



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NASHUA TEACHERS UNION

Complainant

v.

SCHOOL DISTRICT FOR THE CITY OF
NASHUA

Respondent

CASE NO. T-0244:7

DECISION NO. 90-46

APPEARANCES

Representing Nashua Teachers Union:

Emmanuel Krasner, Esq., Counsel

Representing the School District for the City of Nashua:

Mark Bennett, Esq., Counsel

Also appearing:

David Hall
Edward Phaneuf
Virginia Smith Harvey
Berard Masse
Joseph Guibaur

BACKGROUND

The Nashua Teachers Union is currently the bargaining representative for professional employees of the Nashua School District and currently includes teachers, guidance counselors, librarians, speech therapists and other specialists. The petition is to modify the existing bargaining unit by the inclusion of school psychologists (6) into the existing bargaining unit.

The petition requesting modification of the bargaining unit indicated that the psychologists are currently not represented by the C.B.A. agent nor included in any other bargaining unit within the City of Nashua School District. The petition further alleges that the school psychologists have indicated a strong desire to be represented by the collective bargaining unit, that they have no supervisory role, that their community of interest is self-felt and they work in the same work area and have the same employer as the teachers. Further that the psychologists are too few in number to form their own bargaining unit.

Counsel for the Nashua School District in response objected to the petition for modification and notes that at least one of the psychologists is a chief school psychologist and therefore exercises supervisory activities and should not be included within the bargaining unit. Further that there had been no substantial change in the bargaining unit to warrant considering modification in accordance with Pub 302.05. Further that the petition is not timely as the situation existing between the parties presents a contract bar during the term of the contract.

Hearing in this matter was held on May 24, 1990 at the P.E.L.R.B. office in Concord, New Hampshire.

In opening statements, Mark Bennett, Esq., for the School District indicated that the district had no opposition to the psychologists being eventually included in the union with the exception of one who would be claimed as a supervisory chief psychologist. Further that the petition for modification should be the subject of discussion at negotiations upon expiration of the existing C.B.A. which expires August 31, 1992.

Emmanuel Krasner counsel for the Nashua Federation of Teachers indicated that the petition was based on the psychologists desire to become a member of the teachers bargaining unit, there had been in fact employed psychologists in the Nashua School District beginning in 1981 with one psychologist and the number had gradually increased to six by 1989. The subject of their inclusion had never been the subject at the negotiating table and had never been presented as an item for discussion by the Nashua Teachers Association.

ORDER

After hearing all of the evidence in this matter the Board finds that the inclusion or exclusion of psychologists in the bargaining unit should be the subject of negotiations between the parties, since there appears to be a contract bar for modification at the present time in accordance with the rules of PELRB and since new negotiations for a new contract will begin within a matter of months, PELRB hereby orders the parties to consider this subject at the first session of negotiations for a succeeding contract and hereby DISMISSES the petition before it for modification without prejudice.

Signed this 6th day of June, 1990.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard W. Roulx and E. Vincent Hall present and voting. Also present, Executive Director, Evelyn C. LeBrun.