



NH Supreme Court affirmed this decision on March 22, 1991, Slip Opinion No. 99-489. 134 N.H. 64 (1991).

**State of New Hampshire**

**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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BOW EDUCATION ASSOCIATION, NHEA/NEA :  
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 Petitioner :  
 :  
 v. :  
 :  
 BOW SCHOOL BOARD, S.A.U. 19 :  
 :  
 Respondent :

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CASE NO. T-0265:4  
DECISION NO. 89-56

APPEARANCES

Representing the Bow Education Association, NHEA/NEA:

James F. Allmendinger, Esq., Counsel

Representing the Bow School Board:

Robert E. Murphy, Jr., Esq., Counsel

Also appearing:

- Timothy S. Gormley, Superintendent
- Alan Hall, Esq.
- Angelyn D'Ambruoso, Bow School Board
- Carmine C. Giangreco, Asst. Superintendent
- Barbara Ward, Bow Education Association
- Jerri Stanley, Bow Education Association
- Stacey Peters, NEA-NH
- Marc Benson, NEA-NH
- Juanita Holm, Bow School Nurse
- Patricia A. McLean, Principal

BACKGROUND

On October 7, 1989, the Bow Education Assocation (BEA) filed a petition to modify the certified bargaining unit to include the position of school nurse, stating that a previous sidebar letter between the BEA and the Bow School Board (Board) in which the BEA agreed not to petition PELRB for inclusion of the nurse position in the bargaining unit expired on June 30, 1988 and has not been renewed.

The Board objected to the modification on the basis of community of interest and the collective bargaining agreement which was in force until June 30, 1989 and excluded the nurse position.

A hearing was held in the PELRB Office on April 18, 1989 with all parties represented.

Counsel for the Board moved to dismiss based on the new agreement by and between the BEA and the Board effective July 1, 1989 through June 30, 1992 and which did not include the position of school nurse.

PELRB took the motion under advisement and proceeded to hear the merits of the case.

FINDINGS OF FACT

1. The sidebar agreement made by the parties related to part-time and not full-time nurses. In March of 1987, the nurse position was made full-time and the clause was not renewed.
2. The modification petition was filed on October 7, 1988.
3. The new agreement between the parties is effective July 1, 1989 through June 30, 1992 and bears June 29, 1989 signatures.
4. For 2 years, Bow's school nurse was hired for 5 hours a day, however, in 1970, she was placed on full-time schedule and paid at a rate of 90% of the teachers' salary. In 1973, the position was placed on the teachers' salary schedule
5. A second nurse was later hired and paid on an hourly basis until the Spring of '87 when the position was made full-time and payment approved by the School District at 90% of the teachers' salary.
6. Several attempts were made in prior negotiations to include the nurse position in the teachers' unit, all without success.
7. School nurses have been included in the N. H. Retirement since 1947.
8. School nurses are under the direct supervision of the school principals, are evaluated, expected to attend faculty meetings, involved in and sign the town report, work 186 school days, have similar benefits, and are in daily contact with teachers, students and parents.
9. There are differences in educational requirements between teachers and school nurses, however, both professions are recognized by professional recognition and certification agencies.
10. Salary structures and schedules can and frequently are negotiated differently.
11. The community of interest was clearly evident in testimony presented by nurses, teachers and principals in this case.

The above findings by PELRB are hereby substituted for the parties' request for findings.


DECISION AND ORDER

After consideration of all evidence and testimony, PELRB ORDERS:

- A. The motion by Counsel for the School Board denied.
- B. Modification of the certified bargaining unit is hereby granted.
- C. Certification amended to read:

"All full-time and half-time teachers (half-time teachers are defined as only those teachers working at least one-half of the day for the entire school year, or at least one-half of the days of the school year), including art, music, physical education, media generalist, guidance counselor, speech therapist, health educator and nurse employed in that capacity; excluding the Superintendent, Assistant superintendent, Principals, Assistant Principals, Administrative Assistant and all other administrative personnel, all clerical, custodial and lunch staff, part-time employees, teacher aides, and all other employees of the Bow School District."

Signed this 21st day of August, 1989.

  
EDWARD J. HASELTINE, CHAIRMAN

By unanimous vote, Edward J. Haseltine, presiding, members Seymour Osman and James C. Anderson. Also present, Evelyn C. LeBrun, Executive Director.