

_____	)	
TEAMSTERS UNION LOCAL NO. 340,	)	
	)	
Petitioner,	)	
	)	UNIT DETERMINATION
and	)	REPORT
	)	
M.S.A.D. No. 27,	)	
	)	
Public Employer.	)	
_____	)	

PROCEDURAL HISTORY

This unit determination proceeding was initiated on June 29, 2016, when Mr. Ed Marzano, Business Agent for Teamsters Union Local No. 340 (hereinafter referred to as "Union"), filed a petition for unit determination with the Maine Labor Relations Board ("Board"), seeking the creation of a bargaining unit consisting of administrative employees employed by Maine School Administrative District No. 27 ("Employer"). This proceeding is conducted pursuant to the Municipal Public Employees Labor Relations Law, 26 M.R.S. §961, et seq. ("Act"). By agreement of the parties, the group of classifications which are the subject of this proceeding was re-named "administrative support employees," to more accurately describe the positions' job functions. M.S.A.D. No. 27 ("Employer") filed a timely response to the petition on July 11, 2016, agreeing with the composition of the bargaining unit proposed, except for the inclusion of the Continuing Education Secretary, which they allege fails to share a clear and identifiable community of interest with the other classifications proposed for inclusion in the bargaining unit and, therefore, cannot be included with them in an appropriate

bargaining unit under § 966(2). All of the employees whose positions are at issue are employed full-time; there are no part-time employees in any of the positions at the present time.<sup>1</sup>

In light of the very substantial distance between Fort Kent and Augusta and the parties' optimism that a stipulated record could be reached, the undersigned convened telephone conferences with the parties' representatives, Business Agent Traci Place for the Union and Attorney Tom Trenholm for the Employer, on August 16, 25 and 29, September 9, 19 and 21, and October 19, 2016. During the course of the telephone conference process, the following exhibits were admitted into evidence without objection:

- Employer Exhibit 1 MSAD 27 Classified Employee Manual
- Employer Exhibit 2 Continuing Education Secretary Job Description
- Employer Exhibit 3 Secretary to the Principal CHS Job Description
- Employer Exhibit 4 Secretary to Assistant Principal CHS Job Description
- Employer Exhibit 5 Secretary to the Elementary Principal Job Description
- Employer Exhibit 6 High School Guidance Secretary Job Description
- Employer Exhibit 7 Student Services Secretary (referred to as Special Ed Secretary) Job Description
- Employer Exhibit 8 MSAD 27 Organizational Chart (showing extent of union organization)

Since a complete stipulated record was achieved, no evidentiary hearing was required. The parties presented their respective positions through written briefs, the last of which was received on November 23, 2016.

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<sup>1</sup> The Employer explicitly noted in its response that all of the employees in the classifications proposed for inclusion in the bargaining unit are currently employed full-time. In representation cases, the Board's policy is to limit itself to actual facts at the time of the proceeding. Consistent with that practice, this decision is limited to the unit assignment of full-time employees.

## JURISDICTION

The jurisdiction of the executive director to hear this matter and to make a determination lies in 26 M.R.S.A. § 966(1) and (2).

## STIPULATIONS

The parties reached an agreement on October 26, 2016, stipulating to the following facts:<sup>2</sup>

¶ 1. Teamsters Union Local 340 is a public employee organization within the meaning of § 962(2). MSAD 27 is a public employer within the definition of § 962(7)(A)(2).

¶ 2. The positions proposed for inclusion in the bargaining unit are: Principal Secretary (2 employees), Principal Secretary/Bookkeeper (2), School Secretary (2), Guidance Secretary (1), Special Education Secretary (1), Continuing Education Secretary (1). All of the employees whose positions are at issue are employed full-time; there are no part-time employees in any of the positions at the present time.

¶ 3. The Employer is not seeking to exclude anyone from the definition of public employee found in § 962(6).

¶ 4. The only position at issue is the Continuing Education Secretary, which, the Employer alleges, fails to share a clear and identifiable community of interest with the other classifications proposed for inclusion in the bargaining unit and, therefore, cannot be included with them in an appropriate bargaining unit under § 966(2).

### **Community of interest analysis in Chapter 11, § 22 (3) of the Rules:**

¶ 5. 1) similarity in the kind of work performed  
All of the positions provide clerical support to building administrators or specialty program directors. The work involves word processing, data entry, filing, and record-keeping. The specific application of those skills varies, depending on the function of the administrator being supported.

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<sup>2</sup> The paragraph numbers have been added for the purpose of this decision and were not part of the parties' agreement.

¶ 6. The Continuing Education program is administered by the Continuing Education Director and consists of life-long learning and "GED"-type programs.

¶ 7. All of the District's salaried employees are paid on a bi-weekly basis. The hourly employees are also paid bi-weekly; however, they complete time cards that are collected each week. Only the Continuing Education Secretary gathers employee work hours and enters them on a spreadsheet, which is approved by the Continuing Education Director and then is submitted to the central office for payroll each week. The Secretaries at each school submit a weekly absence report to the central office, noting which salaried employees were out that week, when each was out, whether substitutes were required and, if so, whether for a full or a half day in each instance. Hourly employees at the schools punch in and out, using time cards and a time clock. Each week, the secretaries at the Eagle Lake and Wallagrass Elementary Schools collect the time cards of the hourly employees from the card rack and submit them to central office payroll, either through the internal mail system or by fax. At Fort Kent Elementary School, the Head Custodian collects the time cards of the hourly employees from the card rack and delivers them to central office payroll each week. At Community High School, either the Payroll Clerk or the Head Custodian collects the time cards of the hourly employees each week from the card rack at that facility.

¶ 8. The Continuing Education Secretary has direct interaction with some different types of students than do the other positions involved in this proceeding.

¶ 9. The Continuing Education Secretary provides clerical support for TOPS, a special program for regular high school students, and for the Credit Recovery program, through which high school students can re-take courses which they had previously not passed. These programs are held at the CHIPPY building, which is separate from, but on the campus of, Community High School.

¶ 10. The Guidance Secretary enters students' academic schedule into the Powerschool system.

¶ 11. The Director of Continuing Education helps students to develop their academic schedule, helping them determine which courses and what credits they need, and enters their academic schedule in a Google-doc form. The Continuing Education Secretary enters the continuing education students' completed credit hours into the Maine STARS (Maine State Transparent Adult Reporting System) program.

¶ 12. The parties agree that a proctor is one who observes or watches an activity in order to maintain test integrity, while an examiner is one who helps students with questions on an exam during the course of the exam. The Continuing Education Secretary proctors exams and assessments, including the HiSET (GED) exam, the Serve-Safe Test (a food-handling test required by the State for certain personnel of the School Nutrition Program), and the CASAS (Comprehensive Adult Student Assessment Systems [an on-line test] along with the Assessment Coordinator. The Continuing Education Secretary is not an examiner and is not asked to perform that function.

¶ 13. The Continuing Education Secretary secures rooms for on-site testing and training, promotes attendance and participation at various training programs, through the school department's web site and Facebook page and through posters, and attends the beginning of all training programs to take photos for use in promotional materials. The Continuing Education Director secures sites for off-site training events. The Secretaries at Community High School occasionally secure rooms for training and may take attendance at such programs.

¶ 14. The Guidance Secretary and the Special Education Secretary secure rooms for I.E.P. (Individual Education Program) meetings between district staff and a student's parents. When college representatives wish to visit the high school and meet with students, they contact the district and determine a date with the Guidance Secretary, who then reserves a room, makes posters, and posts them in the high school. The Guidance Secretary does not do any other promotion for "college days" (for example, she does not send e-mails).

¶ 15. 2) common supervision and determination of labor relations policy

The Principal Secretaries, Principal Secretaries/Bookkeepers, Guidance Secretary, and School Secretaries are all supervised by building Principals and Assistant Principals. The Special Education Secretary reports to the Special Education Director and the Continuing Education Secretary is supervised by the Continuing Education Director.

¶ 16. The labor relations policy for all of the clerical positions is determined by the M.S.A.D. 27 School Committee and is contained in the Classified Employees Handbook.

