

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 08**

**COPLEY OHIO NEWSPAPERS, INC., d/b/a KENT
RECORD-COURIER AND COPLEY OHIO NEWSPAPERS,
INC., d/b/a AKRON BEACON JOURNAL,
SINGLE EMPLOYER¹**

Employer

and

Case 08-RC-279485

**NORTHEAST OHIO NEWSPAPER GUILD/TNG-
CWA LOCAL 34001**

Petitioner

DECISION AND DIRECTION OF ELECTION

I. INTRODUCTION

Northeast Ohio Newspaper Guild/TNG-CWA Local 34001 (“Petitioner”)² seeks a self-determination election under the Board’s *Armour-Globe*³ doctrine to determine whether seven employees employed at the Employer’s Record-Courier newsroom in Kent, Ohio in the classifications of reporter, sports reporter and photo editor wish to be included in the existing unit of the Employer’s newsroom employees employed at the Beacon Journal in Akron, Ohio.⁴ Alternatively, the Petitioner indicates a willingness to proceed to an election in a separate bargaining unit of the petitioned-for Record-Courier employees.

The Employer asserts that the Record-Courier employees are an arbitrary segment of the Employer’s workforce and do not share a community of interest with the existing unit. The Employer maintains that each group has the primary function and purpose of publishing content for separate newspapers covering a specified geographic area. The Employer argues that there is infrequent interchange and interaction between the petitioned-for employees and the existing unit and contends that each group has different day-to-day supervision, pay, fringe benefits, hours of

¹ The names of the parties appear as stipulated at the hearing.

² The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act (“the Act”).

³ *Armour & Co.*, 40 NLRB 1333 (1942); *Globe Machine and Stamping Co.*, 3 NLRB 294 (1937).

⁴ After the hearing closed, the record was re-opened for the sole purpose of receiving the parties’ written stipulations regarding jurisdiction and single employer status. The parties stipulated that Copley Ohio Newspapers, Inc., d/b/a Kent Record-Courier (“Record-Courier”) and Copley Ohio Newspapers, Inc., d/b/a Akron Beacon Journal (“Beacon Journal”) are engaged in commerce within the meaning of the Act and are subject to the jurisdiction of the National Labor Relations Board. The parties further stipulated that for purposes of this case only and on a non-precedential basis, the Record-Courier and the Beacon Journal constitute a single employer within the meaning of the Act. This stipulation explicitly provided that it was limited solely to the named entities and was based on the facts of this particular case. Accordingly, I find that Record Courier and the Beacon Journal, herein collectively referred to as (“Employer”), constitute a single employer within the meaning of the Act.

work, personnel policies, physical workspaces and equipment. The Employer argues that the Record-Courier employees and the existing unit have no more functional interchange with each other than they do with the excluded facilities. The Employer also contends that a separate unit of Record-Courier employees is inappropriate, arguing that the Record-Courier sports reporters do not share a community of interest with the remaining editorial news employees and inclusion of the sports reporters would fragment the regional structure of the sports department.

The Petitioner, on the other hand, maintains that the petitioned-for Record-Courier employees share a sufficient community of interest with the Beacon Journal employees, arguing that both groups share similar skills, functions and supervision and operate under many of the same terms and conditions of employment. The Petitioner further argues that functional integration exists and that there is both temporary and permanent interchange and contact between the two groups. Contrary to the Employer, the Petitioner contends that a stand-alone unit of the Record-Courier employees is an appropriate unit.

As explained below, based on the record and relevant legal precedent, I find that the petitioned-for Record-Courier employees constitute a distinct, identifiable voting group that shares a community of interest with the existing unit. Accordingly, I am directing an *Armour-Globe* self-determination election among the petitioned-for Record-Courier employees to determine if they wish to join the existing unit of Beacon Journal employees.⁵

II. FACTS

A. The Employer's general operations

In February 2017, Copley Ohio Newspapers, Inc. ("Copley"), owned by GateHouse Media Management Services ("GateHouse"), purchased Record-Courier from Dix Communications. Around April or May 2018, GateHouse also purchased the Beacon Journal from Black Press. In late 2019, GateHouse acquired Gannett Media Corporation ("Gannett"), a publicly held publishing company of newspapers, dailies, weeklies, advertising services, printing, and distribution that owns newsrooms across the country. GateHouse retained the Gannett name for its newsrooms.

⁵ The hearing officer precluded the Employer from litigating whether the stand-alone unit was appropriate. It is well settled that where a petitioner requests to proceed to an election in any unit found appropriate, the Regional Director may consider alternative units not put forward in the initial petition. *Acme Markets, Inc.*, 328 NLRB 1209 (1999). As explained by the Board in *Ikea Distribution Services, Inc.*, 370 NLRB No. 109 (April 19, 2021), slip op. at 1, "[t]he Board has an affirmative statutory obligation to determine the appropriate bargaining unit in each case." Section 102.66(d) of the Board's Rules and Regulations does not "limit the Regional Director's discretion to direct the receipt of evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the Regional Director determines that record evidence is necessary." *Brunswick Bowling Products, LLC*, 364 NLRB No. 96 (August 25, 2016), slip op. at 2-3. Here, both parties stated on the record their positions regarding the appropriateness of the stand-alone unit and testimony was elicited and exhibits were received to complete the record on the issue. I note that factors relevant to whether the Record-Courier employees are a distinct, identifiable voting group under the *Armour-Globe* doctrine are similar to the factors applied in a traditional community-of-interest analysis. Thus, as will be discussed below, although I find that an *Armour-Globe* self-determination election is appropriate, I also find alternatively that the stand-alone unit consisting of the seven newsroom employees at the Record-Courier is an appropriate unit.

Gannett owns twenty-one newsrooms in Ohio, including the Record-Courier and the Beacon Journal.

The Record-Courier, based in Kent, Ohio, and the Beacon Journal, based in Akron, Ohio, produce print and on-line publications seven days per week. News stories that appear in the Record-Courier are tailored to appeal to readers in Portage County, with a population of about 150,000, while news stories that appear in the Beacon Journal are tailored to the interests of readers in Summit County, with a population of about 550,000. However, there is content of a regional nature that appears in both publications. In addition to the daily publications, the Record-Courier publishes one weekly newspaper called “The Aurora Advocate,” which focuses on coverage in northwestern Portage County. The Beacon Journal also publishes six weekly newspapers (“weeklies”) covering news in Summit County. As will be discussed below, prior to November 2020, all of the weeklies were published at the Record-Courier.

All Gannett newsrooms, including the Record-Courier and the Beacon Journal, use the same content management system called “Presto” which holds all articles, videos and photos used by the newsrooms to publish online, in print, and other mediums. Presto, implemented around September or October 2020, allows Gannett editors to share and access content across the country and to use content that appeals to their readers.

The seven (7) petitioned-for employees comprise the newsroom employees employed at the Record-Courier and include: four (4) reporters or news reporters, two (2) sports reporters, and one (1) photo editor or photographer.⁶ There are approximately thirty-two (32) newsroom employees employed at the Beacon Journal in the existing unit, including: eighteen (18) news reporters, seven (7) sports reporters, four (4) photographers, one (1) clerk, and two (2) sports statisticians.⁷

B. Collective-bargaining history

There is no prior bargaining history between the Petitioner and the Employer regarding the petitioned-for unit. The unit employees at the Beacon Journal have been represented by the Petitioner for approximately 84 years. When GateHouse acquired Beacon Journal from Black Press in 2018, it agreed to recognize the Petitioner as the collective bargaining representative of the existing unit, but elected not to assume the collective bargaining agreement. GateHouse established initial terms and conditions of employment that were outlined in offer letters provided to the unit employees. In addition, GateHouse and the Petitioner executed a Memorandum of Agreement (MOA) on July 6, 2018 covering certain terms and conditions of employment.⁸ The MOA provides that where the initial terms were silent or differed from the terms set forth in the MOA, the MOA prevails. While the Petitioner and the Beacon Journal have been engaged in negotiations for a collective bargaining agreement since 2018, they had not reached an agreement

⁶ The job titles of photo editor and photographer are used interchangeably by the Employer.

⁷ See Employer Exhibit 3.

⁸ While the agreement is between Copley and the Petitioner, the Employer contends that GateHouse is the entity subject to the MOA. However, there is no evidence that the MOA was modified or amended to reflect that change.

at the time of the hearing. Thus, the terms and conditions of employment of the Beacon Journal unit employees are governed by the Employer's initial terms and the MOA.⁹

C. Organizational Structure and Supervision

Around March 2019, Michael Shearer became the Sub-Region Editor for northern Ohio. As Sub-Region Editor, Shearer oversees twelve newsrooms in northern Ohio, including the Beacon Journal and the Record-Courier. Shearer supervises various site and regional editors from different newsrooms in the Ohio region. He is also the Editor and Market Leader of the Beacon Journal and maintains an office there. As the Market Leader, Shearer coordinates advertising, circulation, and production at the Beacon Journal. Shearer reports to Allan Miller, who is one of Gannett's twelve regional editors and is responsible for overseeing the Ohio region. Before his role as Sub-Region Editor, Shearer served as the Regional Editor for northern Ohio. In that position, Shearer was based at the Record-Courier and worked as its General Manager and Editor.

Shearer hosts daily meetings by telephone with the editors of the twelve northern Ohio Gannett newsrooms, including editors at the Record-Courier and the Beacon Journal. Shearer has the authority to either initiate and/or to effectively recommend actions concerning hiring, firing, promotions, layoffs, transfers, discipline and the granting of wage increases for employees in all twelve newsrooms, including employees at the Record-Courier and the Beacon Journal. The record reflects that Shearer's recommendations regarding actions such as hiring, firing, promotions and pay increases are reviewed and/or approved by Miller and Gannett's Human Resources Department located in Springfield, Missouri, which is responsible for all twenty-one Gannett newsrooms located in Ohio. Shearer's recommendations are consistently followed.

In terms of the hiring process, the record reflects that when there is a job vacancy, Shearer and the site editors discuss whether there is a need to fill the position. If it is determined that a need exists, the site editors complete the staffing requisition and send it to Shearer, Miller and Human Resources for approval. The site editors conduct the initial interview and Shearer participates in the subsequent interviews. Shearer makes a recommendation to Miller requesting approval for the hire.

