



**State of New Hampshire**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

LOCAL 1044, NASHUA TEACHERS UNION, AFT :  
:  
Complainant :  
:  
and :  
NASHUA SCHOOL DISTRICT :  
:  
Respondent :  
:

CASE NO. T-0244:3  
DECISION NO. 82-23

APPEARANCES

Representing the Claimant

Emmanuel Krasner, Esquire  
Marion C. Bolduc, R.N.  
Robert S. Sherman, President

Representing the Respondent

H. Philip Howorth, Esquire, Counsel  
Dr. Berard Masse, Superintendent  
Jane Bangert, Personnel Director  
Joseph Giuliano, School District  
Marco H. Scheer, President, School Board

BACKGROUND

The Nashua Teachers Union represents the professional staff of the Nashua School System, including nurse-teachers (UNIT "A") under a negotiated agreement extending from September 1, 1980 to August 31, 1982.

During the 1980-81 school year the school district administration reorganized the Health program in the schools thereby eliminating the positions of all but one (1) of the five (5) nurse teachers, effective for the 1981-82 school year.

No negotiations were conducted with the Nashua Teachers Union regarding these changes and the matter was grieved by the Teachers Union but not sent to arbitration (last grievance decision was July 15, 1981). The Teachers Union charges that an unfair labor practice was committed by the school system in changing salaries and bargaining unit(s) unilaterally, under RSA 273 A:5 (h)

breaching a collective bargaining agreement in changing the composition of the collective bargaining units under contract (UNITS A & B).

The School District denied the charge, claiming management prerogative and moved the dismissal of the case on grounds that the Union had not grieved the action under the RIF Section of the contract. (14.4)

A Hearing was held at the Board's Office in Concord on February 18, 1982.

#### FINDINGS OF FACT

After reviewing its health-care coverage, the school system did reorganize the Health program resulting in the following changes:

Five (5) Nurse-Teacher positions were reduced to one (1) (Under Unit "A");

Established six (6) additional nurse positions for a total of nine (9); (UNIT B) and,

Further, added three (3) additional Health aides, (UNIT B), for a total of seven (7) such that the new employees of the health program totaled seventeen (17) for the 1981-82 school year as opposed to eleven (11) for 1980-81 school year.

(All nurses and health aides are now part of Unit "B"; the remaining nurse-teacher, now the division supervisor, remains a part of Unit "A"). Of the three nurse-teachers who were not re-hired, two (2) have taken other jobs and the third did not apply for a posted position as nurse.

Testimony and exhibits showed a careful restructuring of the health program grounded on the knowledge that:

- (1) not all schools had health/nurse coverage;
- (2) not all schools needed a nurse-teacher;
- (3) nurse-teachers duties had involved little actual classroom teaching in recent years;
- (4) a restructuring of positions would not reduce costs but would change health coverage to provide for some kind of coverage for every school;
- (5) former teaching done by nurse-teachers was transferred to regular classroom teachers with remaining nurse-teacher as resource person.
- (6) the Nashua School Board was consulted on the administrative changes and approved of them.

No evidence was offered to indicate that the School District Administrators made such changes in order to harm the existing union representation

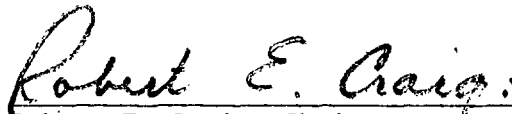
of deliberately changing the bargaining units in a way to restrict or damage union representation.

RULINGS OF LAW

RSA 273-A:1, xii, clearly provides for "managerial policy" within the "exclusive prerogative" of the public employer and further defines this prerogative to include "...functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel..." The action taken by the school district here under discussion is clearly an illustration of "managerial policy" to achieve a specified goal by changing "functions", "programs" and "organizational structure". The concomitant changing of the membership of the two units represented by the Nashua Teachers Union is incidental to the overall exercise of exclusive managerial prerogative and not an appropriate subject for negotiation, although the impact of the new "terms and conditions of employment" are.

DECISION

- (1) Motion to dismiss is denied.
- (2) Unfair Labor Practice charge is dismissed.

  
Robert E. Craig, Chairman

Signed this 29th day of April, 1982

By unanimous vote. Members Anderson, Hilliard and Osman present and voting. Also present, Evelyn C. LeBrun, Executive Director.