

FINDINGS OF FACT

1. The Kearsarge Regional School District is a "public employer" of teacher aides and other personnel within the meaning of RSA 273-A:I X.
2. AFSCME Council #93, Local 1348 has proposed a 44 position bargaining unit to include special education aides (21), building aides (6), library aides (2), instructional aides (3), certified occupational therapist assistant (COTA) (2), resource room aides (2), speech aide (1), reading aide (1), computer aide (1), Chapter I aide (2).
3. The District urges deletion from the proposed bargaining unit of ten special education aides who are inclusion aides. Inclusion aides mainstream individual students into the classroom. Their retention as employees depends on the schedule of individual student who has special needs and may not remain in attendance for the whole school year. David Levin, an inclusion aide, testified that he acts as a classroom aide in addition to the assistance he provides his individual special needs student. This allows his charge to develop independence. Mr. Levin is expected to attend class to assist even when the special needs student is not in attendance. He stated that no special education is required to become an inclusion aide but that he worked as a volunteer for one year before being hired into this position.
4. The District also objected to the inclusion of building aides in the bargaining unit. Doreen Salera, a building aide, testified that she is scheduled to work in the classroom for a certain number of hours a week. She also fills in on an emergency basis when teachers are not present at school or are attending meetings. She also has contact with students when she performs non-classroom duties. For instance, she dispenses medicines to children and stays with them when they are very ill. She also does a good deal of clerical work since there is no secretary at her school. She has a desk in the administrative offices. Other buildings have secretaries so that aides in those locations do not have clerical assignments.

5. Certified occupational therapist assistants do not teach students in a classroom but assist them in developing coordination and confidence, handwriting skills and other non-subject hands-on learning. Training and certification are necessary and each COTA must be supervised by a professional. A separate salary and benefit package is provided to these employees.
6. Library aides do not become involved in subject area teaching but deal with children. They address library related learning needs in the setting of the school library. Library aides must be certified and are supervised by a professional. They must hold an associate's degree. According to the testimony of Dr. Jean Richards, Superintendent of Schools, a special benefit and salary package is available to them.
7. The mind stretch aide has no interaction with children. This position is employed developing and copying special teaching materials to supplement those provided by teachers. This position does not spend time working with students in a classroom.
8. Most study hall aides are not involved in teaching students. They monitor student behavior in the study hall setting. There is one study hall aide who performs instructional functions as well but that position has not been included in the proposed bargaining unit.
9. Two Chapter I aides assist students in groups or one-to-one with reading. They work under the supervision of a Chapter I teacher. They are not considered permanent employees but are viewed as seasonal employees who are hired from year to year.
10. The above mentioned positions are challenged as lacking a community of interest with classroom aides who assist teachers in the instruction of students.
11. Job descriptions for the challenged positions and the teacher aide salary schedule were admitted without objection. The latter document contains two categories: special

education aides and all other aides. Within each category is the hourly wage for non-degreed and degreed individuals. The certified occupational therapists' salary schedule was included with the job descriptions.

12. Superintendent Jean Richards, testified that four meetings have been held with teacher aides since July 1, 1993. The first occurred on August 1, 1993. Some progress has been made, including changes in the leave policies for most aides. Job descriptions have been developed for most positions.

DECISION AND ORDER

The Union contends that there is a self-felt community of interest among those who aide in the instruction of children. The Union points out that lunchroom aides and similar aides, who have little contact with children, have not been proposed for bargaining unit membership.

The District emphasizes the differences between classroom aides and other aides, arguing that inclusion aides would not be assisting in a classroom at all if it were not for the special needs of one student. The District points out that certified occupational therapy assistants, library aides, building aides and study hall aides have no roles in subject matter teaching in a classroom. Also, the District claims that Chapter I aides are not regular employees but are seasonal employees and so have different interests from the other aides to be included in the bargaining unit. The District objects to the inclusion of non-classroom aides on the basis of an absence of community of interest. Also, the District objects to including both professional and non-professional aides in the same bargaining unit.

RSA Chapter 273-A:8 requires that consideration been given the principle of community of interest when establishing a bargaining unit. That statute instructs us to consider the following criteria:

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

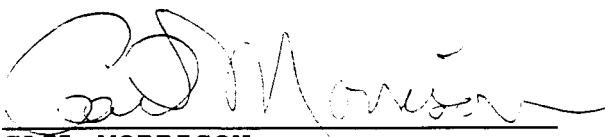
With the exceptions of the mind stretch aide and the study hall aides, each of the positions in consideration is involved with the instruction of children. The various instructional duties are performed within the same school unit, if not in a classroom setting. The library aides are in charge of equipment and books; they also instruct children in the use of such equipment and in methods of access to library resources. Though the certified occupational therapy aide may not instruct in subject matter, the COTA instructs a student to utilize learning tools which otherwise might be beyond his capabilities. Also, as we consider the roll of employees at the time of the petition, the Chapter I aides are to be included since they are now engaged in instructing students in reading. There is the basis for communication between the in-classroom and out-of-classroom aides surrounding the progress of their students.

In a broad sense, these aides are involved in the same historic profession in that they support the teaching and learning of students. They share many of the same conditions of employment, share many of the same concerns regarding that employment and function within the same organizational unit, the Kearsarge Regional School District. The differences in education and training are not sufficient to destroy the shared interest in and the expectation of collective bargaining.

The goal of the use of the community of interest standard is reasonable negotiations among those who share circumstances in common. University System of New Hampshire v. State of New Hampshire, 117 N.H. 96, 99-100 (1977). There is mutuality of interest in working conditions sufficient to bind those who aide in the instruction of children within the Kearsarge District. A unit appropriate in this case is as requested by the Union with the exceptions of the three positions of study hall aide (2) and the mind stretch aide (1). A forty-one (41) member unit made up of the following positions is hereby established: special education aides (21), building aides (6), library aides (2), instructional aides (3), certified occupational therapist assistants (2), resource room aides (2), Chapter I aides (2), speech aide (1), reading aide (1) computer aide (1).

So ordered.

Signed this 19th day of May, 1994.



GAIL MORRISON
Hearing Officer