The Record-Courier and the Beacon Journal employees are evaluated under the same performance system, using the same "Performance and Development Review" form. The site editors complete the performance evaluations for the newsroom employees. Shearer has the authority to review the performance and development forms of employees at all newsrooms he oversees, including the Record-Courier and the Beacon Journal. While the record reflects that Shearer does review performance evaluations, he does not review all of them.

In terms of discipline, the site editors have the authority to initiate discipline after consulting and seeking approval from Shearer. Disciplinary warnings are signed by the site editor, Shearer and a representative of Human Resources.

⁹ The MOA states that the existing unit also includes the following classifications: copy editors, designer, librarian, and student correspondents. However, there is no evidence that the Beacon Journal currently has any employees in those job classifications.

The record contains examples of Shearer exercising some of the authority described above at the Record-Courier and the Beacon Journal. For example, in November 2020, Shearer made the decision to transfer six of the seven total weeklies from the Record-Courier to the Beacon Journal. The reorganization resulted in three news reporters and one sports reporter moving from the Record-Courier to the Beacon Journal. In addition, two Record-Courier editors moved to the Beacon Journal. Shearer had final authority over the decisions surrounding which employees would fill the vacancies at the Beacon Journal created by the reorganization.

The evidence revealed that Shearer was recently involved in decisions to award pay increases to two Record-Courier employees and approximately eight Beacon Journal employees. The record further reflects that Shearer occasionally assigns work to Record-Courier employees and coordinates certain assignments. In addition, on September 4, 2019, Shearer authorized a Record-Courier employee to perform freelance work.

Cheryl Powell-Fuller is the Managing Editor/Edit Editor ¹⁰ of the Beacon Journal and reports directly to Shearer. She oversees the daily editorial operations for the Beacon Journal, including the oversight of the Beacon Journal news reporters and photographers. As will be discussed in more detail below, Powell-Fuller does not oversee sports coverage, as the sports department is structured regionally. Powell-Fuller directly supervises various editors at the Beacon Journal, including Marsha McKenna, Planning Editor for non-dailies,¹¹ Joe Thomas, Metro Editor, Kim Profant, Planning Editor, and Darrin Werbeck, Editor. McKenna, Thomas, Profant and Werbeck, along with Powell-Fuller, supervise the news reporters and photographers in the existing unit.¹² Powell-Fuller and/or the Beacon Journal editors complete the performance evaluations of news reporters and photographers,¹³ approve and/or deny their time-off requests, and conduct coaching sessions when necessary.¹⁴ Shearer may be involved in the coaching depending on the situation. While news reporters are assigned a specific “beat” to produce content, Powell-Fuller, McKenna, Profant, Thomas, and Werbeck do at times assign stories to news reporters outside of their assigned beat.

Powell-Fuller also supervises Heather Rainone, Managing Editor of the Record-Courier. Rainone has held the Managing Editor position since 2000. The four news reporters and the photographer who work at the Record-Courier report directly to Rainone. Rainone provides editorial oversight to the news reporters and the photographer and assigns them stories when they are not working on a story as part of their assigned beat. She also grants and denies the time-off requests of the news reporters and photographers, approves overtime, and completes their performance evaluations. As referenced above, Rainone has the authority to initiate discipline, but she must obtain approval from Shearer and/or the Human Resources Department before issuing discipline. For example, Rainone was involved in the decision to issue discipline to a Record-Courier employee on December 1, 2017; the employee was subsequently placed on a performance

¹⁰ Powell-Fuller’s official title as set forth in the Employer’s organizational chart is “Edit Editor.” However, Shearer refers to her as the Managing Editor.

¹¹ Before November 2020, McKenna worked at the Record-Courier as Editor of weeklies; McKenna moved to her current position at the Beacon Journal as part of the reorganization described above.

¹² The four Beacon-Journal photographers report to Profant.

¹³ The performance review of a Beacon Journal newsroom reporter, offered into evidence by the Employer was completed by Powell-Fuller.

¹⁴ A coaching is not considered a disciplinary action.

improvement plan. The warning was signed by Rainone, Shearer and a Human Resources representative.¹⁵ The record also reflects that if Rainone cannot resolve workplace or employee issues, she involves Shearer and Human Resources. Rainone leads daily budget meetings for the Record-Courier reporters and the photographer during which they provide updates on stories and discuss assignments.

Rainone is the only editor employed at the Record-Courier. Thus, McKenna or Powell-Fuller, and occasionally Profant, supervise the Record-Courier news department employees when Rainone is on vacation, at a medical appointment or otherwise occupied with other managerial matters at the Record-Courier. Rainone receives five to six weeks of Paid-Time Off (PTO) each year. The record contained approximately eleven occasions when Beacon Journal editors supervised Record-Courier employees in Rainone's absence, including assigning them to cover certain stories and providing editorial oversight. Beacon Journal editors also conduct budget meetings in Rainone's absence. While Rainone does not fill in for Beacon Journal editors in their absence, she substitutes for Laura Kessel, the editor of the Alliance Review located in Stark County, when Kessel is absent.

Powell-Fuller and Shearer communicate with Rainone by phone or email regarding editorial and operational matters. According to Shearer, the frequency of his individual contacts with Rainone varies from week to week. Before the weeklies moved to the Beacon Journal in November 2020, Powell-Fuller attended the Record-Courier budget meetings about three to four times a month, which prior to the pandemic were held at the Record-Courier facility. Since November 2020, Powell has attended only about two or three meetings total.

There is no evidence that Beacon Journal editors are involved in the performance reviews, discipline or coaching of Record-Courier news reporters and the photographer. Nor is there any evidence that Rainone is involved in performance reviews, discipline, or coaching of Beacon Journal news reporters and photographers.

Sports news coverage is organized regionally. Shearer oversees the regional sports department for northern Ohio. Chris Beavon, based in Canton, Ohio, is the Regional Sports Editor and reports directly to Shearer. Beavon oversees three sports editors in Ohio, including Beacon Journal Editors Scott Fagerstrom and Record-Courier Editor Rob Todor.

Fagerstrom supervises the seven sports reporters who work at the Beacon Journal. Fagerstrom is physically based in Akron at the Beacon Journal. Fagerstrom assigns work to the Beacon Journal sports reporters, conducts their performance evaluations, and approves their time.

Todor supervises the two petitioned-for sports reporters, as well as sports reporters who work at other newsrooms in Ohio, including Alliance and Dover/New Philadelphia. Todor is physically based at the Record-Courier in Kent. Todor assigns work to the petitioned-for sports reporters, conducts their performance reviews, and approves and denies time-off requests. The record reflects that Todor holds weekly sports meetings with the petitioned-for sports reporters.

¹⁵ This warning was issued before Shearer assumed his current role as the Sub-Region Editor. There is no evidence that any Record-Courier or Beacon Journal newsroom employees have received formal discipline since Shearer assumed his current position.

The Record-Courier sports reporters do not report to Managing Editor Rainone and do not attend weekly budget meetings with the Record-Courier news reporters and the photographer.

There is no evidence that Fagerstrom is involved in the performance reviews or discipline of Record-Courier sports reporters. Nor is there any evidence that Todor is involved in performance reviews or discipline of Beacon Journal sports reporters.

D. Skills, functions, training, and equipment

The four news reporters at the Record-Courier and the eighteen Beacon Journal news reporters generally cover a specific “beat” focused on a certain geographic or topic area within the community, such as business, healthcare, government, school districts, crime, etc. As part of covering their news beat, reporters find stories, respond to breaking news or events, conduct research and interviews, and write stories for print and/or on-line publication. However, as referenced above, editors may make assignments to reporters outside of their specific beat.

The seven Beacon Journal sports reporters and the two Record-Courier sports reporters perform the same type of work as news reporters, but are more event oriented. They find assignments on their own, but also receive assignments from their editors. At the Beacon Journal, sports reporters cover college and high school athletics in Summit County. In addition, some Beacon Journal sports reporters cover Cleveland professional sports teams, located in neighboring Cuyahoga County. At the Record-Courier, sports reporter Allen Moff spends about eighty percent of his time covering Kent State University athletics, and also covers high school football and basketball. Record Courier sports reporter Jonah Levin-Rosenblum covers Portage County high school athletics.

Reporters who work at the Record-Courier and the Beacon Journal have the same fundamental skills, education and training. A reporter may receive some coaching regarding their respective news beats, but all Record-Courier and Beacon Journal reporters have the same training. Due to the larger size and market of the Beacon Journal, its journalists generally have more years of experience than those at the Record-Courier. However, this is not always the case. For example, Diane Smith, news reporter, has worked at the Record-Courier for twenty-six years.

News and sports reporters use desktop computers and laptops provided by the Employer to perform their work. Record-Courier and Beacon Journal employees do not share computers or laptops. The reporters at Record-Courier and the Beacon Journal share their content using the Presto platform. Nationally, every newsroom, including the Beacon Journal and Record-Courier, has its own channel in Presto which holds its content and is managed by the respective editors. The reporters notify their supervisors through Microsoft Teams when their stories are ready for editing. Record-Courier employees have access to the Beacon Journal’s Microsoft Teams. Therefore, when Record-Courier Managing Editor Rainone is out of the office, the Record Courier news reporters notify the Beacon Journal editors through Microsoft Teams that their stories are ready for review.

The four photographers who work at the Beacon Journal and the one photographer at the Record-Courier take photographs and/or video for stories. Photographers may accompany reporters to assignments or photographers may go to locations alone. Photographers generally coordinate their own schedules with reporters. Record-Courier photographer Lisa Scalfaro

testified that when shooting events, such as sporting events, she may not interact at all with the reporters. Reporters at the Record-Courier and the Beacon Journal request photographs through a computer program called “SCC,” which is used by all Gannett newsrooms. The record reflects that a Beacon Journal photographer, for example, may get three to four assignments per day. After taking and editing the photographs, photographers upload them into the system. Editors, rather than reporters, typically decide which photographs from the system will appear in a news story. In terms of equipment, Record-Courier photographer Scalfaro uses her own camera along with a laptop provided to her by the Employer. The record does not reflect how the Beacon Journal photographers obtain their equipment.

News reporters spend about twenty to thirty percent of their time in the field, while sports reporters spend about thirty-five percent of their time in the field. Photographers spend about seventy-five to eighty percent of their time in the field. Since the onset of the COVID-19 pandemic, news department employees who work at the Record-Courier and the Beacon Journal have been working from home rather than from their respective newsrooms. Prior to the pandemic, Record-Courier employees in the petitioned-for unit reported to the Record-Courier newsroom, and Beacon Journal employees in the existing unit reported to the Beacon Journal newsroom.¹⁶

E. Interchange, contact, and functional integration

1. Permanent interchange

There is evidence of permanent interchange between the Record-Courier and Beacon Journal employees. As stated above, in November 2020, the Employer restructured its operations and moved the six Summit County weeklies from the Record-Courier newsroom to the Beacon Journal. According to the Employer, the reorganization was designed to get reporters working in Summit County in a single common planning atmosphere and newsroom. The Employer added three news reporters and two sports reporters to the Beacon Journal as part of this reorganization. The vacant job positions at the Beacon Journal were posted internally and current employees who were interested applied by email and were interviewed for the positions. Four Record-Courier employees applied and accepted positions with the Beacon Journal weeklies. Specifically, Record-Courier news reporters April Helms, Phillip Keren and Krista Kano took positions as news reporters at the Beacon Journal. In addition, Record-Courier sports reporter Michael Leonard moved to a sports reporter position at the Beacon Journal. Given that there was only one internal applicant for the two vacant sports’ positions, the other sports reporter vacancy was filled with an outside candidate.

As part of the reorganization, the Employer also promoted Marsha McKenna from her position at the Record-Courier as Editor of weeklies to her current position of Beacon Journal Planning Editor. In an October 23, 2020 email to news department employees, Shearer announced McKenna’s promotion and noted that she would “oversee our new three news reporters moving from Kent to Akron.”

In their new positions at Beacon Journal, Helms, Keren, and Leonard cover the same areas as they did at the Record-Courier. Kano began covering a new beat when she moved from the

¹⁶ Although there is a clerk employed in the bargaining unit at the Beacon Journal, there is no evidence in the record regarding the clerk’s job functions. In addition, the record is devoid of any evidence regarding the duties of the sports statisticians who work at the Beacon Journal. There are no sports statisticians employed at the Record-Courier.

Record-Courier to the Beacon Journal. In addition, employees who moved from the Record-Courier to the Beacon Journal retained their vacation and other accrued benefits, and received raises. However, their “Guild” seniority date was changed to November 9, 2020, the date they started in their new positions.

Around the time of the reorganization, there was another opening at the Beacon Journal for a breaking news position. This position was filled by Record-Courier employee Eric Marotta, who moved from his editor position of the Summit County weeklies at the Record-Courier to the position of breaking news reporter at the Beacon Journal.

2. Temporary interchange of Record-Courier and Beacon Journal news reporters

While the record reflects that reporters and photographers primarily perform work for their respective publications, there is evidence of temporary interchange between the Record-Courier and Beacon Journal employees. Prior to the transfer of the weeklies to the Beacon Journal in November 2020, Record-Courier news reporters worked on Sundays to cover breaking news. In November 2020, Shearer, in consultation with Managing Editor Record-Courier Rainone, decided that Record-Courier reporters would no longer work on Sundays. Since that time, Beacon Journal news reporter Doug Livingston has been responsible for covering and writing stories regarding any breaking news for both the Record-Courier and the Beacon Journal on Sundays. Livingston monitors social media and other sources for breaking news in Portage County for the Record-Courier during his work shift. While Shearer testified that Livingston’s coverage of a story on a Sunday that originates in Portage County almost always involves events of interest beyond Portage County, Livingston was never told that he would only cover stories that would be of regional interest.

Some of the stories that Livingston covers and drafts on Sundays are completed the following Monday by a Record-Courier news reporter. For example, on Monday, June 12, 2021, Record-Courier reporter Jeffrey Saunders completed a news story that Livingston prepared on Sunday, June 11, 2021. The record contains four examples of stories that Livingston wrote covering Record-Courier breaking news on Sundays during the nine-month period preceding the date of the hearing. While Livingston did not provide specifics, he testified that he has written additional stories covering Record-Courier breaking news beyond the four examples in the record. The stories that Livingston writes may appear in both the Record-Courier and the Beacon Journal.

Record-Courier Managing Editor Rainone is not scheduled to work on Sundays. Thus, Livingston is supervised by Shearer or another Beacon Journal editor when covering breaking news on Sundays. However, Rainone is notified by Livingston or a Beacon Journal editor when a story is ready to be published for the Record-Courier. Rainone testified that if a significant event is scheduled to take place in Portage County on a Sunday, she will assign a Record-Courier reporter to handle the event in advance rather than relying on coverage from a Beacon Journal reporter. However, this has not happened in over a year, and there are no examples of these assignments in the record.

In addition to Livingston, Beacon Journal news reporter Eric Marotta also covers breaking news for the Record-Courier in the evenings. Since moving to the Beacon Journal from the Record-Courier in November 2020, Marotta, who works from 12:00 p.m. to 8:00 p.m. covering breaking news for the Beacon Journal, has also been responsible for covering breaking news for

the Record-Courier in Portage County in the evenings, as there are no Record-Courier reporters who work in the evenings. During the nine-month period preceding the date of the hearing, Marotta wrote at least five stories for the Record-Courier while covering breaking news in Portage County. He is responsible for monitoring any breaking news in Portage County, regardless of whether a story results. When performing this work for the Record-Courier, Marotta is supervised by a Beacon Journal editor.

3. Record-Courier and Beacon Journal employee contact and collaboration regarding news and sports stories

News reporters, sports reporters, and photographers at the Record-Courier and the Beacon Journal have some contact with each other and collaborate on stories that appeal to readers of both publications. For example, in April and May 2020, several stories appeared in both the Beacon Journal and the Record Courier on the 50th anniversary of the May 4, 1970 Kent State University (KSU) shootings. Reporters from the Record-Courier, including Diane Smith, Krista Kano, and Bob Gaetjens, collaborated with Beacon Journal reporters on stories ultimately appearing in both publications. Shearer and Beacon Journal Managing Editor Powell-Fuller and Record-Courier Managing Editor Rainone all participated in the project and supervised the reporters. Record-Courier photographer Lisa Scalfaro provided photographs for the series. The Record-Courier and the Beacon Journal employees worked equally on the series. The final product on the KSU shootings ran in other Gannett newspapers, and in USA Today. Shearer testified that this KSU series was a rare collaboration, noting the “special nature of that story and event.”

In March and April 2020, Record-Courier reporter Smith collaborated with the Beacon Journal staff, including Beacon Journal editors and reporter Doug Livingston, on coverage involving the COVID-19 pandemic. Smith attended a Zoom meeting with Livingston, Rainone, Powell-Fuller, and possibly Shearer to discuss the story. Smith and Livingston communicated by email and shared information on a Google document. Ultimately, Smith published an article on the high death rate in long-term care facilities in Portage County. Powell-Fuller gave Smith direction on the assignment and edited Smith’s article.

In addition, in April 2021, there was coordinated coverage of the protests concerning the verdict in the murder trial of police officer Derek Chauvin. There was an announcement in the Beacon Journal’s Microsoft Teams soliciting volunteers to assist in the coverage and volunteers were told to join the meeting later that day. Record Courier news reporter Smith, who has access to the Beacon Journal’s Microsoft Teams, participated in the meeting with Beacon Journal employees and offered to help with coverage. Specifically, Smith volunteered to monitor her email and social media for reactions from elected officials. Shearer directed Record-Courier and Beacon Journal reporters and photographers on the coverage of the protests, including Record-Courier reporter Bob Gaetjens and Record-Courier photographer Lisa Scalfaro. Gaetjens and Scalfaro were assigned to cover protests in Kent.

Turning to collaboration on sports coverage, the record reflects that for cost-savings purposes, Beacon Journal Editor Fagerstrom and Record-Courier Editor Todor coordinate sports coverage, including which reporters and photographers from the Record-Courier and the Beacon Journal will cover sporting events. For example, if a Beacon Journal reporter was attending a high school sporting event between a school in Summit County and one in Portage County, the Record-Courier would not send a reporter to cover that game. Gannett uses a spreadsheet accessible by all Gannett editors to document which newsroom is covering certain events.

Another example of coordinated sports coverage between the Record-Courier and the Beacon Journal involves sporting events between KSU and the University of Akron (UA). Sports reporter Allen Moff spends the majority of his time covering KSU athletics and his stories usually appear in both publications. Approximately two or three times per year, Moff covers football or basketball games when KSU and the UA compete. In these instances, the Employer sends a single photographer determined by the location of the game. Record-Courier photographer Lisa Scalfaro attends events in Portage County; Beacon Journal photographers shoot the games in Summit County. Moff testified that if a Beacon Journal sports reporter and/or Beacon Journal photographer are present at the KSU-UA game, Moff talks to the reporter to coordinate news coverage or may ask the photographer to capture a particular athlete or coach. Moff prepares his game story, while the Beacon Journal reporter will often prepare a “sidebar” accompanying his story that is more “Akron focused.” Typically, editors publish stories. However, given that Moff works at sporting events in the evenings and Todor does not work nights, Moff publishes his KSU-UA football and men’s basketball games on the Beacon Journal and the Record-Courier websites in the evenings.

The assigned photographer at the KSU-UA events shoots both teams and the Record-Courier and the Beacon Journal will run the photographs in their respective publications. In addition to the KSU-UA games, the Employer typically sends one photographer to events such as the Mid-American Conference (MAC) Basketball Tournament where KSU and UA and other conference teams are playing. Moff works with a Beacon Journal photographer about ten to fifteen percent of the time.

The record contains evidence of other stories that Moff wrote for the Record Courier that were also published in the Beacon Journal. For example, Moff’s features regarding a KSU golf coach, a story about KSU golfers who attended the Olympics, and a three-part series about KSU athletes involved in an automobile accident, all appeared in the Beacon Journal.

Beacon Journal Sports Editor Fagerstrom coordinated with Record-Courier Editor Todor to assign Moff a story regarding a college football preview for the MAC. The record further reflects that Moff worked with Shearer in 2020 regarding stories that appeared in the Record-Courier about complaints involving former KSU Director of Athletics Joel Nielson. The stories were published only in the Record-Courier.

