

ESSEX AGRICULTURAL AND TECHNICAL INSTITUTE AND LOCAL 1269, HATHORNE TEACHERS
FEDERATION, AFT, MCR-2589 (3/14/78).

(10 Definitions)

13.1 chief executive officer

18. Employer

Commissioners Participating: James S. Cooper, Chairman; Garry J. Wooters,
Commissioner; Joan G. Dolan, Commissioner

Attorneys:

W. Barry McDonald, Esq.	- Counsel for the Essex County Commis- sioners
Joseph D. Casey, Esq.	- Counsel for the Essex Agricultural and Technical Institute
Jack Carpenter, Esq.	- Counsel for Local 1269, Hathorne Teachers Federation, AFT

DECISION

Statement of the Case

On August 9, 1977, Local 1269, Hathorne Teachers Federation AFT (Federation) filed a petition with the Labor Relations Commission (Commission) under Section 4 of General Laws Chapter 150E (the Law) for certification as exclusive collective bargaining representative of the seven Extension Agents and Specialists at the Essex Agricultural and Technical Institute.

A hearing on the petition was held before Hearing Officer James M. Condon on October 27, 1977. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence.

Neither the County of Essex (County) nor the Trustees of the Essex Agricultural and Technical Institute (Trustees) contest the appropriateness of the bargaining unit proposed in the petition. Rather, they claim that neither the County nor the Trustees is the sole employer of the employees in the proposed unit. They further contend that the University of Massachusetts should be joined as co-employer. The County also contends that the Counties of Worcester and Middlesex should be joined as co-employers.

Findings of Fact

1. The County of Essex is a Public Employer within the meaning of Section 1 of the Law.
2. The Federation is an Employee Organization within the meaning of Section 1 of the Law.

The seven extension agents in the proposed unit provide education and support services in the area of agriculture, natural resource management and

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ated disciplines. Each agent is paid a salary by the County based on the county's salary schedule and each holds a grade 14, 15, or 16 position. Additionally each agent is paid a further sum of money annually by the University of Massachusetts in accordance with an agreement between the Cooperative Extension Service, University of Massachusetts and the Trustees.

At least two of the agents in the proposed unit perform services in the counties of Worcester and Middlesex in accordance with an agreement among the University of Massachusetts Extension Service and the Boards of Trustees for County Aid to Agriculture for the Counties of Worcester, Middlesex and Essex.

Opinion

In a recent decision, a Hearing Officer found that the County of Essex is the employer of certain employees at the Essex County Agricultural and Technical Institute. He further found that the County Commissioners and Trustees are joint chief executive officers. County of Essex, 4 MLC 1230 (H. 1977).

Although we are not bound to treat the decision of the Hearing Officer County of Essex as precedent, we similarly find that the employer of the extension agents in the proposed unit is the County of Essex and that the County Commissioners and the Board of Trustees are joint chief executive officers.

We reject the argument that the University of Massachusetts is a co-employer. By the terms of its agreement with the Trustees it exercises no control over the hiring, supervising, assigning, firing or any other aspect of the employee relationship of the extension agents. The University of Massachusetts merely provides an annual stipend to the agents in addition to their annual salary paid by the County. This fact should have no impact on collective bargaining between the employer and any exclusive representative which may be chosen as a result of this petition. Further, nothing in the contract precludes the County from increasing its contribution to the salary of these employees through collective bargaining.

We also reject the argument that the Counties of Worcester and Middlesex are co-employers of the extension agents in the proposed unit. There is no evidence that these two counties pay any money to the agents or have control whatsoever over the terms and conditions of their employment. These "regional" agents merely perform certain services in Middlesex and Worcester Counties as part of a regionalized program.

Conclusion

Accordingly, upon all the evidence in this case, we conclude that

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1. a question has arisen concerning the representation of certain employees of the County of Essex.
2. the unit appropriate for collective bargaining consists of: Extension Agents and Specialists of the Essex Agricultural and Technical Institute.
3. an election shall be held for the purpose of determining whether or not the majority of employees in said unit wish to be represented by Local 1269, Hathorne Teachers Federation, AFT or by no employee organization.
4. The list of eligible voters shall consist of all those persons within the described unit whose names appear on the payroll of the Employer on February 24, 1978 and who have not since quit or been discharged for cause.

Direction of Election

By virtue of and pursuant to the power vested in the Commission by Chapter 150E of the General Laws, IT IS HEREBY DIRECTED, as part of the litigation authorized by the Commission, that an election by secret ballot be conducted under the direction and supervision of representatives of the Commission among the employees in the aforesaid bargaining unit at the time and place and under such conditions as shall be contained in the Notice of Election issued by the Commission and served on all parties and held on the premises of the Employer together with copies of the specimen ballot.

In order to assure that all eligible voters shall have the opportunity to be informed of the issues and the exercise of their statutory right to vote, all parties to this election shall have access to a list of voters and addresses which may be used to communicate with them.

Accordingly, IT IS HEREBY FURTHER DIRECTED that three (3) copies of an election eligibility list, containing the names and addresses of all the eligible voters must be filed by the employer with the Executive Secretary of the Commission, Leverett Saltonstall Building, 100 Cambridge Street, Room 1604, Boston, Massachusetts 02202, no later than fourteen (14) days from the date of this decision.

The Executive Secretary shall make the list available to all the parties to the election. Since failure to make timely submission of this list may result in substantial prejudice to the rights of the employees and the parties, extension of time for the filing thereof will be granted except under

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ordinary circumstances. Failure to comply with this direction may be grounds for setting aside the election should proper and timely objections be filed.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

James S. Cooper, Chairman

Garry J. Wooters, Commissioner

Joan G. Doan, Commissioner