



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Monadnock Association of Principals and Supervisors

and

Monadnock Regional School District

Case No. E-0094-1

Decision No. 2010-100

Appearances:

Jon Meyer, Esq., Bacus, Meyer and Branch, LLP, Manchester, New Hampshire for
Monadnock Association of Principals and Supervisors

Joseph S. Hoppock, Esq., Hoppock & Lachman, PLLC, Keene, New Hampshire for
Monadnock Regional School District

Background:

Monadnock Association of Principals and Supervisors (Association) filed a petition for certification on January 21, 2010 seeking to represent certain employees of the Monadnock Regional School District (District). The Association requests that the PELRB determine an appropriate bargaining unit and conduct an election to determine the unit's exclusive bargaining representative. The Association was allowed to amend its petition over the District's objection. The District objects to the amended petition claiming that the employees in the proposed bargaining unit lack the requisite community of interest.¹

¹ In its written objection, filed prior to the amendment of the petition, the District also claimed that the proposed bargaining unit included supervisory employees along with employees they supervise. At the start of the hearing the parties agreed that the amendment of the petition eliminated the issue of whether the proposed bargaining unit included supervisory employees along with employees they supervise. The parties further agreed that the only remaining issue in dispute is whether the members of the proposed bargaining unit have a community of interest.

The undersigned hearing officer conducted a hearing on April 9, 2010 at the Public Employee Labor Relations Board (PELRB) offices in Concord. The parties had a full opportunity to be heard, to offer documentary evidence, and to examine and cross-examine witnesses. The parties' stipulations are incorporated in the Findings of Fact below.

Findings of Fact

1. Monadnock Regional School District is a public employer within the meaning of RSA 273-A:1, IX.

2. Monadnock Association of Principals and Supervisors is an employee organization seeking to be certified as the exclusive representative of a bargaining unit through a representation election pursuant to the provisions of RSA 273-A:10.

3. The proposed bargaining unit consists of the following positions:

Principal, Elementary Library/Media Generalist, Director of Buildings and Grounds, Technology Coordinator, Title I Services Coordinator, and Food Service Director.

4. The District includes the Towns of Troy, Fitzwilliam, Richmond, Swanzey, Gilsum, Sullivan, and Roxbury.

5. The District is composed of one high school, one middle school, and six elementary schools.

6. The District is operated through a 15-person elected School Board.

7. The District is a part of SAU 38 which also covers the Towns of Winchester, Hinsdale, and Surry.

8. The proposed bargaining unit consists of 12 employees.

9. All members of the proposed bargaining unit are current employees of the District.

10. The District has two existing bargaining units: teachers' bargaining unit and educational support staff bargaining unit.

11. The members of the proposed bargaining unit do not belong to any other existing bargaining unit, nor are they covered by any collective bargaining agreement between the District and any existing unit.

12. All members of the proposed bargaining unit work as managers and supervisors for the District with responsibilities for the management and supervision of staff and programs integral to the educational mission of the District.

13. All members of the proposed bargaining unit work within the geographical limits of the District.

14. All members of the proposed bargaining unit are supervised by the SAU 38 administrators who are, in turn, supervised by the Superintendent.

15. All members of the proposed bargaining unit are salaried employees.

16. The positions in the proposed unit require different educational qualifications.

17. The members of the proposed bargaining unit believe that they have a common interest in negotiating collectively.

18. The members of the proposed bargaining unit interact with each other regularly and work together to resolve common problems and to advance the common goal of educating students.

19. All members of the proposed bargaining unit supervise and evaluate employees outside of the proposed bargaining unit. They also have budgetary and planning responsibilities.

20. The members of the proposed bargaining unit consider themselves educational managers.

21. There is a strong self-felt community of interest among the members of the proposed bargaining unit.

Decision and Order

Decision Summary

The Association's petition is granted. The Association has proposed an appropriate bargaining unit characterized by a sufficient community of interest within the meaning of RSA A:8, I and Pub 302.02. It is reasonable for the employees to negotiate jointly. This matter shall proceed to a representation election.