In addition to the collaborations addressed above, the record contains other examples of Shearer coordinating news reporting for Record-Courier employees. For example, in mid-June 2021, Beacon Journal Editor McKenna, who was filling in for Rainone, assigned Record-Courier reporter Kaitlyn McGarvey to cover a story for the Beacon Journal concerning a Kent resident appearing on Jeopardy. McKenna informed McGarvey that the assignment came from Shearer. Similarly, Shearer coordinated work for Record-Courier employees regarding other matters, including a Bernie Sanders’ town hall meeting, a St. Patrick’s Day celebration in Kent, and lawsuits involving KSU.¹⁷ Similarly, Powell-Fuller edits the work of Record-Courier reporters beyond the collaboration on the pieces described above.¹⁸

¹⁷ See Petitioner Exhibits 57, 81, 83.

¹⁸ See, for example, Petitioner Exhibit 84 (Powell-Fuller edited Record-Courier reporter Kaitlyn McGarvey’s coverage of a Bernie Sanders’ town hall event that was published on April 19, 2019).

Record-Courier photographer Scalfaro also takes photographs for Beacon Journal news stories when requested by Beacon Journal Managing Editor Powell-Fuller or other Beacon Journal reporters. For example, on February 18, 2021, Scalfaro took photographs for Beacon Journal reporter April Helms that appeared in the Beacon Journal. Scalfaro received the photo request from Helms, but Helms was not present at the assignment when Scalfaro took the photos. Also, in June 2021, Scalfaro went with Beacon Journal news reporter Krista Kano to a medical center in Summit County, located very close to the Portage County line, to take photographs. Scalfaro and Kano toured the facility together. In addition, while no photographs were ultimately taken, on June 24, 2021, Powell-Fuller requested that Scalfaro take photographs because no Beacon Journal photographers were available.¹⁹ Overall, the record reflects that there is limited interaction between Scalfaro and the Beacon Journal reporters in situations when her photographs are used in Beacon Journal articles. Occasionally, Scalfaro also takes “stock photos” for the Record-Courier that are archived in the database that can be used by other Gannett publications. The record does not reflect how often Scalfaro’s stock photographs are used by other Gannett newspapers.²⁰

Editors have the authority to publish part of a story produced by another Gannett reporter. In such cases, the reporter will receive credit for their contribution to the story by a designation as a “contributing reporter” or a byline caption in the story with the reporter or photographer’s name. The Petitioner provided examples of the Beacon Journal publishing stories, or part of a story produced by a Record-Courier reporter. Rainone testified that approximately one or two of the twenty-five to thirty stories that appear in the Record-Courier each week also appear in other Gannett publications, but could not recall a specific occasion when a Gannett newspaper other than the Beacon Journal picked up a story from the Record-Courier. There was also evidence that articles written by the Columbus Dispatch and the Cincinnati Inquirer may appear in the Record-Courier and articles written by Record-Courier and Beacon Journal reporters may appear in the Canton Repository. The record does not reflect the degree of interaction between reporters in other newsrooms when their articles are picked up by other newspapers.

Record-Courier and Beacon Journal news and sports reporters and editors share tips with each other. These tips are through verbal conversation, email, or through Microsoft Teams. Tips are also shared across Gannett newsrooms, in general. There is no record evidence to show how often these communications occur, specifically to tips shared between the Record-Courier and the Beacon Journal, or those occurring within or among other Gannett newsrooms.

4. Additional contact between Record-Courier and Beacon Journal employees

Beacon Journal news reporter Jennifer Pignolet serves as a mentor for Kaitlyn McGarvey, the least senior news reporter at the Record-Courier. Thus, Pignolet and McGarvey speak on a weekly basis to discuss McGarvey’s work. In addition, in June 2021, Beacon Journal and Record-

¹⁹ The Petitioner offered exhibits of two other articles published in the Beacon Journal that included photographs taken by Scalfaro. (See Petitioner Exhibits 48 and 75) Scalfaro did not interact with the reporters who wrote the stories containing her photographs.

²⁰ The record reflects that current Beacon Journal photographer Jeff Lange took photographs for news stories written by Record-Courier reporters Kaitlyn McGarvey and Diane Smith. However, it is unclear if Lange was working as a freelance photographer or directly for the Beacon Journal at the time of those assignments.

Courier employees, as well as individuals from the Columbus Bureau,²¹ were invited to attend a post-Covid social function for people to each another after a period of remote work.

The record also reflects that Beacon Journal reporter April Helms occasionally joins the Record-Courier morning budget meetings held by Zoom. Helms greets her former Record-Courier colleagues but does not otherwise participate in the meetings. With the exception of Helms, Record-Courier and Beacon Journal newsroom employees do not attend budget meetings together.

G. Geographic proximity

The distance between the Record-Courier and the Beacon Journal is approximately twelve to sixteen miles, depending on the route, or about a twenty-two or twenty-three minute drive.

H. Wages, hours, and working conditions

As detailed above, the Beacon Journal's terms and conditions of employment are governed by the 2018 offer letters and the MOA. The parties are currently in negotiations and the Employer has maintained the status quo since 2018, including healthcare costs and benefits. The Beacon Journal unit employees are subject to the GateHouse employee handbook, revised on May 30, 2019.²² On the other hand, the petitioned-for Record-Courier employees are subject to Gannett policies and procedures set forth on Gannett's intranet portal. Prior to the merger between Gatehouse and Gannett in 2019, the Record-Courier employees were subject to the Gatehouse employee handbook. Some policies, such as anti-discrimination and the code of conduct and ethics, are the same for both groups of employees.

Regarding wages, the Record-Courier news and sports reporters are paid between \$13.23 to \$18.17 per hour and the photographer is paid \$17.10 per hour. Per the MOA, Beacon Journal reporters and photographers are hired at a minimum wage rate of \$15.00 per hour. Current Beacon Journal news and sports reporters are paid between \$19.50 to \$30.79 per hour, and photographers are paid between \$20.75 and \$27.60 per hour. The current statisticians earn \$8.80 per hour and the clerk earns \$15.61 per hour. The MOA provides for a bonus program based on performance for the existing unit, but there is no evidence regarding the details of the program or that Beacon Journal employees have received bonuses pursuant to the program.

The petitioned-for Record-Courier employees generally work 40 hours per week, while the standard work week for the Beacon Journal unit employees is 37.5 hours per week per the MOA. Beacon Journal and Record-Courier employees receive overtime pay for time worked above 40 hours per week.

The majority of Record-Courier and Beacon Journal employees work from approximately 9:00am to 5:00pm, Monday through Friday. However, sports reporters may cover some sporting events at night and other reporters may start before 9:00am, depending on their assigned beat. In addition, the four Record-Courier news reporters rotate working three to four hours on Saturdays and work a half day on Thursday to account for Saturday coverage. Also, as addressed above, the assigned Beacon Journal breaking news reporter also works on Sunday. The Record-Courier

²¹ The Columbus Bureau is comprised of individuals located at the Columbus Dispatch who work on state-wide stories for all twenty-one newspapers in Ohio.

²² The offer letters and MOA supersede conditions set forth in the handbook.

photographer works Tuesday to Saturday, whereas the Beacon Journal photographers have schedules that rotate every four weeks.

Record-Courier news reporters and photographers essentially manage their own time and keep track of their hours. The MOA requires that a schedule be posted for Beacon Journal employees fourteen days in advance; there is no schedule posted for Record-Courier employees. Although the schedule for Beacon Journal employees must be posted per the MOA, there is no evidence that they have less flexibility in managing their workday. Photographers generally coordinate their schedules with reporters. Employees at both publications record their time in the same program called “Dayforce.”

An offer letter dated April 23, 2018 to employees in the existing Beacon Journal unit shows that the existing unit receives five paid sick days, five paid personal days, two floating paid holidays, and six paid holidays. Beacon Journal employees receive up to three days of paid bereavement leave. Beacon Journal employees who work 40 or more hours per week earn vacation time based on length of service, ranging from two weeks to about seven weeks.

Record-Courier employees who are regularly scheduled to work 30 or more hours per week receive Paid Time Off (PTO) that can be used for vacation, illness or other reasons. Based on years of service, the amount of PTO that Record-Courier employees receive is from fifteen days to thirty-two days, annually. Record-Courier employees receive eight holidays plus three additional floating holidays. Unlike the Beacon Journal employees, Record-Courier employees receive Martin Luther King, Jr. Day.²³ In addition, the Record-Courier employees receive paid parental leave and five days of paid bereavement leave.

Both Record-Courier and Beacon Journal employees are eligible to receive health, dental, and vision insurance, but the plans and costs to the employees and the Employer differ. The Record-Courier and Beacon-Journal employees are also eligible to participate in life insurance, short term and long-term disability insurance, a flexible spending plan, and a 401(k) plan, albeit under different plans. Record-Courier employees are eligible for some additional fringe benefits not offered to Beacon Journal employees, such as critical illness, tuition assistance, hospital indemnity and accident insurance, and pet insurance. The MOA provides a grievance and layoff procedure for the existing unit that is not applicable to Record-Courier employees.

III. ANALYSIS

A. Legal Standard

The applicable standard for evaluating the appropriateness of adding employees to a preexisting bargaining unit in a self-determination election is the Board’s *Armour-Globe* doctrine. A self-determination election is the proper way for an incumbent union to add unrepresented employees to its existing unit if the employees the union wishes to be included share a community of interest with current unit employees and “constitute an identifiable, distinct segment so as to constitute an appropriate voting group.” *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990) (citing *Capital Cities Broadcasting Corp.*, 194 NLRB 1063 (1972)). See also *Rush University Medical Center v. NLRB*, 833 F.3d 202, 209 (D.C. Cir. 2016). The burden is on the Petitioner to show that

²³ The record reflects that while the Beacon Journal employees do not normally receive Juneteenth as a paid holiday, the Employer granted Juneteenth as a paid holiday to the Beacon Journal employees in 2021.

the petitioned-for unit shares a community of interest with the existing unit. *Id.*

Whether a voting group is an “identifiable, distinct segment” is not the same question as whether the voting group constitutes an appropriate unit. *St. Vincent Charity Medical Center*, 357 NLRB 854, 855 (2011) (citing *Warner-Lambert*, above at 995). The distinct-and-identifiable analysis asks merely whether the voting group sought unduly fragments the workforce or constitutes an arbitrary segment of unrepresented employees. *Capital Cities Broadcasting*, 194 NLRB at 1064; see also *Dillon Cos., Inc. v. NLRB*, 809 Fed.Appx. 1, 2 (D.C. Cir. 2020) (unpublished opinion). A certifiable unit, including the combined unit formed in *Armour-Globe* case, need only be an appropriate unit, not the ultimate or the only or even the most appropriate unit. *International Bedding Co.*, 356 NLRB 1336, 1337 (2011) (citing *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), enf. 190 F.2d 576 (7th Cir. 1951)); see also *Overnite Transportation Co.*, 322 NLRB 723 (1996) (the unit sought need not be the ultimate, or the only, or even the most appropriate unit).

