



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

	:	
NORTHWOOD SCHOOL BOARD	:	
	:	
Complainant	:	
	:	CASE NO. M-0699:2
v.	:	
	:	DECISION NO. 96-02
NORTHWOOD ESP ASSOCIATION	:	
NEA-NEW HAMPSHIRE	:	
	:	
Respondent	:	
	:	

APPEARANCES

Representing Northwood School Board:

Theodore Comstock, Esq.

Representing Northwood ESP Assoc., NEA-NH:

Theodore G. Wells, Jr., UniServ Director

Also appearing:

George Reid, Superintendent, Northwood School Dept.
Joseph Ercolina, Head Custodian, Northwood Schools

BACKGROUND

On September 25, 1995, the Northwood School Board (School Board) petitioned to modify the Northwood Educational Support Staff/NEA-New Hampshire (Association) bargaining unit by deleting the head custodian position. The Association filed its objection on October 3, 1995. The matter was heard before the undersigned hearing officer on November 8, 1995, and the record was closed on December 18, 1995 when requested documents were received and were taken into evidence.

FINDINGS OF FACT

1. The Northwood School Board is a public employer of educational support personnel within the meaning of RSA 273-A:1 X.
2. Northwood Educational Support Personnel Association/ NEA-New Hampshire is the bargaining agent for support personnel such as custodians who are employed in the Northwood schools.
3. Deletion of the head custodian position from the bargaining unit was previously before this Board. The parties reached an agreement which rejected removal of the head custodian position as addressed in Decision No. 95-51 issued June 22, 1995.
4. The School Board has presented evidence intended to demonstrate that changed circumstances warrant a further modification of the bargaining unit. A job description dated June, 1995, (School Board #12), suggests that, as of that same month, the head custodian position had been given increased supervisory duties.
5. Joe Ercolina has been the head custodian for more than three years and is president of the bargaining unit. The duties he described in testimony were those of a working supervisor. He said he has been told he can hire people but that he has never been told he can reward, discipline, transfer or suspend employees, or that he has a role in adjusting grievances. He performs custodial work.
6. The incumbent has shown initiative in his role as head custodian, offering advice to his employers on the feasibility of completing cleaning projects over the summer, for instance. He has not yet exercised the supervisory authority of hiring/disciplining and evaluating of custodians referred to in the new job description. Dr. Reid testified that these duties will be expected of him in the future and that he now has authority to select personnel, assign work and to evaluate the custodians.

DECISION AND ORDER

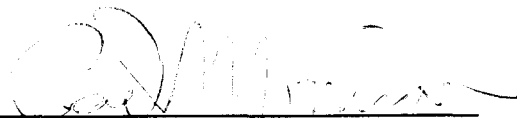
RSA 273-A:8 places with this Board the authority for determining the composition of bargaining units. The statute charges mindfulness to the standard of community of interest. Regulation PUB 302.05 advises conditions under which bargaining units may be modified. In the present case, the School Board claims that change which warrants opening the bargaining unit for a second time within the year has occurred since June, 1995.

However, there are factors which mitigate against the suggested modification at this time. First, the bargaining unit as it stands was very recently affirmed by all parties. Second, the examples of initiative put forth by the School Board as demonstrating reason for exclusion are not "supervisory" of other personnel in a way that might destroy community of interest with other bargaining unit members. Further, the changes claimed, including hiring, evaluation and disciplining though made on paper, have not been exercised and so have not been observed. The modification requested is premature and so is denied.

The bargaining unit shall consist of the following positions: all custodians (1 head custodian, 2 custodians), kitchen workers (3), library workers (1), aides (1 regular educational aide, 12 special education aides) and nurse (1).

So ordered.

Signed this 10th day of January, 1996.

A handwritten signature in dark ink, appearing to read 'Gail Morrison', is written over a horizontal line.

Gail Morrison
Hearing Officer