

**State of Maryland
Maryland Public Employee Relations Board**

In the Matter of:)	
)	
Howard County Education Association, Educational Support Personnel (HCEA-ESP),)	
)	
Petitioner,)	PERB UC 2025-03
)	
and)	
)	
Howard County Public Schools (HCPS),)	
)	
Employer)	
)	

Board Dismissal

HCEA-ESP is the representative of the non-certificated educational support staff in Howard County Public Schools. HCEA-ESP has filed this petition to challenge HCPS' exclusion of allegedly full-time substitute positions from the Educational Support Personnel (ESP) bargaining unit. In particular, HCEA-ESP seeks clarification of unit status due to what it understands to be the working days and hours of the following job titles:

- Daily Substitute
- Substitute
- Full Time Substitute Special Ed Paraeducator
- Daily Building Substitute
- Assigned Vacancy Substitute
- Temporary Employee
- Day Building Substitute
- Paraeducator Substitute

- Long-Term Sub Special Education Teacher
- Building Substitute
- Long Term Substitute
- Permanent Substitute
- Full-Time Building Sub
- Special Education Para Permanent Substitute
- Permanent Daily Substitute
- Permanent Long-Term Substitute Teachers

Based on information HCEA-ESP has received from its bargaining unit members and some limited information received from HCPS, HCEA-ESP believes that these positions are full-time and should be included in the unit. HCPS contends that these positions are part-time, temporary staff that are hired on an as-needed basis. Based on Maryland law and on the collective bargaining agreement between the parties to this matter, HCPS states that these positions are not eligible to be in the ESP bargaining unit. Further, HCPS contends that it is inappropriate for HCEA-ESP to file this petition while the parties are in the middle of current three-year contract term and that the parties may negotiate regarding this issue during the next substantive contract negotiations.

The Petitioner's Position

In its petition, HCEA-ESP contends that in accordance with the bargaining agreement with HCPS, any non-supervisory non-certificated employee position that meets the bargaining unit requirements must be placed in the bargaining unit. Those requirements include working

700 hours per year (500 hours per year, if they are food and nutrition service assistants).

HCEA-ESP states that based on discussions with bargaining unit members and limited information it has received from HCPS, these positions are full-time and that PERB should hold that they should be in the ESP bargaining unit. In its petition with an accompanying letter of explanation, HCEA-ESP alleges that it has requested multiple times that HCPS provide information about these positions, but that to the date of the petition, the HCPS responses have been insufficient and have thus prolonged discussion and negotiations about including these positions in the unit. In HCEA-ESP's reply to the HCS response, it included documentation of the requests for information—three, dated November 19, 2024, November 25, 2024, December 2, 2024—as well as the date of a Demand for Bargaining filed with HCPS (January 10, 2025) which also included a reminder of the request for information. Additionally, HCEA-ESP provided an affidavit from Kira Shuman, UniServ Director assigned to HCEA and responsible for supporting contract negotiations between HCEA-ESP and HCPS as well as advocacy for unit members. Ms. Shuman's affidavit noted the multiple requests for information, provided the manner of hiring the permanent substitute staff members (not through the regular substitute assignment system outlined in the bargaining agreement between the parties), and argued that the HCPS most recent response on this unit status issue (dated January 29, 2025) lacked the needed information to ascertain the status of these positions and did not address why they have not been placed in the ESP bargaining unit.

The Employer's Position

HCPS contends that HCEA-ESP has not provided a factual basis for including these positions in the bargaining unit. Further, HCPS notes that the school system materials and job

descriptions available (and provided with its response to the petition) for recruiting substitute and temporary employees, indicate that these positions are not full time, permanent, or nine-month positions. HCPS contends that it also expressly advises any candidate for one of these positions, that the position is part-time and temporary.

Analysis

HCEA-ESP has filed this petition to clarify unit status and contends that these positions (whatever the particular job title may be) should be included in the ESP unit, in response to allegedly not receiving a sufficient response to the union's information requests from HCPS. HCEA-ESP, however, did not file any documentation or sworn statements supporting its contention that these positions are full-time and should be included in the ESP unit. In its reply to the HCPS response, HCEA-ESP included an affidavit from the HCEA UniServ Director, which only contained indications that the information requests had received an insufficient response from HCPS, and her own statement that these employees in these positions reported to the same school on a daily basis and "appeared to be permanent full-time employees." There is no affidavit from an employee in one of the positions or documentation showing job location, hours, and attendance, which could establish that the employees in the disputed classifications meet the criteria for placement in the unit. In the absence of such evidence, we find that a unit clarification proceeding is not the appropriate forum for the Petitioner to attempt to obtain information or documentation about the disputed job classifications.

Conclusion & Order

For the reasons discussed above, PERB finds this unit clarification petition to be inappropriately filed and that a hearing to determine any issues is unnecessary. Accordingly, the petition is dismissed.

Annapolis, MD
April 28, 2025

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD:



Lafe E. Solomon, Chair

Appeal Rights

Any party aggrieved by this action of the Board may seek judicial review in accordance with Title 10 of the State Government Article, Annotated Code of Maryland, Section 10-222, and Maryland Rule 7-201, *et. seq.*