As explained below, I find that the petitioned-for employees constitute a distinct and identifiable segment of the Employer’s workforce and share a community of interest with employees in the existing unit at the Beacon Journal.

Record-Courier employees constitute a distinct-and-identifiable segment

In examining whether a voting group constitutes a distinct-and-identifiable segment, the Board considers factors similar to those in a community-of-interest analysis, including separate supervision, geographic separation of work areas, lack of integration with employees in other segments in the performance of ordinary job duties, skills or functions distinct from other employees, and whether the group includes all employees in an administrative division. See generally *Birdsall, Inc.*, 268 NLRB 186, 190 fn. 12 (1983) (citing *A. Harris & Co.*, 116 NLRB 1628, 1632 (1956)).

The Petitioner argues that the petitioned-for employees constitute an identifiable, distinct segment of the workforce, noting that they all perform journalistic work at the Record-Courier. On the other hand, the Employer argues that the petitioned-for employees are not an identifiable and distinct segment of the workforce because the inclusion of the Record-Courier sports reporters would unduly fragment the regional sports department, which includes multiple newsrooms in the Ohio region. Specifically, the Employer relies on the fact that Todor directly supervises other unrepresented sports reporters at Alliance Review and Dover/New Philadelphia.

I find that the Record-Courier newsroom employees are not an arbitrary segment. The petitioned-for unit includes all newsroom employees at the Record-Courier. The employees have the same skills, functions, and training within their job classifications. Although the Record-Courier newsroom employees are working remotely due to the COVID-19 pandemic, they are assigned to work at the same newsroom in Kent, Ohio. All employees use the same type of equipment and software programs to perform their work. Stories are completed in the Record-Courier’s Presto channel and editors and reporters utilize the SCC program to request photos. Moreover, there is functional integration by virtue of the fact that they all perform work in order to publish the Record-Courier. Both the sports and news reporters write stories that appear in the

Record-Courier. In addition, Record-Courier photographer Scalfaro serves as the photographer for both the news reporters and sports reporters and coordinates with them on assignments. While the sports department is regionally structured, Todor and Beacon Journal editor Fagerstrom report to the same supervisor, Regional Sports Editor Beaven, who in turns reports to Shearer. Thus, Shearer has overall responsibility for the Record-Courier and the Beacon Journal employees, including the news reporters, photographers, and sports reporters.

Cascade Public Media, 19-RC-275078 (May 18, 2021), cited by the Employer to support its position that the petitioned-for unit is an arbitrary segment, is distinguishable. In *Cascade Public Media*, the union petitioned to add the classifications of agile project manager and front end developer to an existing unit of newsroom and editorial employees. The employees in the existing unit worked in the editorial department, whereas the petitioned-for employees worked in the digital production department. The Regional Director found that there was not enough evidence in the record regarding the other employees in the digital production department to establish if the petitioned-for group of employees was an identifiable and distinct segment of the workforce.²⁴ Here, the Petitioner is seeking to represent *all* newsroom employees who perform work for the Record-Courier. Unlike *Cascade Public Media*, I find that there is sufficient evidence in the record to conclude that the Record-Courier newsroom employees are an identifiable and distinct segment of the workforce.

The Employer argues that because the sports department is structured regionally and Todor supervises unrepresented employees, there would be challenges in collective bargaining. However, newsroom employees in the existing unit have different direct supervision; the sports reporters report to Fagerstrom and the news reporters and photographers report to Powell-Fuller and other editors. In addition, Regional Sports Editor Beaven and Shearer also supervise other employees at other Ohio locations. Yet, there is no evidence that these factors have been an impediment to collective bargaining at the Beacon Journal.

Accordingly, I find that the petitioned-for unit constitutes a distinct-and-identifiable segment of employees.

Community of Interest between Record-Courier employees and the existing unit of Beacon Journal employees²⁵

Ordinarily, when considering a multifacility operation, the Board holds that a petitioned-for single-facility-unit is presumptively appropriate for collective bargaining. *Hilander Foods*, 348 NLRB 1200 (2006), *Bowie Hall Trucking*, 290 NLRB 41, 42 (1988). However, that presumption does not apply where a petitioner seeks a multifacility unit, even if the employer contends that a single-facility unit is appropriate. *Hazard Express, Inc.*, 324 NLRB 989 (1997); *Capital Coors Co.*, 309 NLRB 322, n. 1(1992).

²⁴ A request for review was not filed with the Board.

²⁵ In applying the community of interest factors, the appropriate analysis is between the Record-Courier news department employees and the existing unit of Beacon-Journal department employees, which includes sports statisticians and a clerk. Although the record does not contain much detail regarding the sports statisticians and the clerk, the parties do not dispute that the existing unit of the Beacon Journal's news department employees is an appropriate unit.

In determining whether a petitioned-for multifacility unit is appropriate, the Board evaluates the following community-of-interest factors among employees working at the different locations: (1) employees' skills and duties; (2) terms and conditions of employment; (3) employee interchange; (4) functional integration; (5) geographic proximity; (6) centralized control of management and supervision; and (7) bargaining history. *Audio Visual Services Group, LLC*, 370 NLRB No. 39 (October 26, 2020) slip op. at 2 (quoting *Laboratory Corp. of America Holdings*, 341 NLRB 1079, 1081–1082 (2004)). The Board also considers the extent of employee organization and employee choice and whether the petitioned-for unit corresponds to an administrative grouping of the employer in the context of an *Armour-Globe* petition. See *FreshPoint Southern California, Inc.*, 28-RC-252613, at fn. 3 (June 18, 2020) (unpublished), citing *Exemplar, Inc.* 363 NLRB No. 157 (March 31, 2016), slip op. at 3, 6 (2016). However, a petitioned-for multifacility unit will not be found appropriate unless the unit employees share a community of interest that is sufficiently separate and distinct from that which they share with other employees at excluded facilities of the same employer. *Laboratory Corp.*, 341 NLRB 1079, 1082 (2004). The community-of-interest factors must be considered in their totality but some factors may carry more weight depending on the degree to which they are exhibited. See, for example, *Executive Resources Associates*, 301 NLRB 400, 401 (1991).

A. Similarity in skills, duties, and working conditions

The similarity or dissimilarity of work skills has some bearing, along with the nature of any work performed, in deciding the appropriateness of a multifacility unit. *Exemplar*, slip op. at 3, 4; *Greenhorne & O'Mara, Inc.*, 326 NLRB 514, 516 (1998); *Cheney Bigelow Wire Works, Inc.*, 197 NLRB 1279, 1280 (1972). The Petitioner maintains that the newsroom employees at the Beacon Journal and the Record-Courier have very similar training and skills, and perform the same job functions and similar work with significant job overlap. In contrast, the Employer argues that their skills are distinct as they are producing content for separate newspapers tailored to different audiences with varying interests.

The petitioned-for Record-Courier employees and existing unit of Beacon Journal employees overall have the same skills, perform the same functions, and receive the same training within their job classifications. While the newsroom employees at the Beacon Journal and the Record-Courier cover different geographic areas and specific beats, there is no evidence of any variance in the skill level to perform their jobs. For example, a Record-Courier reporter utilizes the same skills as a Beacon Journal reporter – both are collecting information through interviews and research to create stories for their readers. Similarly, photographers at the Record-Courier and the Beacon Journal are using their cameras to take photographs at their assigned locations. Although the Beacon Journal generally has more seasoned reporters, the education and the training is generally the same. The reporters and photographers use the same type of equipment and software computer programs, such as “Presto” and “SCC.” Moreover, the level of permanent interchange and temporary interchange between the two newsrooms further illustrates that the employees share a similar if not the same skill set.

Accordingly, the similarity in skills, duties, and working conditions weighs in favor of finding that the Record-Courier and the Beacon Journal employees share a community of interest.

B. Terms and conditions of employment

Working hours, pay rates, the nature of the company's operations, and all other terms and conditions of employment are factors in this area of unit determination. The Board has found that in the self-determination context, differences in employment terms that result from collective bargaining do not mandate exclusion and should be afforded less weight. *Public Service Co. of Colorado*, 365 NLRB No. 104 (July 5, 2017) slip op. at 1 fn. 4.²⁶

The Petitioner argues that the terms and conditions of employment between the two groups are very similar, noting that both receive similar benefits and wages falling in the same range, particularly for lower paid Beacon Journal employees. The Petitioner further argues that the differences between the two groups resulting from the MOA and/or the Employer's decision to maintain the status quo during bargaining should not weigh against a community of interest finding. On the other hand, the Employer argues that the dissimilarity in the working conditions weighs heavily against finding a community of interest. While the Employer acknowledged that the Board does not give significant weight to differences from collective bargaining, the Employer argues that the significant differences underscore the high degree of local autonomy and lack of functional integration.

The petitioned-for employees and those in the existing unit are all paid hourly. The Beacon Journal reporters and photographers receive higher wages than the Record-Courier newsroom employees. The statisticians earn less than the Record-Courier employees, and significantly less than the Beacon Journal reporters and photographers.

Most employees in both groups work Monday to Friday, with the petitioned-for Record-Courier employees generally working 40 hours per week and the Beacon Journal unit employees enjoying a 37.5 hour work week per the MOA. While the petitioned-for employees and the Beacon Journal employees are entitled to health insurance, dental insurance, and other programs provided by the Employer, the plans and costs are different. In addition, the Record-Courier employees have available fringe benefits, including critical illness, hospital indemnity and accident insurance plans, tuition assistance and pet insurance, not offered to the Beacon Journal employees. Both groups are entitled to paid time off, albeit structured differently. While the Record-Courier and Beacon Journal employees both receive paid holidays, the number of paid days differs slightly between the groups.