¶ 17. 3) similarity in the scale and manner of determining earnings:

All of the clerical position employees are compensated on an hourly basis. The rates of pay are different for the different positions. The hourly Base Rates for the clerical employee classifications for the 2015-16 school year were as follows:

School Secretary (FKES/CHS)	15.41
Continuing Ed Secretary	14.35
Guidance Secretary	15.78
Secretary to Principal (ELES/WES)	14.88
Secretary to Principal/Bookkeeper (FKES/CHS)	16.12
Special Ed Secretary	16.40

¶ 18. All the clerical employee classifications are on the same wage schedule which provides the following adjustments from the base rate: from 0-2 years of service, the School Secretaries receive an adjustment of .23/hour; the Continuing Ed Secretary and the Elementary School Secretary at Wallagrass and Eagle Lake receive an adjustment of .22/hour; the Guidance Secretary and the Secretaries to the Principal/Bookkeeper receive an adjustment of .24/hour; and the Special Ed Secretary receives an adjustment of .25/hour.

¶ 19. After the initial adjustments, the classifications receive adjustments for each period of three years of service. Those adjustments range from .10/hour to .20/hour with some classifications receiving an additional .01/hour every few years. For example, during years 9-11, all classifications receive an adjustment of .10/hour, except the School Secretaries at FKES/CHS, who receive an adjustment of .11/hour during that three-year period. Once all classification have received the additional penny/hour adjustment, the rotation of positions to receive that added adjustment begins anew.

¶ 20. 4) similarity in employment benefits, hours of work and other terms and conditions of employment:

¶ 21. a) employment benefits:

All of the employees whose positions are proposed for inclusion in the bargaining unit receive the same employment benefits, except where noted below. The benefits are described in the MSAD 27 Classified Employee Manual and include: group health insurance, paid vacations (except for 46-week employees hired after July 1, 2014), bereavement leave, emergency personal leave (the Employer stated that its practice is to pro-rate for 46-week employees),

paid holidays, paid sick leave (except for 46-week employees hired after July 1, 2014), access to an employer-sponsored I.R.S. § 403(b) tax sheltered annuity retirement plan, Social Security retirement, and a retirement stipend (after 20 years of continuous service).

¶ 22. b) work year and standard work weeks:

All of the other positions involved in this proceeding have a 52-week work year, except for the Principal Secretary at Eagle Lake Elementary School, and the Principal Secretary and the School Secretary at Fort Kent Elementary School, who all have a 46-week work year.

¶ 23. Historically, the Continuing Education Secretary worked from 7:30 a.m. to 4:00 p.m., Monday through Friday, except when evening hours were required. During the 2015-16 school year, in weeks when she was required to work from 5:00 to 8:00 p.m. on Tuesday evenings, the Continuing Education Secretary would work a shorter day, from 7:30 a.m. to 12:30 p.m. on Friday. Due to a budget shortfall in the Spring of 2016, the Tuesday evening work hours were eliminated. The budget shortfall is continuing at the time the record was produced in this matter. The Guidance Secretary is the only employee, among those involved in this proceeding who begins work before 7:00 a.m. and works until 3:00 p.m., Monday through Friday. The standard work week for the other clerical employees is from 7:00 a.m. to 3:30 p.m., Monday through Friday.

¶ 24. c) other terms & conditions of employment:

All of the clerical employees are subject to the same terms and conditions of employment set forth in the Classified Employee Manual. These include: an initial 6-month probationary period, annual performance evaluations, time card use, travel and reimbursement policy, break policy, inclement weather policy, complaint procedure, and adherence to policies concerning: student confidentiality, contact with students and reporting obligations, smoking and use of controlled substances, and non-harassment.

¶ 25. 5) similarity in the qualifications, skills and training of employees:

The qualifications, skills and training of all of the clerical employees are substantially the same. All are proficient in office suite software, such as Microsoft Office, and some of them utilize specialized computer software that is tailored to the

unique needs of the academic program that they support. All of them attend similar or the same training programs.

¶ 26. Only the Continuing Education Secretary enters data in the Maine STARS program. This is a state-wide reporting system that is used to compare the performance of continuing education programs for funding purposes. In addition, the Continuing Education Secretary extracts the district-wide attendance for all day students from the Powerschool program each week and prepares a report for the Continuing Education Director.

