



FINDINGS OF FACT

1. The Epsom School District is a "public employer" within the meaning of RSA 273-A:1 X.
2. The Epsom Teachers' Association is the duly certified bargaining agent for all full-time and half-time teachers, guidance counselor, speech therapist and school nurse employed by the School District.
3. A contract negotiated before certification continues in operation throughout the period beginning July 1, 1994 and ending June 31, 1995.
4. Bargaining for a new contract commenced in October, 1994, at which time the term "half-time teacher" became a matter of contention. The Association proceeded on the assumption that the use of the term "half-time teacher" was a scrivener's error while the School District contended the choice of term was purposeful and meant to be inclusive of all teachers working half-time or more.
5. At the time of the petition for certification, in November of 1993, five part-time teachers were employed: two worked an eighty percent (80%) week, one worked a sixty percent (60%) week, an other worked a fifty percent (50%) week and one worked less than half-time, a forty percent 40% week. When bargaining began in the Fall of 1994, the teacher roster showed the same percentages except that the half-time position had been increased to full-time.
6. The forty percent (40%) media specialist position included on the roster used for costing out salary proposals though testimony was that the preliminary figures would be with reworked position excluded before the salary figures were in final form.
7. The official voting list for the certification election included all individuals holding half-time positions through full-time positions but did not include the person holding the forty percent (40%) position.
8. The school board has proposed a less than half-time position of French teacher be added

to the teaching staff for the upcoming school year.

9. Under the present contract, step and track increases and all benefits except insurance benefits are open to teachers working less than half-time.

#### DECISION AND ORDER

The request for modification of the Epsom Teachers' Association bargaining unit is granted. The bargaining unit shall include all part-time teachers, as well as full-time teachers, the guidance counselor, speech therapist and nurse employed by the Epsom School District.

RSA 273-A:8 places authority for determination and certification of bargaining units with the PELRB. Rule Pub. 302.05 allows for correction in the event an error in composition of a bargaining unit is made at the time of formation.

Whether a scrivener's error or an oversight, an error ab initio has occurred and the matter is properly raised since part-time status, in and of itself, does not provide a basis for a position's exclusion from a bargaining unit. In the present case, testimony makes clear that the one part-time position, the forty percent (40%) media specialist, which the School District now employs and would exclude, does share a community of interest with the other bargaining unit positions. The make up of the bargaining unit is amended to include regularly employed part-time teachers.

So ordered.



Gail Morrison  
Hearing Officer

Signed this 31st day of MARCH, 1995