



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

PELHAM EDUCATIONAL ASSOCIATION/NEA-
NEW HAMPSHIRE

Petitioner

v.

PELHAM SCHOOL BOARD AND RAYMOND J.
RAUDONIS, IN HIS CAPACITY AS
SUPERINTENDENT

Respondents

CASE NO. T-0280:10

DECISION NO. 90-17

APPEARANCES

Representing the Pelham Educational Association:

Marc Benson, NEA-NH

Representing the Pelham School Board:

Robert P. Leslie, Esq., Counsel

Also appearing:

- Raymond J. Raudonis, Superintendent
- Diane R. Tryon, PEA
- Judith Howell, PEA
- June Groele, R.N., Nurse
- Joyce Hamel, R.N., Nurse
- Barbara Campbell, R.N., Nurse
- Cecilia Zannini, R.N., Nurse

BACKGROUND

The Pelham Educational Association filed a modification petition to include the position of nurse to the certified bargaining unit stating that beginning in the 1988-89 school year, the School Board had removed nurses from the teacher salary schedule although prior to that time they were on the schedule. Also, the teaching function of the nurses had increased significantly.

Counsel for the School Board filed exception to the petition on the basis that the matter had been previously considered in 1975 when it was determined by PELRB that only nurses who spend more than 50% of their duty hours in classroom teaching would be included in bargaining units with teachers, nurses in Pelham spent less than the required 50% of their time in the classroom, and, lacked the necessary community of interest with other bargaining unit positions.

A hearing on the modification petition was held in the PELRB office on June 22, 1989 with both parties represented.

FINDINGS OF FACT

1. The Pelham Teachers Association, affiliated with NHEA/NEA was "grandfathered" on December 7, 1976 in accordance with the Recognition clause in the professional agreement between the Pelham School Board and the Pelham Education Association effective April 23, 1975.
2. The original bargaining unit, in effect since 1975 prior to enactment of RSA 273-A included "nurses who spend less than 50% of their duty hours in classroom teaching."
3. The enactment of 273-A with the "grandfathering" provision provided for an orderly transition and did not make earlier recognition "immutable" and "the fact that some previously established bargaining units are inconsistent with the new requirements is the unavoidable consequence of the grandfather clause which expressly states that the act shall 'not terminate or modify a bargaining unit' in existence on its effective date. In our opinion, the legislature chose to allow these inconsistencies rather than disrupt the status quo..." SEA v. PELRB 116 NH 653, 366 A.2d 494, November 9, 1976.
4. The grandfathering provision expired on August 23, 1978 and thereby provided for corrections of inconsistencies and illegally composed units.
5. School nurses in the Pelham School District were placed on teacher salary schedule in 1979 and remained on the schedule until September 1988.
6. School nurses are registered professionals and hold a license under RSA 326-B and are providers of health maintenance through health teaching, counseling and services supportive to good health and well-being.
7. N.H. State Board of Education policy states "Professional nursing service in the school setting is provided to strengthen the educational process of students" and "the school nurse serves as a contributing member of the faculty with comparable professional obligations and privileges."
8. Attempts have been made to negotiate the inclusion of nurse in the teachers unit without success.
9. The principle of community of interest between teachers, guidance counselors, librarians and school nurses is clearly evident from testimony provided at the hearing by teachers and guidance counselor.

Petitioner's Request for Findings:

Request 1 thru 12 Granted.

Request 12 Granted in that school nurses must be licensed by the N.H. State Board of Nurse Education and Nurse Registration.
Denied in that school nurses are registered under RSA 326-B and not RSA 200:29.

Request 13 thru 17 Granted.

Request 18 Granted. As evidenced by testimony, the teaching functions and responsibilities required of the school nurses have increased significantly over the past years.

Request 19 thru 26 Granted.

Request 27 See decision and order below.

DECISION AND ORDER

Consistent with RSA 273-A:8 and PELRB Rules and Regulations, Pub 302.02 and 302.05, the certified bargaining unit in the Pelham School District is hereby modified to include the position of school nurse.

Amended petition reflecting the change is also attached.

Signed this 9th day of February, 1990.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members James C. Anderson and Seymour Osman present and voting. Also present, Executive Director Evelyn C. LeBrun.



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

PELHAM EDUCATIONAL ASSOCIATION/NEA-
NEW HAMPSHIRE
and
PELHAM SCHOOL DISTRICT

CASE NO. T-0280

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employee Labor Relations Board in accordance with RSA 273-A, Section 10 and the Rules and Regulations of the Board, and it appearing that a negotiating representative has been selected;

Pursuant to the authority vested in the Board by the Public Employee Labor Relations Act, and after the conduct of a representation election,

IT IS HEREBY CERTIFIED that the PELHAM EDUCATIONAL ASSOCIATION/NEA-NEW HAMPSHIRE

has been designated and selected by a majority of the employees of the above named Public Employer, in the unit described below, as their representative for the purpose of collective negotiations and the settlement of grievances.

UNIT: ALL PERMANENT FULL-TIME TEACHERS AND NURSES EMPLOYED BY THE PELHAM SCHOOL DISTRICT.

Further, IT IS ORDERED that the above named Public Employer shall negotiate collectively with the PELHAM EDUCATIONAL ASSOCIATION/NEA-NEW HAMPSHIRE

with an objective to reaching an agreement with the employee organization on terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Signed on the 9th day of February, 19 90.
Grandfathered on 7th day of December, 1976.

Edward J. Haseltine
EDWARD J. HASELTINE, CHAIRMAN