¶ 27. 6) frequency of contact or interchange among the employees:

Typical of school employment settings, the clerical position employees whose worksites are located in the same building have frequent professional contact or interchange with each other. When located at separate buildings, they have much less contact with each other.

¶ 28. The worksite of the Continuing Education Secretary is across the hall from that of the High School Secretary and the Principal Secretary/Bookkeeper at Community High School. The Continuing Education Secretary covers lunch for one of the High School Secretaries daily.

¶ 29. The Continuing Education Secretary rarely covers for the High School Secretaries at other times when one is out, and only if no temporary employee is available.

¶ 30. 7) geographic proximity: See factor 6

¶ 31. 8) history of collective bargaining: None for any of the clerical support employee classifications.

¶ 32. 9) desires of the affected employees: Beyond the showing of interest indicating that at least 30% of the employees in the proposed bargaining unit desire to be represented for purposes of collective bargaining, nothing can be inferred regarding the desires of the employees in connection with the configuration of a bargaining unit.

¶ 33. 10 and 11) the employer's organizational structure and extent of union organization:

The Superintendent of Schools is the chief executive officer of M.S.A.D. 27. The enterprise consists of 5 organizational units, with the director position for each indicated in brackets: 1) the central office/infrastructure support unit [Director of Finance

and Projects] , 2) the schools for Pre-k-through-12 day students [building Principals and Assistant Principal], 3) the Special Education Program [Director of Special Education], 4) the Continuing Education Program [Director of Continuing Education], and 5) the school transportation system [Director of Transportation].

¶ 34. The central office/infrastructure support unit consists of the central office clerical staff (4 employees), the information technology staff (3), and the food services operation (11). Of these employees, only the 2 Technology Aides are represented by a bargaining agent (in a 2-person bargaining unit represented by Teamsters Local 340).

¶ 35. There are four schools in the district: Community High School and the Fort Kent Elementary School located near each other in Fort Kent, Wallagrass Elementary School, and Eagle Lake Elementary School. Currently, the school administrators are as follows: Eagle Lake Elementary has a part-time Principal, who also serves as the Vice Principal at Fort Kent Elementary; Fort Kent Elementary has a Principal and Vice Principal; Wallagrass Elementary has a part-time Principal, who also serves as the Dean of Students at Community High School; and Community High School has a Principal and a Dean of Students. The employee groups in the schools unit include the Classroom Teachers (represented by a local affiliate of the Maine Education Association); the Guidance staff (4 employees, including the Guidance Secretary); Head Custodians (at CHS and FKES, not represented); Small School Head Custodians and Custodians (represented together with the Bus Drivers by Teamsters Local 340); Information technology staff (the Technology Aides are represented by Teamsters Local 340); Food Services Staff (Head Cooks, Assistant Cooks, and Kitchen Aides represented by Teamsters Local 340); and the School Secretaries. The School Transportation System includes Bus Drivers and an Assistant Mechanic/Bus Driver (together with the Custodians, constitute a bargaining unit represented by Teamsters Local 340).

¶ 36. The Special Education Program includes Specialists in speech, occupational therapy and social work; Special Education Teachers (represented by a local affiliate of the Maine Education Association); Educational Technicians I, II and III (represented by a different local affiliate of the Maine Education Association); and the Special Ed Secretary.

¶ 37. The Continuing Education Program includes a College, Career and Family Resource Coordinator, Continuing Education Instructors, and the Continuing Education Secretary. None of the

classifications in this organizational unit is currently represented by a bargaining agent.

¶ 38. The primary work locations of the positions proposed for inclusion in the bargaining unit at issue in this proceeding are as follows:

Community High School  
positions in proposed unit: Principal Secretary/Bookkeeper  
School Secretary  
Guidance Secretary  
Continuing Education Secretary

Fort Kent Elementary School  
positions in proposed unit: Principal Secretary/Bookkeeper  
School Secretary  
Special Ed Secretary

Wallagrass: Wallagrass Elementary School  
position in proposed unit: Principal Secretary

Eagle Lake: Eagle Lake Elementary School  
position in proposed unit: Principal Secretary

#### DISCUSSION

Section 966 (2) of the Act requires that bargaining units created through the unit determination process must only consist of classifications that share a clear and identifiable community of interest to be appropriate for purposes of collective bargaining. The purpose of the instant unit determination is to ascertain whether the bargaining unit proposed by the Union is appropriate for purposes of collective bargaining; it is not that the proposed unit be the most appropriate unit. *Sanford School Committee and Central Office Staff EA/MEA/NEA*, No. 12-UDA-01 & 12-UCA-01, at 18 (May 24, 2012). The Board has developed and consistently applied an 11-factor community of interest analysis, *Council 74 AFSCME and City of Brewer*, No. 79-A-01, at 3-4 (Oct. 17, 1979), which has been codified in Chapter 11, § 22(3) of the Board's Rules adopted in January, 2001.

The parties have agreed that the following positions constitute an appropriate bargaining unit: Principal Secretary (2 employees), Principal Secretary/Bookkeeper (2), School Secretary (2), Guidance Secretary (1), and Special Education Secretary (1). In weighing the community of interest of the position that is at issue, I concluded that the parties' agreement is based on the requisite clear and identifiable community of interest; therefore, the agreed-upon unit is appropriate for collective bargaining.

The Employer objects to the inclusion of the Continuing Education Secretary (1 employee) in the proposed bargaining unit, on the grounds that the position lacks the requisite community of interest with the other classifications. In developing the stipulated record in this matter, the parties provided facts relating to each of the community of interest factors.

**The following factors support the conclusion that the Continuing Education Secretary shares a community of interest with the administrative support classifications: similarity in the kind of work performed; common supervision and determination of labor relations policy; similarity in scale and manner of determining earnings; similarity in employment benefits, hours of work and other terms and conditions of employment; and similarity in the qualifications, skills and training of employees.**

Similarity in the Kind of Work Performed

The nature of the work performed, while not dispositive, is a very important factor. All of the classifications provide clerical support to building administrators or specialty program directors. The work involves word processing, data entry, filing, and record-keeping. The specific application of those skills varies, depending on the function of the administrator and the program being supported. When considering the nature of the work being performed among several classifications in a community of interest analysis, the focus is on the "essence or basic type of the functions being performed," rather than on "the details of

each position's work responsibilities." *Auburn Education Ass'n/MTA/NEA and Auburn School Committee*, No.91-UD-03, at 11 (Feb. 27, 1991), *aff'd*, No. 91-UDA-01 (May 8, 1991).

The Employer stresses the differences in the details of the work performed, but even such differences were relatively minor. One distinction that seemed significant on its face is that the Continuing Education Secretary interacts with different types of students than all of the other clerical positions. In addition to day students, with whom all of the other classifications have interactions, the Continuing Education Secretary has professional contact with adult and other non-day students. On reflection, this difference is no more significant than the differences between the contact the elementary school secretaries have with kindergarteners and what the high school secretaries have with high school seniors.

Another alleged difference is that only the Continuing Education Secretary collects employee work hours, enters them on a spreadsheet, which is reviewed and approved by the Continuing Education Director, and then forwarded to the central office for payment. The school secretaries submit a weekly absence report to the central office, showing which salaried employees were out that week and when each was out. Reporting employee time worked contrasted with employee time absent during the standard work is a distinction without a difference. Furthermore, the school secretaries at the small elementary schools collect the time cards for hourly employees and submit them to the central office each week, in essence the same work as the Continuing Education Secretary.

While the type of promotional work done by the Continuing Education Secretary for testing and training events is more

extensive than that performed by the high school secretaries for trainings and by the Guidance Secretary for college visits, all these positions secure and schedule rooms for these events, as does the Special Education Secretary for I.E.P. meetings. Finally, there is one job duty that is only undertaken by the Continuing Education Secretary: that is to proctor exams and assessments. The alleged differences in the work performed by the Continuing Education Secretary from that of the other clerical support employees together do not alter the conclusion that the nature of the work they all perform is essentially the same.

