Gutierrez

Administrative Law Judge

Illinois Educational Labor Relations Board
160 North LaSalle Street, Suite N-400
Chicago, Illinois 60601
(312) 793-3170 / (312) 793-3369 Fax