Jurisdiction

The PELRB has jurisdiction of all petitions to determine bargaining units and certify the exclusive representative of an approved bargaining unit through the process of a representation election pursuant to RSA 273-A:8, 273-A:10, and Pub 300.

Discussion

The New Hampshire legislature has recognized the 'right of public employees to organize and to be represented for the purpose of bargaining collectively with the state or any political subdivision thereof' Laws 1975, 490:1." See *Appeal of International Brotherhood of Police Officers*, 148 N.H. 194, 196 (2002). RSA 273-A:8, I vests the PELRB with the authority to determine the appropriate bargaining unit and certify the exclusive representative thereof. "The principal consideration in determining an appropriate bargaining unit is whether there exists a community of interest in working conditions such that it is reasonable for the employees to negotiate jointly." *Appeal of Town of Newport*, 140 N.H. 343, 352 (1995) (quoting *Appeal of the University System of New Hampshire*, 120 N.H. 853, 855 (1980)). RSA 273-A:8, I provides that

the community of interest may be exhibited by *one* or more of the following criteria, although it is not limited to such:

- (a) Employees with the same conditions of employment;

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

(Emphasis added).

The PELRB rules provide additional criteria for determining whether a community of interest exists:

- (1) A common geographic location of the proposed unit;
- (2) The presence of:
 - a. Common work rules and personnel practices; and
 - b. Common salary and fringe benefit structures; and
- (3) The self-felt community of interest among employees.

Pub 302.02 (b). In addition to considering the principle of community of interest, the PELRB also takes into account the effect of forming any particular bargaining unit on the efficiency of government operations and the potential for employees within the proposed bargaining unit to experience a division of loyalties between the public employer and the employees' exclusive representative. See Pub 302.02 (c) (1) and (2).

“[T]he statutory framework which guides PELRB decisions is flexible, and gives much discretion to the PELRB’s expertise. The statute and regulation require only that certain factors may be considered in determining whether a community of interest exists.” *Appeal of University System of New Hampshire*, 131 N.H. 368, 374 (1988). Under the statute and regulations, “the PELRB need not find each criterion satisfied in order to find that a community of interest exists.” *Appeal of Town of Newport*, 140 N.H. 343, 352 (1995).

In the present case, there is a sufficient community of interest between the members of the proposed bargaining unit. The evidence proves the existence of the strong self-felt community of interest among the employees in the proposed unit. All of the employees in the proposed bargaining unit function within the same organizational unit, work within the geographical limits of the District, and are in the same professional category, i.e. the category of

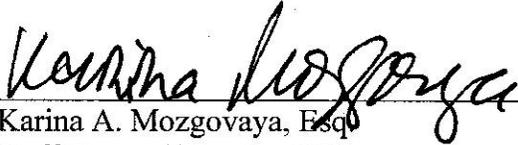
educational management. The members of the proposed unit interact with each other on regular basis and work together to advance the educational mission of the District. Although the positions in the proposed unit require different educational qualifications, all members of the proposed unit are educational managers who supervise and evaluate the employees outside the proposed unit and make managerial decisions. The Association has met its burden of proving the existence of a sufficient community of interest so that it is reasonable for the members of the proposed bargaining unit to negotiate jointly. In addition, the District's evidence is insufficient to prove that the formation of this bargaining unit will have a negative effect on the efficiency of District's operations. Similarly, the evidence is insufficient to prove that the employees within the proposed bargaining unit will likely experience a division of loyalties between the public employer and the exclusive representative.

Accordingly, the Association's petition is granted. This matter shall proceed to election to determine the exclusive bargaining representative, if any, of the following bargaining unit:

Principal, Elementary Library/Media Generalist, Director of Buildings and Grounds, Technology Coordinator, Title I Services Coordinator, and Food Service Director.

So ordered.

May 21, 2010



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Staff Counsel/Hearing Officer

Distribution:
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