



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LYNDEBOROUGH EDUCATION ASSOCIATION/
NEA-NEW HAMPSHIRE

Petitioner

and

LYNDEBOROUGH SCHOOL BOARD

Respondent

CASE NO. T-0396

DECISION NO. 90-81

APPEARANCES

Representing Lyndeborough Education Association/NEA-NH:

Marc Benson, UniServ Director NEA-NH

Representing Lyndeborough School Board:

Douglas S. Hatfield, Jr., Esq., Counsel

Also appearing:

Richard Lates, Superintendent

Nancy Tong, L.E.A.

Carol Hill, L.E.A.

Kathi P. Nahass, L.E.A.

Kathleen E. Kenne, L.E.A.

BACKGROUND

On May 29, 1990, Lyndeborough Education Association/NEA-New Hampshire (Association) petitioned PELRB for certification of a bargaining unit consisting of eleven (11) classroom teachers, one (1) nurse health educator and two (2) instructional aides.

The Lyndeborough School Board (Board) objected to the petition alleging that there were only seven (7) full-time classroom teachers, a nurse who worked only part-time, and other teachers who were employed on a part-time basis teaching specialized subjects.

Hearing in this matter was held on July 10, 1990 at the PELRB office in Concord, New Hampshire.

Counsel for the Board, Douglas S. Hatfield, Esq., in his opening stated the Board was willing to stipulate that the nurse and the sixth grade teacher could be in the unit as both were now employed more than 51% of the school year. This now left three part-time teachers; music, art and physical education, who taught on a regular basis, one day per week, had a contract for the 90-91 school year, all were certified teachers employed only part-time (less than 51%) and therefore should be excluded from the unit. The teachers had other non-instructional duties, attended staff meetings and received pro-rated benefits of full-time teachers. The same basic rates applied to the physical education teacher, art teacher and the sixth grade teacher who worked part-time on a regular basis but not a minimum of 51% of the normal teaching year. The Board Counsel further argued that imposing a bargaining unit on a smaller school district would be costly to the District, that the community of interest test was not met and cited several PELRB decisions, Appeal of the Town of Conway at 121 NH P372 and specifically the New Boston Case No. T-0390 where a hearing officer held that one must be employed 51% of the time to be included in a unit.

Superintendent of Schools, Richard Lates testified as to his conception of community of interest, the part-time teachers' contribution in the system and the functions and duties of the instructional aides.

FINDINGS OF FACT

After considering all the testimony offered, PELRB makes the following findings:

1. The parties stipulated that the nurse and the half-time sixth grade teacher met the requirements for inclusion in the bargaining unit.
2. The 51% requirement for consideration as a member of the bargaining unit, as stated in the hearing officer's decision in the New Boston case, decision No. 89-60, is no longer considered a minimum-requirement by PELRB, but rather based on the terms and conditions of part-time employment.
3. The three (3) teaching positions contracted on a regular schedule even though on a part-time basis meet the minimum requirement for inclusion in the bargaining unit. (273-A:8, I (d)) (N.H. Supreme Court Rollinsford 89-305)
4. The three (3) persons working one day per week instructing in Art, Music and Physical Education are counted for inclusion in the bargaining unit.
5. The instructional aides are paid differently than the teachers, their schedules and benefits are different, they do not require certification by the State of New Hampshire and not required to have the same background as instructional staff.

ORDER OF THE BOARD

The petition for a bargaining unit of the Lyndeborough Education Association/ NEA-New Hampshire is granted, consisting of all full-time and permanent part-time teachers (Art, Music and Physical Education Instructor) and including the Nurse Health Educator.

Excluded from the unit: Instruction Aides on the basis they do not meet the requirements under 273-A:8.

An election to determine if the employees of the unit wish to be represented by the Lyndeborough Education Association/NEA-New Hampshire for the purpose of collective bargaining and settlement of grievances will be conducted by PELRB as expeditiously as possible in accordance with RSA 273-A:10 and PELRB Rules and Regulations Pub 303.

Signed this 29th day of August, 1990.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard E. Molan, Esq., and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun.