

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SUPPORT STAFF, WHITE MOUNTAINS	:	
SCHOOL DISTRICT, Affiliated with	:	
NHEA/NEA	:	CASE NO. M-0515
	:	
and	:	DECISION NO. 780054
	:	
WHITE MOUNTAINS SCHOOL DISTRICT	:	
UNIT 3 - AIDES AND SECRETARIES	:	
	:	

APPEARANCES

Representing the Support Staff:

John Fessenden, UniServ Director, NHEA/NEA
Elaine French, President

Representing the School District:

Bradley F. Kidder, Esquire, Counsel
Leonard Hall, Principal

BACKGROUND

On September 25, 1978, Bradley F. Kidder, Esquire, representing the White Mt. Regional School District filed a Motion for Rehearing in the matter of bargaining unit determination involving the aides and secretaries in the Support Staff of the White Mt. School District and challenged the vote and requested the ballots be impounded by the PELRB pending the appeal. The rehearing was requested because of a disagreement with PELRB Decision No. 780035, took exception to the Board's findings and requested clarification of its decision.

The Motion for Rehearing was granted and heard on November 8, 1978.

FINDINGS OF FACT

Attorney Kidder in his statements to the Board reiterated his original arguments and added no real new or further supporting evidence. His attack on the Board's decision was aimed at the findings of the original order in paragraph numbers 1, 2, 3 and 4, in which he tried to persuade the Board that its decision was based on the denial of representation because of lack of numbers to meet the statutory requirement of 10 to comprise a bargaining unit. Clearly the Board's order did not intend to convey that this conclusion of denial of rights of representation was the basis for its decision. The Board by its action and decision did not then nor does it now attempt to circumvent the statutory requirement of a bargaining unit to consist of less than ten (10) people.

The basic tests applied to determination of a bargaining unit were as spelled out in the statute; namely, community of interest, the same public employer, the same supervisor, the self-felt community of interest, employees in the same historic craft or profession. To further clarify the findings of the Boards order, the Board finds and clarifies as follows:

- a. The members of the Support Staff of the proposed bargaining unit are in fact employees with the same condition of employment, while the wage schedules and the fringe benefits may vary, the same basic conditions of employment exist.
- b. These employees are in the same historic craft in supporting the educational effort in a support structure allied to the educational field. The Board finds the group of employees to meet the test of RSA 273-A:8 (e).
- c. There is no question but what these employees are within the same organizational unit. They are employees of the White Mt. School District, receive their wages from the School District and are supervised and directed by the School District or its authorized representative. This Board finds the test of RSA 273-A:8 (d) to have been met.

To clarify its order, this Board now finds that John Fessenden, representing the White Mt. Regional School District Support Staff did withdraw his objection to the separate units comprised of units composed of custodians, cooks and other related jobs at the beginning of the hearing.

With respect to paragraph 4 of the rehearing motion and the Board's findings in paragraph 2, Attorney Kidder states finding was inaccurate in that evidence was presented as to hardships which could result. In this regard PELRB concludes that comments were made in reply to questions by Board members, however, not persuasive to the Board. In any event the hardships are not a criteria used in determination and the Board agrees with Counsel that the statute is clear on rights of the employees under RSA 273-A. Counsel further referred to the statute language and the use of the words "in no case" and the mandatory language of "shall the Board certify a bargaining unit of less then ten employees with the same community of interest." The Board did find such community of interest as outlined above.

Counsel for the White Mt. School District in his rehearing motion alleged a decision against common sense and evidence in the case and the law.

The PELRB declined to argue the common sense issue and stands on the evidence before it both in the original hearing and subsequent rehearing and reaffirms its order of 8 September 1978.

ORDER

A bargaining unit composed of aides and secretaries is created for the White Mountains School District and further sealed ballots from the September 25, 1978 election will be opened in the presence of representatives from the Support Staff and the School District on January 23, 1979 at 1:00 p.m. in the Board's Offices at 117 Manchester Street, Concord, New Hampshire issued effective as of September 25, 1978 if majority of valid votes counted has been cast for the Support Staff.


EDWARD J. HASELTINE, CHAIRMAN

Dated this 17th day of January, 1979

Unanimous vote. Chairman Edward Haseltine presiding, members Richard H. Cummings and Joseph Moriarty present and voting. Also present Board Clerk Evelyn C. LeBrun.