Beacon Journal employees fall under the Gatehouse handbook, while Record-Courier employees are subject to Gannett's policies. However, prior to the merger between Gatehouse and Gannett, the Record-Courier employees were subject to the Gatehouse handbook. The Employer agreed to maintain the status quo during negotiations, which began prior to the merger. Thus, these differences appear to be largely the result of collective bargaining and have been afforded less weight. However, on balance, I find that the differences in the terms and conditions of employment

²⁶ See, also, *AMR of Maricopa, LLC*, 28-UC-223664 and 28-RM-234875 at 3, fn. 7 (July 10, 2020) (unpublished) (citing *Public Service Co. of Colorado*, 365 NLRB No. 104 (July 5, 2017), slip op. at 1 fn. 4; *Frontier Telephone of Rochester, Inc.*, 344 NLRB 1270, 1273 fn. 12 (2005) (then-Member Liebman, concurring); *Oxford Chemicals, Inc.*, 286 NLRB 187, 188 fn. 5 (1987)); see also *NLRB v. Klochko Equipment Rental Co.*, 657 Fed.Appx. 441, 448 (6th Cir. 2016) ("to deny [an employee's] request to join the collective-bargaining unit based on differences that exist because [he] is not covered by the collective-bargaining agreement would defeat the purpose of the NLRA").

between the two groups weighs against finding that the Record-Courier and Beacon Journal employees share a community of interest.

C. Centralized and common control of management and supervision

The administrative integration of the employer's operations under unified control and centralized control of labor relations are factors given significant weight in favor of a multifacility unit. *Universal Metal Products Corp.*, 128 NLRB 442, 444-445 (1960). Additionally, whether employees at different facilities share common supervision is a consideration where more than one facility is involved. *Exemplar*, above; *Alamo Rent-A-Car*, 330 NLRB 897, 898 (2000).

Here, the Beacon Journal and the Record-Courier, along with the other twenty-one Gannett newsrooms in Ohio, share a common human resources department. Shearer represents a significant degree of centralized management. Shearer is responsible for hiring, firing, discipline, promotions, transfers, and granting wage increases in the Ohio newsrooms he oversees, including the Record-Courier and the Beacon Journal. In addition, Beacon Journal Managing Editor Powell-Fuller directly supervises Rainone and McKenna, the editors of each respective publication. Also, Beacon Journal editors supervise the Record-Courier news reporters and photographer when Rainone is not available and for certain news content of regional interest. Thus, there is centralized and common control of management and supervision between the two groups.

The Employer argues that the two groups report through separate supervisory structures with substantial local autonomy until they reach Shearer. When examining common supervision, the Board considers whether supervision retains significant local autonomy over daily personnel and operational decisions; local autonomy of operations militates toward a separate unit. *Bashas', Inc.*, 337 NLRB 711, 712 (2002); *Hilander Foods*, 348 NLRB 1200, 1202-1205 (2006).

On the one hand, the editors at each newsroom generally supervise the day-to-day work of employees at each facility. Rainone and Todor edit Record-Courier reporters' stories, approve time off, coordinate their schedules, and prepare performance evaluations. Similarly, Powell-Fuller and the other Beacon Journal editors perform those same functions for the Beacon Journal newsroom employees. On the other hand, Shearer is integrally involved in the supervision of both the Record-Courier and the Beacon Journal employees. For both publications, decisions regarding hiring, firing, discipline, promotions, transfers, and wage increases are approved by Shearer. Shearer interviews job applicants at the Record-Courier and the Beacon Journal and approves disciplinary actions at both locations. Shearer reviews performance evaluations of employees at both the Record-Courier and the Beacon Journal, albeit not all of them. Shearer is also involved in other personnel matters, such as approving freelance work. The record shows that Shearer had final authority to select employees filling the vacancies resulting from the weeklies reorganization from the Record-Courier to the Beacon Journal. Shearer evidences managerial interest in the editorial work at both publications. Shearer communicates with the editors at the Beacon Journal and the Record-Courier, making some assignments, and overseeing certain stories of reporters and photographers working at both publications. Thus, Shearer retains considerable authority in the operation of the two newsrooms, having ultimate authority over personnel matters and overseeing the decisions of site editors at both publications.

While site editors at the Beacon Journal and the Record-Courier are vested with some discretion regarding day-to-day activities, meaningful decisions regarding labor relations and operational matters come from Shearer. In addition, Powell-Fuller, as Rainone's direct supervisor, oversees operational matters at the Record-Courier. Accordingly, I find that centralized control of management and supervision weighs in favor of showing a community of interest between the Record-Courier and Beacon Journal employees.

D. Interchange and contact between employees

Interchangeability refers to temporary work assignments or transfers between two groups of employees. As a result, the Board has held that the frequency of employee interchange is an important factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resources Associates*, 301 NLRB at 401 (citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1981)). In evaluating interchange, contact among employees is also a relevant consideration. See, for example, *Casino Aztar*, 349 NLRB at 605-606; *Associated Milk Producers, Inc.*, 251 NLRB 1407, 1408 (1970). The existence of permanent transfers among employees is also a relevant factor but not as important as evidence of temporary interchange. *Walt Disney World Co.*, 367 NLRB No. 80, slip op. at 7 fn. 5 (2019). When a petitioner is seeking a multifacility unit, other community of interest factors may weigh in favor of finding that the unit is appropriate even where there is no evidence of employee interchange or contact. See *Exemplar*, supra, at 7.

The Petitioner contends that there is temporary and permanent interchange and contact between the two groups. In contrast, the Employer argues that the evidence does not establish substantial and frequent interchange of employees between the groups.

There is significant evidence of permanent interchange between the two groups. In November 2020, four reporters who worked at the Record-Courier permanently transferred to the Beacon Journal. The Employer argues that these transfers were, in fact, new hires rather than permanent transfers. However, these positions were posted internally²⁷ and the selected employees received a wage increase to perform work previously performed at the Record-Courier and retained their accrued benefits. Those selected did suffer a change in seniority date with the Guild. While the Employer notes that the employees voluntarily applied for the positions at the Beacon Journal, the new positions were created because the work moved from the Record-Courier to the Beacon Journal. Thus, they applied for the positions in response to the transfer of the work they were previously assigned. In that regard, three of the individuals cover the same areas at the Beacon Journal as they did at the Record-Courier, and report to the same editor, Planning Editor McKenna. Thus, this situation is distinguishable from other voluntary transfers where employees simply elect to apply for new positions. In addition, the evidence of permanent interchange is significant in this case given the small size of both workforces at the Record-Courier and the Beacon Journal.²⁸

²⁷ As addressed above, given that there was only one internal applicant for the two vacant sports' positions, the other sports reporter vacancy was filled with an outside candidate.

²⁸ The Employer, citing *J.L. Hudson Co.*, 155 NLRB 1345 1348 fn. 9 (1965), argues that the Board has historically given little weight to transfers where they are from an existing location to a newly opened facility. The Employer argues that since the transfers were motivated by the weeklies moving to the Record-Courier, they should be analyzed under a "newly opened" publication and should be given little weight. I do not find that this situation is analogous to the opening of a new facility as contemplated by the Board in *J.L. Hudson Co.*

In terms of temporary interchange, Beacon Journal news reporter Doug Livingston covers breaking news for the Record-Courier on Sundays and Beacon Journal news reporter Eric Marotta covers breaking news for the Record-Courier in the evenings. The Employer contends that Marotta's and Livingston's coverage is sporadic and thus should be given little weight. In addition, the Employer maintains that the coverage does not involve any communications or interactions between Livingston and Marotta and the Record-Courier employees. The Employer further argues that there are no specific skills unique to Livingston or Marotta to cover the task. The Employer cites several cases where the Board gave little weight to sporadic interchange.²⁹

While I agree with the Employer's position that sporadic interchange is a less significant indicator of community of interest than regular interchange, I find that the facts of this case are distinguishable from those found in the cases it has cited. While Livingston and Marotta may not write news stories for the Record-Courier on a routine basis, the weekend and evening coverage is not sporadic or insignificant as contended. Instead, as part of their regular job duties, Livingston and Marotta are permanently assigned to monitor for and cover breaking news for the Record-Courier at those specified times during their shifts. Thus, they, as employees of the Beacon Journal, are regularly assigned to cover work for the Record-Courier, distinguishable from situations where the Board has found sporadic interchange. There is no evidence that reporters from other Employer facilities cover breaking news for the Record-Courier.

Regarding contact among employees, Record-Courier sports reporter Moff occasionally interacts with Beacon Journal photographers and sports reporters at KSU-UA sporting events. Specifically, Moff coordinates coverage with the Beacon Journal reporter to avoid duplication. Record-Courier photographer Lisa Scalforo also occasionally interacts with Beacon Journal reporters regarding assignments. The record also contains examples of Record-Courier and Beacon Journal reporters collaborating on some news stories, including stories concerning the pandemic and KSU shootings. In those instances, the reporters communicate by email, Zoom, or Microsoft Teams. The newsroom employees share tips with one another, but there is no record evidence of the frequency.

I do not find it particularly significant that Record-Courier employees and Beacon Journal employees have interacted at one social gathering or that Beacon Journal reporter April Helms occasionally attends Zoom meetings to socialize with Record-Courier employees. However, the

²⁹ Specifically, the Employer cites: *Portola Packing, Inc.*, 361 NLRB 1316 (2014) (Board adopted the Administrative Law Judge's finding that the challenges to the ballots of three process technicians should be sustained as they did not share a significant community of interest with the classifications in the stipulated unit. In finding that the process technicians did not share a community of interest with the stipulated unit, the Administrative Law Judge was not persuaded by the fact that they occasionally served as replacements for a production team member who was on break, noting that it was normally production team leads who substituted for breaks. The Administrative Law Judge further found that the process technicians had separate supervision, received a higher pay rate than those in the stipulated unit, spent about half of their time on the production floor, and had specialized duties and different qualifications compared to those in the stipulated unit.); *Overnite Transportation Company*, 322 NLRB 347 (1996) (The Board disagreed with the Regional Director's determination that the level of integration at the facility supported the inclusion of the mechanics in a unit with drivers, noting that while one classification may "at times" act as an "extra set of hands" to assist another classification, the mechanics did not load and unload trucks on a regular basis and it did not appear that drivers or dock workers actually perform mechanical work.); *Omni-Dunfey Hotels, Inc.*, 283 NLRB 475 (1987) (Board found that although the engineering department employees assisted employees from other departments with various tasks such as construction of shelving and construction of a kitchen bulletin board, the record revealed that these incidents were sporadic and did not reflect an actual overlap of job functions).

existence of a mentor/mentee relationship between Beacon Journal reporter Jennifer Pignolet and Record-Courier reporter Kaitlyn McGarvey is an example of regular contact between Record-Courier and Beacon Journal employees.

I find that the mix of temporary and permanent interchange established in the record between the Record-Courier and Beacon Journal employees weighs in favor of finding a shared community of interest. I recognize that overall the contact between the Record-Courier and the Beacon Journal employees is not substantial. However, it appears that reporters and photographers, including those within the existing unit, work independently on their assigned beats or assignments, and spend substantial time in the field. Thus, I do not find the limited contact between the Beacon Journal and Record-Courier employees particularly significant to my determination.

E. Degree of functional integration

Functional integration generally refers to employees at separate facilities participating in various stages of an employer's operation so that they constitute an integral part of a single work process. *Budget Rent-A-Car Systems*, 337 NLRB 884, 885 (2002) The functional integration of two or more facilities in substantial respects may weigh heavily in favor of a more comprehensive unit, but it is not a conclusive factor. Conversely, a lack of functional integration between two or more petitioned-for locations may be offset by other factors favoring a single unit of employees encompassing both locations. *Audio Visual Services Group, LLC*, 370 NLRB No. 39, slip op. at 3 (2020) (citing *Panera Bread*, 361 NLRB 1236, 1236 fn. 1 (2014); *Verizon Wireless*, 341 NLRB 483, 485, 490 (2004); *Bashas'*, 337 NLRB at 711; *Alamo Rent-A-Car*, 330 NLRB at 898).

The Board has found that the factors of employee interchange and functional integration weigh in favor of a petitioned-for multifacility unit where the petitioned-for employees have substantially more contact and interchange with each other than they do with excluded employees. *Audio Visual Services Group, LLC*, 370 NLRB No. 39 (October 26, 2020) slip op. at 2 (citing *Verizon Wireless*, 341 NLRB 483, 485, 490 (2004); *Panera Bread*, 361 NLRB 1236, 1236 fn. 1 (2014)). In contrast, the Board has generally been disinclined to find a multifacility unit appropriate when the petitioned-for facilities have no more functional interchange with each other than they do with the excluded facilities. *Audio Visual Services Group, LLC*, 370 NLRB No. 39 (October 26, 2020) slip op. at 2 (citing *Bashas', Inc.*, 337 NLRB 710, 711 (2002); *Alamo Rent-A-Car*, 330 NLRB 897, 898 (2000)).

The Petitioner argues that functional integration exists because of the regular coverage of Portage County by Beacon Journal reporters, the close coordination of the two sports departments, and the frequent direct supervision of Record-Courier staff by Beacon Journal Editors.

The Employer, on the other hand, argues that the newsrooms function independently with defined workflows, separate supervision, and lack of substituting for one another. The Employer contends that the sporadic collaboration and sharing of content across newsrooms is insufficient to establish functional integration of business operations. The Employer notes that the primary purpose of the Record-Courier employees is to cover and produce content to be published in the Record-Courier, whereas the primary purpose of the Beacon Journal employees is to cover and produce content for the Beacon Journal. The Employer maintains that while editors share content published by other Gannett newsrooms, this practice is not unique to these two newsrooms and

occurs across all Gannett newsrooms. The Employer further notes that the employees rarely interact when the content is shared, which weakens the argument that functional integration exists.

I find that the Record-Courier and Beacon Journal employees are functionally integrated and have a degree of functional integration that is distinct from other Gannett newsrooms. Beacon Journal news reporters Livingston and Marotta are assigned to cover news on Sundays and the evenings for the Record-Courier. This is not sporadic, rather it is every Sunday and every weekday evening. If Livingston and Marotta did not perform this work on Sundays and evenings, the Record-Courier would not have coverage on every Sunday and all weekday evenings. While the Employer argues that breaking news rarely occurs on Sundays or evenings in Portage County, Livingston and Marotta are assigned to monitor for and provide this coverage for the Record-Courier as part of their regular duties. Thus, the Employer relies on employees from the Beacon Journal to cover operational and staffing needs at the Record-Courier.

There is also collaboration between the two newsrooms on sports to avoid duplicate coverage. While Record-Courier sports reporters typically cover sporting events in Portage County and Beacon Journal sports reporters cover events in Summit County, the publications coordinate certain sports coverage. The Beacon Journal relies on the Record-Courier photographer to shoot certain sporting events, and vice versa. If there are reporters from each publication at KSU-AU games, they collaborate on what to cover, with one preparing a game story and the other preparing a “sidebar.”

The Employer argues that Moff’s interactions with the Beacon Journal reporters at sporting events do not establish integration because Moff and the Beacon Journal reporters are attending the sporting events for the primary purpose of writing their own, individual articles in two separate newspapers. I disagree and find that it shows coordination across the newsrooms. There is no evidence that such collaboration exists between other Gannett newsrooms.

In addition, there is collaboration and coordination across the Record-Courier and the Beacon Journal newsrooms to produce news stories. The Record-Courier and the Beacon Journal news department employees have collaborated on news stories and events, including the 50th Anniversary of KSU shootings, and the COVID-19 pandemic. In addition, although each publication focuses on content that appeals to readers in their respective counties, there are stories and events of regional interest to readers that are published in both newspapers. In fact, the record testimony suggests that one or two out of twenty to thirty stories per week published by the Record-Courier also appear in the Beacon Journal.

Moreover, the Employer’s November 2020 reorganization resulting in permanent transfers of Record-Courier employees and managers to the Beacon Journal is evidence of functional integration of business operations between the two newsrooms. Prior to the reorganization, the six weeklies were covered by Record-Courier employees, notwithstanding the fact that the weeklies covered news in Summit County. This sharing of coverage in Summit County, along with the subsequent transfer of work between the two newsrooms, is further evidence of functional integration.

The coordinated management between the two newsrooms to ensure production and distribution of the product also suggests functional integration. Beacon Journal editors substitute for Rainone when she is unavailable, assigning reporters to cover certain stories and providing editorial oversight. Not only do the newsrooms share management, but they also share other

resources to ensure production, including photographers and reporters. For example, while Record-Courier Photographer Lisa Scalfaro primarily covers Portage County, the record reflects that Beacon Journal editors and reporters request her to take photographs for the Beacon Journal, when necessary. Similarly, Shearer solicited volunteers across both newsrooms to assist with the coverage of the murder trial of police officer Derek Chauvin.

Thus, while the newsrooms publish separate publications, there is collaboration, sharing of resources, including editors, reporters, and photographers, and merging of functions across the two newsrooms. Contrary to the Employer's argument, the record does not reflect that other Gannett newsrooms collaborate, share and merge functions to the same extent as the Record-Courier and the Beacon Journal newsrooms.

The Employer cites *Michigan Wisconsin Pipeline Co.*, 164 NLRB 359, 361 (1971), where the petitioner sought certain employees within a certain geographic area and the employer argued that a systemwide unit was appropriate. The Board found that the petitioned-for employees shared a community of interest separate and apart from employees working in other segments of the employer's pipeline system. In finding that the unit limited to the petitioned-for employees was appropriate, the Board noted that the employees were located in a contiguous area and worked on different segments of the employer's pipeline system, performing a unique function. In addition, the Board noted that there was no evidence of interchange. Unlike the employees in *Michigan Wisconsin Pipeline Co.*, the Beacon Journal and Record-Courier employees perform similar functions, which is evidenced by both permanent and temporary interchange and collaboration on stories.³⁰

The Employer cites *IKEA Distribution Services, Inc.*, 370 NLRB No. 109 (April 19, 2021), for the proposition that functional integration is given less weight in a community-of-interest analysis in the absence of contact among employees. While the contact is limited to collaboration on certain news stories, cross-coverage of certain events, and mentor-mentee relationships among employees, the Board has found that a multifacility unit is appropriate even in the absence of functional integration and interchange where there are similar skills, duties, working conditions and supervision by the same regional manager. *Exemplar, Inc.* 363 NLRB No. 157 (March 31, 2016), slip op. at 1. In addition, as noted above, reporters and photographers generally work independently and spend substantial time in the field. Thus, contact appears to be limited even among employees in the existing unit.

In support of its position that the lack of contact supports a finding that no functional integration exists across the newsrooms, the Employer also cites *Container Research Corp.*, 188 NLRB 586, 588 (1971), where the Board held that contact at the start of a project and during a project's life, including if and when problems arose, is insufficient to satisfy the community of interest test. In *Container Research*, the Board disagreed with the employer's position that the Regional Director erred in excluding draftsman from a petitioned-for production and maintenance unit. The Board found that while there was some contact between the draftsmen and the petitioned-for employees, the draftsmen were in a different department and had different duties, functions,

³⁰ In its brief, the Employer also cites *Bashas', Inc.*, 337 NLRB 710 (2002) and *Alamo Rent-A-Car*, 330 NLRB 897 (2000). In those cases, the Board found that the petitioned-for multi-facility units were inappropriate, in part, because, unlike the instant case, the petitioned-for units did not have common supervision, significant interchange, or substantial functional integration or conform to any administrative function or grouping.

and supervision. Here, unlike in *Container Research Corp.*, the Record-Courier employees and the Beacon Journal employees share common skills, functions, working conditions, and supervision.

Accordingly, I find that the employees comprise a functionally integrated group and that this factor overall weighs in favor of the Record-Courier and Beacon Journal employees sharing a community of interest.

F. Bargaining history

Here, there is no evidence that the Record-Courier employees have been represented by the Petitioner or any other labor organization. However, there is approximately eight-four years of bargaining history at the Beacon Journal. The Employer, citing *Buffalo Broadcasting Co.*, 242 NLRB 1105, 1106 fn. 2 (1979), argues that the Board is reluctant to disturb a unit established by collective bargaining which is not repugnant to the Act. In *Buffalo Broadcasting Co.*, the Board found that a unit was inappropriate in the context of a regrouping of three existing units. However, in an *Armour-Globe* context, the petitioned-for voting group will generally lack a relevant history of collective bargaining while the existing unit typically has some history of representation. To apply bargaining history to the existing unit of represented employees would predispose the Board against finding a community of interest in any *Armour-Globe* case. Accordingly, I find that bargaining history is a neutral factor.

