

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NASHUA TEACHERS' UNION, LOCAL #1044, AFT, AFL-CIO	:	
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	:	
Petitioner	:	CASE NO. T-0306
	:	
and	:	DECISION NO. 780036
	:	
NASHUA SCHOOL DEPARTMENT	:	
	:	
Public Employer:	:	
	:	

APPEARANCES

Representing the Nashua School Department:

H. Philip Howorth, Esquire
Berard Masse, Supt. of Schools
Jane Solomon, Personnel Director

Representing the Nashua Teacher's Union:

Charles Stott, AFT
Ken Moulton, AFT

BACKGROUND

On April 20, 1978, Local 1044, AFT, AFL-CIO, Nashua Teachers' Union, petitioned PELRB for certification of a bargaining unit composed of all clerical, health, instructional and library aides and all school nurses employed in the Nashua School Department. Approximately 80 in number. The petition is supported by more than 30% signature cards.

The City of Nashua by its Counsel, H. Philip Howorth, Esquire, objected to the petition filed for the following reasons:

- a. Certain of the individuals work less than 25 hours per week and are therefore "in a probationary, or temporary status, or employed seasonally, irregularly or on call" within the meaning of RSA 273-A:1, X(d).
- b. Certain of the individuals are under the supervision of teachers who are already represented by the Union and therefore these aides may not belong to the same bargaining unit as the teachers. RSA 273-A:8, II.
- c. Certain of the individuals are registered nurses who do not perform the same function nor have the same community of interest as the teachers or the remaining other persons

for whom certification is sought within the meaning of RSA 273-A:8, I.

Hearing was held on July 5, 1978 in the Board's office, 117 Manchester Street, Concord, New Hampshire. Testimony both written and oral was submitted.

Charles Stott, representing the petitioner, Local 1044, presented the results of a recent survey taken to show the duties of the various positions and their relationship to the teachers who have a bargaining unit of their own, also represented by Local 1044, and pointed out that members of the petitioning unit were basically in the profession of supporting the educational process; and, while they did perform different job functions, they were involved in the same effort and worked for the same school department, the same employer. The positions involved, which were not full time, were generally on a weekly fixed-hourly basis for the duration of the school year.

Witness for the School Department, Jane Solomon, Director of Personnel and Special Services, presented testimony on the wage structure, hiring practices and duties of the individuals involved and introduced evidence that each individual was given a letter of intent of re-employment for the following school year which did not, however, constitute a formal contract. The letter appeared to be merely a query of the individual's intent to return to work the ensuing year.

After clarification that the petitioned unit was to be a separate unit from that of the recognized teachers' unit, Attorney Howorth on behalf of his client, the Nashua School Department, withdrew objection "B" of his original exception to the unit as petitioned.


FINDINGS OF FACT

1. The proposed membership of the bargaining unit does have a community of interest in that the members are employed by the same employer, perform duties closely allied with the educational functions involving students and are subject to the same supervision.
2. PELRB cannot find that certain individuals are "seasonally employed or in a probationary or temporary status, irregularly or on call," as they are offered employment for the school year and do in fact work a full year even if in some instances at less than a normal full hourly workweek. Further, that the employer, the Nashua School Department has a reasonable expectation of the employees' continued employment. The basis for this conclusion is the N. H. Supreme Court Decision, No. 7878, Keene State College Education Association v. State of New Hampshire, PELRB, July 18, 1978, concerning lecturers.
3. PELRB finds that the registered nurses involved do possess a community of interest with others in the petitioned unit for the same reason set forth in paragraph 1 above, and, further, that the registered nurses classified as teaching nurses are members of the teachers' bargaining unit already established. To deny the nurse in this instance access to a separate unit would deny them the right of representation by any group.

ORDER

The petition filed by Local 1044, AFT, AFL-CIO is hereby granted.

A bargaining unit is ordered consisting of all clerical, health, instructional and library aides and all school nurses employed in the Nashua School Department who are employed for 20 or more hours weekly.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 30th day of August, 1978

By unanimous vote. Present and voting: Edward J. Haseltine, Joseph B. Moriarty and Acting Chairman Richard H. Cummings. Also present Evelyn C. LeBrun, Clerk of the Board.