



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, LOCAL 1386,
PORTSMOUTH PARAPROFESSIONALS

Petitioner

v.

PORTSMOUTH SCHOOL DISTRICT

Respondent

CASE NO. A-0436:3

DECISION NO. 85-14

APPEARANCES

Representing American Federation of State, County and Municipal Employees, Local 1386
Portsmouth Paraprofessionals

Edward Edwards, Council Representative

Representing the Portsmouth School District

Richard Pecunies

Also in Attendance

Karen Olch
Martin Tucker
Claire Shendan
Connie Sullivan
Janice Anderson

BACKGROUND

This is a hearing on a petition to modify a unit in the Portsmouth Schools. Petition is filed by AFSCME, Local 1386, and received by the PELRB on October 15, 1984. Petition requests that the positions of Interpreter/Tutors, some six people, be included in the Paraprofessional Unit. Said positions were created after the Paraprofessional Unit was certified and petitioner seeks to have these employees included within that bargaining unit. The City of Portsmouth filed objections to the inclusion of the Interpreter/Tutors in the paraprofessional bargaining unit with the Public Employee Labor Relations Board on November 1, 1984.

The City objects to the inclusion of the employees in the Paraprofessional Unit arguing that the successful bargaining agreements over the past seven years with the Paraprofessional Unit would be disturbed by the inclusion of the Interpreter/Tutors and that this should not be allowed to happen.

The City further argues that the Paraprofessional Unit is a clearly defined unit of a distinct group of employees and should not be disturbed by the inclusion of any other employees within the unit. Further the City feels that there is no community of interest between the members of the Paraprofessional Unit and the Interpreter/Tutors other than that they have the same employer, SAU #52 and that this is not a basis for establishing a community of interest. The City further argues that the paraprofessional employees are required only to have a high school diploma or its equivalency and that they're not required to have any external certification prior to employment nor need they get certification after having been employed, which makes them different from and distinct from the requirements of the Interpreter/Tutors who are required to have certification and additional education as well. The City further argues that the Interpreter/Tutors at one point in the past had sought recognition of themselves as a bargaining unit and at that time considered themselves professionals within their field. The City also argues that the Interpreter/Tutors have different working hours from the Paraprofessionals and they have a separate benefit and different pay schedule from the Paraprofessionals and that they are in fact professional people and should not be included in the Paraprofessional Unit. Finally, the City argues that the petition for modification of the unit should be rejected because there has been no evidence of a change which would warrant the inclusion of the Paraprofessionals and the Interpreter/Tutors in the same unit. Indeed the City argues that the inclusion of the Interpreter/Tutors in the Paraprofessional Unit would serve to confuse the already existing agreement between the SAU and the Paraprofessional Unit and therefore should be denied.

A hearing was held at the Public Employee Labor Relations Board's office before Hearing Officer Craig on February 21, 1985.

FINDINGS OF FACT

At the hearing the following facts were determined:

- (1) the Interpreter/Tutors are certified by the New Hampshire Registry for Interpreters of the Deaf (NHRID) and these Interpreter/Tutors follow the deaf student through their school day signing the teacher's lessons to the student and the student's responses to the teachers and the others in the classroom.
- (2) Testimony received indicates that the Interpreter/Tutors have no particular curriculum responsibilities since that job is performed by the classroom teacher but rather are responsible for the communication with these handicapped students.
- (3) Testimony further revealed that in the City of Portsmouth, students with handicaps are referred to as "weighted" students, that is to say a weight is given to an individual student with a handicap, of anywhere from one to four, meaning that a teacher with a handicapped student with a weight of four had the equivalent in workload of four students rather than simply the one person.
- (4) Further testimony revealed that the Interpreter/Tutors work always with a teacher present and have no responsibility for non-educational matters at all.
- (5) Testimony further reveals that the Interpreter/Tutors are part of the school work force and as such turn in time sheets, as do other including the Paraprofessionals; receive notices of school activities, as do the Paraprofessionals; and work approximately a 35 hour week.
- (6) Further it was established that persons who are now Paraprofessionals may, through study, become Interpreter/Tutors later and would be paid more if they did so.
- (7) The City introduced a copy of its statement about the hiring of Interpreters and Tutors (City #1) and on that sheet a statement is made that Interpreters must have at least two years of college at an accredited interpreter training program. However, during continued testimony and discussion it became clear that this is not necessarily

the case, that a person may in fact have attended a one year program either at Merrimack Valley College or at Claremont Voc. Tech. or at Stratham Voc. Tech. College and than in fact a person can become an accredited interpreter for the deaf by having a certain level of skills regardless of whether or not they have any particular college background or educational training. Testimony by one of the interpreters revealed that in fact the New Hampshire Registry for Interpreters of the Deaf does not require any particular college program whatsoever but simply requires that a person have the necessary skills to perform as an interpreter for the deaf.

(8) Testimony by one of the Paraprofessional Unit persons active in the union indicated that the people who belonged to the Paraprofessional Unit perform a wide variety of tasks in the school including dealing with slow learners and handicapped children (both emotionally and physically handicapped children). The Unit also includes people who work as practical nurses and in addition most people in the Unit deal with "weighted" students either all or part of their work time. The Paraprofessional testified also that their materials are planned with the supervision of the teacher and not independently by themselves. The Paraprofessional further testified that the Paraprofessionals work anywhere from 27 1/2 to 30 hours a week in a variety of jobs including some who are working at clerical tasks. Some Paraprofessionals are also certified although certification is not necessary for their position nor is any particular college work necessary for their hiring in their current Paraprofessional positions.

RULINGS OF LAW

It becomes clear after hearing the testimony at the hearing that the City has failed to establish that there is no community of interest by virtue of training or background or certification between those Interpreter/Tutors who help the deaf children and those other Paraprofessionals who help similarly handicapped students but with a different handicap. On the other hand, the Interpreter/Tutors testified that they consider themselves Paraprofessionals and other testimony was received indicating that the Paraprofessional Unit is the unit in fact which contains those people who help all kinds of students in the school but who are not teachers and are not required to be teachers nor are they required to have any particular educational background. The only difference being that in the case of the Interpreter/Tutors they are required to have a special skill, signing, which is an aid of the particular handicapped student with whom they work. It becomes perfectly evident that it would be very appropriate for these people to join the Paraprofessional Unit on the grounds that the community of interest which is shared with that group is a community of interest born of their similarity in working conditions since they are all in one way or another working with students who are weighted students or handicapped students or students simply with problems that need and require special skills to help them.

DECISION AND ORDER

It is the decision of the hearing officer that the Interpreter/Tutors in the Portsmouth School District be made a part of the Paraprofessional Bargaining Unit and that their conditions of employment be negotiated in the future.


ROBERT E. CRAIG, HEARING OFFICER

Signed this 28th day of February, 1985.