#### Common Supervision and Determination of Labor Relations Policy

All of the positions in the proposed bargaining unit are supervised by building administrators, except the Continuing Education Secretary and the Special Education Secretary who report to the Continuing Education Director and the Special Education Director, respectively. The District argues that since most of the unit positions are supervised by building administrators and the Continuing Education Secretary is not, the latter does not have a community of interest with the former group. The Union argues that, since the Continuing Education Secretary and the Special Education Secretary both report to program directors, there must not be any problem from the difference in the supervisors' programmatic responsibilities. An examination of the District organizational chart shows that each of the positions sought to be included in the proposed bargaining unit, including the Continuing Education Secretary, is supervised by one of the District's senior managers, who in turn report directly to the Superintendent; therefore, they share common supervision within the enterprise structure. In addition, the labor relations policies for all the clerical positions are determined by the

School Committee and are contained in the District's Classified Employees Handbook.

#### Similarity in Scale and Manner of Determining Earnings

The base rate for the Continuing Education Secretary is somewhat lower than that for all of the other classifications involved in this determination; however, there is no evidence in the record of how the base rates were determined nor was there any justification for the differences among positions. All of the administrative support employees are compensated on an hourly basis and all the classifications are included together on the same wage schedule that provides regular adjustments for each period of three years of service. The Employer argues that the Continuing Education Secretary's wages point to a lack of community of interest with the other positions; however, they have assigned the Continuing Education Secretary to the same wage schedule as the other positions, a schedule which is different from the 5 other schedules for the Employer's other types of hourly employees. While the lower rate of compensation for the Continuing Education Secretary suggests a lack of community of interest with the other positions, the balance of the facts relating to this factor offset the difference in the base pay rate, particularly since there is no evidence regarding how the base rates were determined.

#### Similarity in Employment Benefits, Hours of Work and Other Terms and Conditions of Employment

All of the administrative support classifications share essentially identical employment benefits, including group health insurance, except for certain types of paid leave which are pro-rated for 46-week employees hired after July 1, 2014. All of the classifications work 52-weeks per year, except the Principal Secretary at Eagle Lake Elementary School and the Principal

Secretary and the School Secretary at Fort Kent Elementary School, who work 46 weeks per year. All have a 40-hour work week and most work from 7:00 a.m. to 3:30 p.m., Monday through Friday. The Guidance Secretary begins work before 7:00 a.m. and works until 3:00 p.m., Monday through Friday, and the Continuing Education Secretary works from 7:30 a.m. to 4:00 p.m., Monday through Friday.<sup>3</sup> All of the administrative support classifications are subject to the same terms and conditions of employment. With minor variations in the beginning and ending of the work days each week and the 46-week work years of three of the positions, the Continuing Education Secretary shares essentially identical benefits, work schedules, and terms and conditions of employment with the other administrative support classifications.

#### Similarity in the Qualifications, Skills and Training of Employees

All of the administrative support classifications have very similar qualifications, skills and training. All are proficient in office suite software, such as Microsoft Office, and some of them utilize specialized computer software that is tailored to the unique needs of the academic program that they support, such as the Continuing Education Secretary's entering data in the Maine STARS program. All of them attend similar or the same training programs.

**The facts relating to the following community of interest factors tend not to support the conclusion that the Continuing Education Secretary shares the requisite community of interest with the other clerical support positions: frequency of contact or interchange among the employees; geographic proximity; history of collective bargaining; desires of the affected employees; and the employer's organizational structure and extent of union organization.**

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<sup>3</sup> The Continuing Education Secretary worked Tuesday evenings in past years and a shorter day on Fridays; however, the evening hours were eliminated due to budgetary reasons in the last school year and have not been reinstated.

### Frequency of Contact or Interchange Among the Employees and Geographic Proximity

The Continuing Education Secretary's office is across the hall from that of the High School Secretary and the Principal Secretary/Bookkeeper at Community High School, and the Continuing Education Secretary covers lunch for one of the High School Secretaries daily. Other than rarely covering for an absent high school secretary and attending some of the same training programs, there was no additional evidence of contact or interchange between the Continuing Education Secretary and the other administrative support employees, particularly those who do not work at the high school. This is not unusual in school employment settings.

### History of Collective Bargaining

None of the clerical support employee classifications has ever been represented for purposes of collective bargaining. The District argues that if the Continuing Education Secretary is included in a bargaining unit (and if the unit employees opt for representation), it will be the only represented position in the Continuing Education Program. This point is not of much consequence because the Continuing Education Secretary's uniqueness with respect to the other positions in the program is simply because it is the only non-professional employee in that program. It has nothing to do with her community of interest with the other positions proposed for the unit nor is it related to any history of collective bargaining.

