



its objections to the inclusion of any secretarial positions. A hearing was held at the Public Employee Labor Relations Board on April 24, 1998. The record was left open for two weeks for the submission of certain evidence: an organizational chart and a job description for secretaries. The District organizational chart and a job description of administrative assistant to the principal were received on May 7, 1998. Post-hearing comments on the evidence were allowed. The National Education Association objected to the job description by letter of May 11, 1998.

#### FINDINGS OF FACT

1. The Monadnock Regional School District (District) employs teachers and support staff to operate its schools in six different communities and so is a public employer within the meaning of RSA 273-A:1 X.
2. The National Education Association (Association) has petitioned to become the exclusive bargaining agent for a bargaining unit to consist of the following positions: instructional assistants (88), tutors (20), library assistants (3), custodians (18), head custodians (1) and secretaries (13). Prior to the hearing, the parties agreed to the exclusion of the head custodian position. At the hearing, it was ascertained that the number of secretaries is twelve and that the sole dispute between the parties involved the inclusion of these twelve secretarial positions. The District objects to inclusion of secretaries alleging the confidential nature of their employment.
3. Association Exhibit No. 4 contains a list of the secretarial positions in question:
  - 1) Title I secretary housed at Wilcox Building. This position reports to the Title I director.
  - 2) Receptionist at Monadnock Regional High School, Swansea, grades 7-12.
  - 3) Secretary to the principals at the Surry School, Sullivan School and Gilsum School. This position is located at the Gilsum School.
  - 4) Secretary to the assistant principal of grades 9-12, Monadnock Regional High School.
  - 5) Secretary to the principal at the Cutler School in Swansea.

- 6) Secretary in the Guidance Department. This secretary reports to the chair of the department.
  - 7) Secretary to the principal of the Monadnock Regional High School.
  - 8) Secretary to the principal of Troy School.
  - 9) Secretary to the District school nurse.
  - 10) Secretary to the principal of Emerson School.
  - 11) Secretary to the principal at Mt. Caesar School who also works for the assistant principal.
  - 12) Secretary for the junior high school within Monadnock Regional High School.
4. Secretaries in Monadnock Regional School District open all mail and are constantly handling sensitive information, about students' school and home lives which must be held confidential. Superintendent William Wheeler testified that they open mail about personnel matters within the school and may have access to labor relations documents. Dr. Wheeler expressed the concern that the principals must have trust in their secretaries and that introducing union membership may damage that relationship by shifting loyalties from the principal to the Association. Many of the principals are handling their own correspondence via E Mail.
5. Mary E. Gaul has been a UniServ director for the Monadnock School District for NEA/NH for thirteen years and has been a member of the negotiating team for several collective bargaining agreements for the teachers' bargaining unit. The District has been represented in bargaining by professional negotiators. Ms. Gaul has never known a principal to play a role in negotiations and only occasionally has any member of the administration offered information for the negotiations process. Then, it has been Superintendent Wheeler or the prior business manager, Mr. Minton, who has been consulted in bargaining by the professional negotiators.
6. Amy Jeanne Lawrence testified that she is a tutor at the Cutler School in Swansea and is president of the Monadnock District Support Staff Association. At Cutler, the guidance counselor, rather than the

secretary, steps in when the principal is absent. On information and belief, Ms. Lawrence testified that the principal keeps confidential records in his personal computer and the secretary at Cutler School does not have any greater access to confidential personnel records than does any other member of the staff. Principal David Bell wrote a letter for the paraprofessionals to say that the Cutler School secretary keeps time and attendance records but does not have access to supervision or personnel records of other employees at Cutler. (Association No. 6).

M. E. Gaul advised that secretaries are excluded by the teachers' collective bargaining agreement from teachers' disciplinary hearings.

#### DECISION AND ORDER

RSA 273-A:8 places authority to determine the composition of bargaining units with the Public Employee Labor Relations Board. Employees whose duties imply a confidential relationship to the public employer must be excluded from bargaining units. RSA 273-A:1 IX (c). A request for the exclusion of a position because of the confidential nature of the position is reviewed on the facts on a case by case basis.

The District has asked for a blanket exclusion of all twelve secretaries who work in District schools citing foremost concerns for confidentiality of student records and for trust and harmony between secretaries and the administrators for whom the secretaries work. The nature of the confidential exclusion sought by the District is much broader than the limited definition of "confidential" addressed in the statute. The "confidential relationship" that forms the basis for exclusion from a bargaining unit is a confidential relationship to one who carries out or is closely involved in labor negotiations. See Plainfield Support Staff, NEA New Hampshire v. Plainfield School District, Decision No. 1997-128 (December 30, 1997). In that case, the secretary to the school principal was excluded because her job infers a confidential relationship to the only principal in the District. That principal regularly directly advises negotiators and the school board on labor relations matters.

None of the job descriptions for secretarial positions submitted at the hearing supports exclusion for reasons of

confidentiality (Association Exhibits No. 1, 2 and 3). The job description of administrative assistant, sent in lieu of the job description for secretary, does not support exclusion of that position if it were in consideration. The only duty approaching a confidential duty is the typing of evaluations. Evaluations are "confidential" under a broad dictionary definition of the term "confidential." Evaluations are not "confidential" for labor relations purposes. However, the job description submitted after the hearing will not be considered evidence since it raises questions that cannot now be answered. Therefore, the Association's objection to the admission of the job description of Administrative Assistant to the Principal is sustained since it is not a position under consideration in these proceedings.

Testimony at the hearing was general and there was no testimony offered from a secretary or a principal. Superintendent Wheeler averred that secretaries open all mail for the principals and so come in contact with information on labor negotiations. The Superintendent posed a hypothetical situation to illustrate how this might occur. He testified that principals may be asked by letter to provide a response or calculate the impact when a change may result from a proposal in negotiations. However, providing non-confidential facts or figures which might later be used by negotiators has not been considered protected by RSA 273-A. Superintendent Wheeler agreed that E Mail, which by-passes the secretaries, is in use by most principals. When warranted, a stamp may be used to mark a hard copy as a confidential communication. No showing has been made that allowing secretaries into the bargaining unit will pose an impermissible hindrance to the public employer. Appeal of Laconia, 135 NH 421, 424-5 (1992).

The appropriate bargaining unit for support staff employed by the Monadnock School District includes the twelve secretarial positions. The remaining bargaining unit positions are instructional assistants, tutors, library assistants, custodians and maintenance personnel.

So ordered.

Signed this 22nd day of May, 1998



Gail C. Morrison