

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY	:	
AND MUNICIPAL EMPLOYEES, AFL-CIO,	:	
Operating Staff, University System of	:	
New Hampshire	:	CASE NO. A-0457
	:	
and	:	DECISION NO. 79022
	:	
UNIVERSITY SYSTEM OF NEW HAMPSHIRE	:	

APPEARANCES

Representing the American Federation of State, County and Municipal Employees:

William J. McDonough, Exec. Dir.
Michael Cavanaugh
Jonathan R. Duffy
Judy Barringer
Paula Barton
Wolfgang Herb
Charles Stott, AFL-CIO

Representing the University System of New Hampshire:

Nicholas DiGiovanni, Esquire, Counsel
Frederick E. Arnold, Personnel Officer
Gary W. Wulf, System Resources Administrator
Shirley L. Hamilton

BACKGROUND

This is a case arising out of the petition of the American Federation of State, County and Municipal Employees, AFL-CIO, Council #68 for the certification of a bargaining unit for all full time and regular part time operating staff members of the Physical Plant Operations and Maintenance Department (PPOM) of the University of New Hampshire, excluding foremen, assistant foremen and confidential secretaries. The petition, dated July 2, 1979 was received by the Board on that date. The University of New Hampshire objected and excepted to the petition on the basis that the proposed unit was inappropriate and that the only appropriate unit is one which embraces all operating staff members of the University of New Hampshire.

The University argued that in a previous case, the Board ruled that the proper unit was one consisting of all operating staff at the University of New Hampshire, regardless of departmental employment.

That decision resulted in an election in which "no representative" received the majority vote. Therefore, there is no presently certified bargaining unit of operating staff at the University of New Hampshire.

A hearing was held at the Public Employee Labor Relations Board offices on August 2, 1979 at which both sides were present and presented evidence.

FINDINGS OF FACT
AND RULINGS OF LAW

At the outset, the Board notes the provisions of RSA 273-A:8 which says, in its first sentence that "the Board or its designee shall determine the appropriate bargaining unit . . ." (emphasis added). A difference between RSA 273-A and the National Labor Relations Act is that under the New Hampshire statute, the Board is required to determine the appropriate unit and not merely an appropriate unit. Certain standards are set forth in the statute, which include but are not limited to;

- "(a) employees with the same conditions of employment;
- (b) employees with a history of workable and acceptable collective negotiations;
- (c) employees in the same historic craft or professions;
- (d) employees functioning within the same organizational unit."

The Board has augmented this definition with certain rules contained in Board Section 2.2 which add the following criteria;

"the geographic location of the proposed unit, the presence or absence of common work rules and personnel practices, common salary and fringe benefit structures, the self felt community of interest among employees and the potential for a division of loyalties between the public employer and the employees' exclusive representative on the part of employees within the proposed bargaining unit. In addition to considering the principle of community of interest, the Board may also consider the effect of forming any particular bargaining unit on the efficiency of government operations."

From this it can be seen that it is the Board's responsibility to determine the appropriate unit using the criteria listed. Although the appropriate unit may have been determined in a previous case for a group of employees, circumstances change so that the appropriate unit may not continue to be the same.

The Board took evidence at its hearing on the make-up of the proposed unit desired by petitioners. It contains operating staff (as opposed to faculty or PAT staff) and includes employees from over 50 separate classifications of employees, as determined by the University classification system. Of these, approximately 40 of the classifications are exclusive to the PPOM department and the remainder are classifications which also are held by employees in other departments at the University of New Hampshire.

The Board received evidence that there is a general classification system on campus which is not departmental but campus-wide. Further, PPOM is only one of 10 departments under one of the vice presidents of

the University of New Hampshire and there are 3 other vice presidents each of whom has departments under his jurisdiction, and almost all of those departments have operating staff employees, some of whom occupy the same job classifications as those sought to be included in the petitioned for unit. There are, in fact, 115 departments having operating staff at the University.

There are common hiring procedures for all operating staff, personnel policies for all operating staff, common initiation procedures, benefits, operating staff handbook, appeals procedures, evaluation, discipline, pay and overtime, range movement and the like. Within PPOM, the evidence showed that the employees worked at various locations on the campus and are not all the same in regard to time clock or no time clock or kinds of work.

In addition, the evidence indicated that there are in other departments individuals who do essentially the same work as the operating staff in PPOM and that there have been transfers of operating staff members from PPOM to other departments and vice versa.

Within the decision making process at the University, there is an operating staff council which has 10 members. Five of these members are from PPOM and 5 from other departments.

Certain facts make PPOM employees unique as a body, the evidence indicated; i.e., (1) a separate publication for PPOM employees, (2) a task force to improve efficiency of operations for PPOM, (3) some feeling of community of interest among the employees of PPOM, (4) certain internal policy documents and procedures for PPOM and PPOM staff members interact most often with other PPOM staff members, not those from other departments.

Further testimony indicated that the other departments of the University have similar structures and some of them have their own policies, procedures and organizations.

One of the tasks with which the Board is charged in determining the appropriate unit is the efficiency of government operations and the proper unit for effective and comprehensive representation. The Board notes that the University is unique as are the other institutions of higher education under the jurisdiction of the Board in that there are several kinds of employees, faculty, PAT staff and operating staff. In addition, there are many departments in each institution. Historically, the Board has considered units to be appropriate which contain all faculty, all PAT staff or all operating staff. This is because of the common factors listed above and the desire to maintain unity and avoid the fragmentation or multiplicity of bargaining units on the campus. The Board is not prepared to decide that this policy must remain forever. Nevertheless, the Board finds that the proposed unit in this petition is inappropriate for several reasons. First, by petitioning for one department, the petitioners have ignored the fact that there are operating staff in other departments who do the similar jobs and occupy similar positions. Second, the operating staff in other departments have common policies, pay, problems, interaction and the like. Third, the evidence at the hearing indicated that the PPOM department is not so autonomous or unique as to be considered a separate entity or an appropriate or unified separate organization or group. There was no evidence that the various jobs done by operating staff in PPOM is a logical, common factor or that the common classification of

operating staff members in PPOM and other departments was outweighed by the common PPOM staff membership in the proposed unit to an extent to split off PPOM employees from those other operating staff employees.

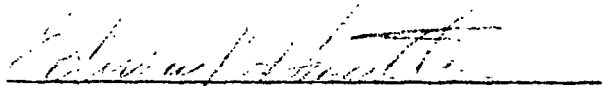
It may be that at a later time a petition for separate unit among operating staff at the University will be proposed which will be more appropriate than the unit of all operating staff. The Board cannot find, however, that the proposed unit of PPOM operating staff members meets the criteria of the statute for the rules sufficiently to be "the appropriate unit" for the employees in the operating staff.

The Board would again stress that the University and other institutions of higher education in the University System are unique. They have different organizational problems from those experienced by towns and cities and the appropriate units, therefore, must be different. Each unit determination made by the Board is on a unique set of facts and circumstances and should not be used as precedent for any other.

ORDER

The Board issues the following order:

Having found that the petitioned for unit is inappropriate under the law and the rules, the petition for certification of a bargaining unit is dismissed.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 23rd day of August, 1979

Chairman Haseltine presiding, Board members present and voting Joseph Moriarty and Richard Cummings. All concurred. Board Clerk Evelyn LeBrun and Counsel Bradford Cook also present.