In this case, the history of collective bargaining factor has a neutral impact on the determination.

### Desires of the Affected Employees

There is no evidence in the record regarding the wishes of

the Continuing Education Secretary. This factor has no impact in the instant determination.

The Employer's Organizational Structure and Extent of Union Organization:

The Employer reiterates the argument it presented under the history of collective bargaining factors and my analysis there applies equally here.

Community of Interest Determination

All of the community-of-interest factors have been weighed separately and together. The factors supporting the finding that the Continuing Education Secretary shares a clear and identifiable community of interest with the other classifications in the proposed bargaining unit are qualitatively more significant than those that warrant the opposite result.

The Employer relies on *Sanford School Committee and Central Office Staff EA/ MEA/NEA*, Nos. 12-UDA-01 & 12-UCA-01 (May 24, 2012), for propositions that performing similar type of work, enjoying similar benefits, and having similar qualifications may not be dispositive. Reliance on *Sanford* for these propositions is misplaced because the facts of that case were very different from those here. In *Sanford*, there was a school secretary bargaining unit represented by the local affiliate of the American Federation of Teachers. The petitioner, a local affiliate of the Maine Education Association, proposed a bargaining unit of central office secretaries that also included a position whose worksite was located at the high school. In deciding which unit to assign the latter position, the Board was required to compare the two separate communities of interest: that of the school secretaries and that of the central office secretaries. The Board concluded that, while the positions in both units performed similar work,

had similar qualifications, similarity in scale and manner of determining earnings, and similarity in benefits, working in the central office was vastly different than being located in a school. The Board stated:

[The] position [at issue] is a poor fit with the central office employees because we consider the "terms and conditions of employment" to be a factor of particular significance in this case. We conclude that the significance of [the] position's being located in the high school goes well beyond its effects on geographic proximity and interaction with the others in the proposed unit. [The incumbent employee in the position] testified that she and her supervisor, the Special Education Director for grades 7-12, were located in the high school so that the director could be "smack in the middle" of the population they serve. Working in a school is fundamentally different than working in an office building and presents working conditions that are simply non-issues in an office building. With a building full of children, not only is the working atmosphere different, the expectations and need for appropriate interactions with students are of paramount importance. All adults in the building share the responsibility for protecting the welfare of the children in their charge, whether it be related to safety and security or creating an environment conducive to learning. These issues are not present in an office building. This difference in conditions of employment also supports our conclusion that the special education support position for K-6 [whose work site was at the central office] should be in the central office bargaining unit as proposed, even though it includes job duties similar to those of [the position at issue].

*Sanford, supra*, at 13 (footnote omitted). Thus, the Employer's citation of *Sanford* to support its argument misses the critical point of the Board's decision.

The Continuing Education Secretary is a public employee within the meaning of the Act, who shares a clear and identifiable community of interest with the other administrative support positions; therefore, all of the administrative support

classifications, together, constitute an appropriate bargaining unit.

ORDER

On the basis of the foregoing findings of fact and discussion and by virtue of and pursuant to the provisions of 26 M.R.S.A. § 966, the executive director ORDERS:

1. The petition for appropriate unit determination filed by Teamsters Union Local 340 on June 29, 2016, is granted.
2. The Principal Secretary, Principal Secretary/Bookkeeper, School Secretary, Guidance Secretary, Special Education Secretary, and Continuing Education Secretary employed by M.S.A.D. #27 together constitute an appropriate bargaining unit.
3. A representation election for the M.S.A.D. No. 27 Administrative Support Employees Bargaining Unit should be scheduled in the normal course of the Board's business.

Dated at Augusta, Maine, December 2, 2016

MAINE LABOR RELATIONS BOARD

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Marc P. Ayotte  
Executive Director

The parties are hereby advised of their right, pursuant to 26 M.R.S.A. § 968(4), to appeal this report to the Maine Labor Relations Board. To initiate such an appeal, the party seeking appellate review must file a notice of appeal with the Board within fifteen (15) days of the date of issuance of this report. See Chapter 10 and Chap. 11 § 30 of the Board Rules.