G. Geographic proximity

Although geographic distance is a factor to consider in a community of interest analysis, geographically dispersed facilities may be found to be appropriate when other factors weigh in favor of the multifacility unit having its own distinct community of interest. See, for example, *Macy's West, Inc.*, 327 NLRB 1222, 1223 (1999) (finding multifacility unit covering three states appropriate despite 579 miles between farthest facilities due to similar skills, duties, working conditions, common supervision, monthly interchange, and the area conforming to an administrative division of the employer); *Barber-Colman Co.*, 130 NLRB 478, 479 (1961) (holding multifacility unit must include fourth facility located 43 miles from three facilities in the same city based on similar skills and working conditions, functional integration of operations, and centralized management of labor matters).

While there is a twelve to sixteen mile distance (depending on the route) between the Record-Courier and the Beacon Journal, the nature of the work being performed is somewhat independent of geography. Reporters collaborate on stories using Zoom or email, editors review stories using Presto and Microsoft Teams, all without regard to physical distance. Newsroom employees spend substantial time in the field, making the geographical distance between the facilities less significant. The distance does not impede Beacon News Reporters Livingston and Marotta from performing work for the Record-Courier on evenings and Sundays. Moreover, prior to the COVID-19 pandemic, Beacon Journal Managing Editor Powell-Fuller traveled from the Beacon Journal to the Record-Courier to attend morning budget meetings.

For the reasons addressed above, there is no reason to conclude that the geographic separation between the two newsrooms would impede collective bargaining. See *Exemplar*, supra,

slip op. at 3 (finding that geographic distance did not limit full employee participation in union activities). Accordingly, I find geographic proximity to be a neutral factor in determining the appropriateness of an *Armour-Globe* election in this case.³¹

H. Administrative grouping or division of Employer

In its decisions on multifacility units, the Board has repeatedly emphasized that such units should correspond to employers' administrative groupings. *See, e.g., Exemplar, Inc.*, supra (finding petitioned-for unit appropriate because it embraced all the Employer's facilities in San Francisco supervised by a regional manager, and thereby corresponding to a distinct administrative grouping); Cf. *Alamo Rent-A-Car*, 330 NLRB 897, 898 (2000) (finding the petitioned-for unit of two of the employer's facilities in the San Francisco area not to be appropriate where, inter alia, "[t]he proposed unit [did] not conform to any administrative function or grouping of the Employer's operations.")

The Employer argues that the petitioned-for unit does not conform to an administrative grouping or division of the Employer. The Employer maintains that the Petitioner has "cherry-picked" a portion of the regional sports reporters by seeking to include only the Record-Courier reporters but excluding the sports reporters at the Alliance Review and Dover/New Philadelphia.³²

The news reporters and photographers are organized into an administrative grouping or division of the Employer as they include the newsrooms in Portage and Summit counties. Similarly, while the sports department is organized regionally and is comprised of some employees who do not work at the Record-Courier or the Beacon Journal, the Record-Courier and Beacon Journal sports reporters are a cohesive administrative group. This is evidenced by the degree of functional integration and coordination of sports coverage across the two newsrooms and the functional integration of the sports reporters and photographers that cover sporting events in Portage and Summit counties.

Regional Sports Editor Beavon, who supervises Todor and the Beacon Journal sports editors, reports directly to Sub-Region Editor Shearer. Although Shearer is also responsible for other Ohio newsrooms, his significant involvement in the two newsrooms demonstrates that all of the news department operations of the Record-Courier and the Beacon Journal correspond to an administrative grouping of the Employer's operations. This is evidenced by the functional integration addressed earlier in my decision. Thus, the unit sought corresponds to an administrative grouping of the Employer.

For the reasons above, I find that the petitioned-for Record-Courier employees share a community of interest with the existing unit. Specifically, I find that the factors of skills and functions, employee interchange, degree of functional integration, and centralized control of management and supervision weigh in favor of the petitioned-for unit. I also find that the petitioned-for unit corresponds to an administrative grouping of the Employer. While the

³¹ The record reflects that the Employer intends to move the Record-Courier newsroom to a location in Ravenna, Ohio, which is about a 35 minute drive from the Beacon Journal. Even assuming the newsroom moved to Ravenna, it does not change my findings and conclusions concerning this factor.

³² In its brief, the Employer notes that it does not seek to add the sports reporters at these other locations. Instead, it raises the point to show that the petitioned-for unit itself is not an administrative group.

differences in terms and conditions of employment weigh against finding a community of interest, it is outweighed by the other factors.³³

Appropriateness of the Stand-alone Unit

Alternatively, I will address whether a stand-alone unit of the Record-Courier employees is an appropriate unit.

When deciding whether a group of employees shares a community of interest, the Board considers whether the employees sought are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123 (2002). Particularly important in considering whether the unit sought is appropriate are the organization of the plant and the utilization of skills. With regard to organization of the plant, the Board has made clear that it will not approve fractured units – that is, combinations of employees that are too narrow in scope or that have no rational basis. *Seaboard Marine*, 327 NLRB 556 (1999). However, all relevant factors must be weighed in determining community of interest.³⁴

The petitioned-for unit includes all newsroom employees at the Record-Courier. While the sports department is structured on a regional basis, functional integration exists because the petitioned-for employees, including the news reporters, sports reporters and photographer, all work towards producing and distributing the Employer's final product. The Employer's work flow involves all employees in the petitioned-for unit. As addressed above, the petitioned-for employees have the same skills, functions, and training within their job classifications, use the same type of equipment and software programs, including the same Presto channel, and are all assigned to work at the Kent, Ohio newsroom. Moreover, the news and sports reporters and photographer receive similar wages and the same benefits.

³³ The Board considers the extent of employee organization and employee choice in the context of an *Armour-Globe* petition. Cf *FreshPoint Southern California, Inc.*, 28-RC-252613, at fn. 3 (unpublished) (The Board, in an *Armour-Globe* case, cited the community of interest factors set forth in *Exemplar, Inc.* 365 NLRB No. 157 (March 31, 2016), slip op. at 3, 6 (2016), including extent of employee organization and employee choice). The Petitioner's extent of organization, although one factor to be considered, cannot be given controlling weight. See *NLRB v. Metropolitan Life Insurance Co.*, 380 U.S. 438, 441-442 fn 4 (1965). Here, the Petitioner submitted its showing of interest for the Record-Courier employees. There is no other record evidence concerning the extent of employee organization and free choice. While the extent of organization factor weighs in favor of finding a community of interest, I find that this factor is not controlling and rely on the factors addressed above in finding the petitioned-for unit to be appropriate.

³⁴ *PCC Structural, Inc.*, 365 NLRB No. 160 (2017) and *The Boeing Co.*, 368 NLRB No. 67 (2019) clarified the standard that applies when a non-petitioning party contends that the smallest appropriate unit must include employee classifications excluded from the petitioned-for unit. Here, the Employer argues that the unit is not appropriate because it includes the sports reporters. Therefore, *PCC Structural* and *The Boeing Co.* not applicable and instead the Board's traditional community-of-interest factors apply. See *Marketplace APM/MPR*, 21-RC-270627 at 1, fn. 1 (September 13, 2021) (unpublished).

I am not persuaded by the Employer's argument that because the sports department spans multiple newsrooms and Todor supervises other unrepresented employees, inclusion of the sports reporters in the petitioned-for unit would unduly fragment the workforce. While the sports reporters have different direct supervision than the other newsroom employees, there is common supervision at Shearer's level. Notably, the sports reporters in the existing unit share supervision with the other newsroom employees at Shearer's level. In addition, separate supervision does not mandate separate units. *Casino Aztar*, 349 NLRB 603, 607, fn 11 (2007). In terms of contact and interchange, the record reflects that there is very little contact between the Record-Courier news reporters and the sports reporters. However, both the sports reporters and news reporters coordinate with the photographer on assignments. Moreover, there is no evidence of any functional integration, contact, or interchange between the Record-Courier sports reporters and the other sports reporters supervised by Todor.

Accordingly, while I find that *Armour-Globe* self-determination election is appropriate, I also find alternatively that a stand-alone unit is appropriate.

IV. CONCLUSION

Based on the foregoing, I am directing a self-determination election among the Record-Courier news department employees to decide if they wish to join the existing bargaining unit of Beacon Journal news department employees represented by Petitioner. Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time newsroom employees employed by the Employer at the Record-Courier located at 1050 West Main Street, Kent, Ohio; excluding all other employees, managerial employees, guards and supervisors as defined by the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Northeast Ohio Newspaper Guild/TNG-

CWA Local 34001. If a majority of valid ballots are cast for representation by the Petitioner, they will be taken to have indicated the employees' desire to be included in the existing unit of news department employees currently represented by the Petitioner. If a majority of the valid ballots are not cast for representation, they will be taken to have indicated the employees' desire to remain unrepresented.

A. Method of Election

Given the desires of the parties and the fact that the petitioned-for employees have been working remotely since the pandemic, I am directing a mail ballot election.

B. Election Details

The election will be conducted by mail. The ballots will be mailed to employees employed in the appropriate collective-bargaining unit at 4:45 p.m. (EDT) on Tuesday, March 15, 2022, by personnel of the National Labor Relations Board, Region 8, 1240 East 9th Street, Room 1695, Cleveland, Ohio 44199-2086. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Tuesday, March 22, 2022, or otherwise requires a duplicate mail ballot kit, should communicate immediately with the National Labor Relations Board by calling the Region 8 Office at (216) 522-3715.

The mail ballots will be commingled and counted by the Region 8 office at 2:00 p.m. (EDT) on Wednesday, April 6, 2022. In order to be valid and counted, the returned ballots must be received by the Region 8 office prior to the counting of the ballots. The parties will be permitted to participate in the ballot count, which will be held by videoconference. A meeting invitation for the videoconference will be sent to the parties' representatives prior to the count. No party may make a video or audio recording or save any image of the ballot count.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending February 27, 2022 including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote by mail as directed above.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(1) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by Monday, March 7, 2022. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**³⁵

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

The list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list must be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where

³⁵ The Petitioner has agreed to waive eight days of the ten-day requirement for the voter list.

notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, given that employees are working remotely, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Pursuant to Section 102.5(c) of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlr.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and, therefore, the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: March 3, 2022

A handwritten signature in black ink, appearing to read 'Iva Choe', with a long horizontal line extending to the right.

Iva Choe, Regional Director
National Labor Relations Board, Region 8
1240 East 9th Street, Room 1695
Cleveland, Ohio 44199-2086