



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MANCHESTER EDUCATIONAL SUPPORT
PERSONNEL ASSOCIATION/NEA-NEW HAMPSHIRE

Petitioner

v.

MANCHESTER SCHOOL DEPARTMENT

Respondent

CASE NO. M-0607

DECISION NO. 89-28

APPEARANCES

Representing Manchester Educational Support Personnel Association/NEA-NH:

Marc Benson, UniServ Director, NEA-NH

Representing Manchester School Department:

David Hodgen, Chief Negotiator

Also appearing:

Dr. Eugene W. Ross, Superintendent
Wilbur L. Jenkins, Personnel Director
Frank Harlan, Pres. of MEA
Lucille Boucher, Sr. Secretary, West H.S.
Lorraine Blushiy, Sr. Secretary, Memorial H.S.
Doris Lindgren, Sr. Secretary, Dir. Special Services
Diane Huard, Financial Unit Supervisor
Theresa Mancuso, Secretary to Supt. Ross
Carolyn Woodward, Secretary, Asst. Supt. Duray
Claudette Janelle, Secretary, Asst. Supt. Bernard
Theresa Larochelle, Senior Information Specialist

BACKGROUND

On December 13, 1988, Teamsters Local 633 of N.H., International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America filed a petition for a proposed unit of all regular full-time and regular part-time secretaries, clerk-typists, account clerks, accountants, attendance officers, media equipment technicians, financial unit supervisors, information support specialists, cashiers, transportation coordinators, storekeeper/maintenance personnel and parent involvement specialists (approx. 66 positions).

NEA-New Hampshire on December 27, 1988 filed as an intervenor.

Subsequent to NEA-New Hampshire's intervening petition, Local 633 withdrew its petition. NEA-NH, having filed sufficient number of authorization cards to petition for an election requested a change in status from intervenor to petitioner. PELRB reviewed all submittals and determined that NEA-New Hampshire met all the requirements under RSA 273-A and accepted their filing as a petition for certification.

Originally, the City of Manchester filed exceptions to the Teamsters' petition on the basis that the majority of the employees in the proposed unit worked under the direct supervision of the school principals who are represented for purposes of collective bargaining by the Teamsters, and in accordance with the N.H. Supreme Court ruling could not retain the same exclusive representative. In addition, they alleged that several of the positions were either supervisory or confidential. After the Teamsters' withdrawal, the only exception to the petition, NEA-NH's, was that of supervisory and confidential employees.

A unit determination hearing was held on March 15, 1989 at the Aldermanic Chambers in Manchester with PELRB Executive Director, Evelyn C. LeBrun as hearing officer.

FINDINGS OF FACT

1. It is found that the petitioner had sufficient interest to support an election, to wit, not less than thirty percent of the members of the proposed unit having signed individual interest cards meeting the requirements of RSA 273-A:10, I (a) and Pub 303.02
2. All employees to be included in the proposed bargaining unit have the same conditions of employment, are in the same profession, are employed by the Manchester School Department, i.e., the same organizational unit, have a similarity of interests and needs and share a very real and self-felt community of interest meeting the requirements of 273-A:8, I.
3. In their capacity as secretaries to the various school principals, access to confidential personnel matters is limited to infrequent typing of disciplinary correspondence and labor relations matters. For the most part, these secretaries are excluded from personnel administration and collective bargaining budgetary and strategy matters.
4. The standard for what constitutes a "confidential" relationship has been established by the N.H. Supreme Court in University System, supra, when the court said that a confidential employee is one "who assist(s) and act(s) in a confidential capacity to persons who formulate, determine and effectuate management policies in the field of labor relations". Further, the Court indicated that access to personnel files alone would not require a finding that one is a confidential employee.
5. The confidential relationship of the secretaries to the Superintendent and Assistant Superintendent however is quite evident as they are privy to information from all administrators who formulate, determine and effectuate management

policies in the field of labor and personnel relations. Their functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in the employee organization incompatible with their official duties.

6. The supervisory duties performed by the senior secretaries do not involve the "significant exercise of discretion" necessary to exclude them from the unit. Even though they may assign work and various tasks to other clerical employees, testimony evidenced that their duties are substantially similar to those of their subordinates; many of the functions such as, typing, answering phones, helping with mailings, placing calls for teachers, placing calls to parents are performed by the senior secretaries. Their involvement in interviews for new hires or in the process of transfers, suspensions, discharges, promotions, etc. is in the nature of recommendations only. Although their input in those processes is important and valuable, they do not have the final authority; the ultimate decision in those matters is reserved to the principals.

DECISION

Now, therefore, for all the foregoing reasons, it is my decision that pursuant to RSA 273-A:8, I a collective bargaining unit for the Educational Support Personnel employed by the Manchester School Department is found to be appropriate, with the exception of the positions of senior secretaries to the Superintendent and Assistant Superintendents (3 secretaries); and that a secret ballot election shall be conducted by the Public Employee Labor Relations Board as expeditiously as possible, or as the Board may determine by its further order.

Dated this 29th day of March, 1989.



EVELYN C. LeBRUN
Hearing Officer