



NH Supreme Court dismissed appeal of this decision on September 11, 1986, NH Supreme Court Case No. 85-495.

State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

HINSDALE FEDERATION OF TEACHERS,
LOCAL 4255, AFT/NHFT

Petitioner

v.

HINSDALE SCHOOL DISTRICT, S.A.U. 38

Respondent

CASE NO. T-0339:2

DECISION NO. 85-69

APPEARANCES

Representing the Hinsdale Federation of Teachers:

Theodore G. Wells, Jr., Executive Director, NHFT/AFT
Ellen R. Edison, President
Penny Galbreath, Nurse

Representing the Hinsdale School District:

Harry S. Gale, Jr., Consultant
Roger L. Sundstrom, Superintendent

BACKGROUND

A modification petition was filed by Local 4255, Hinsdale Federation of Teachers, AFT/NHFT, (Federation) to include the position of school nurse in the certified unit stating that at the time of certification, the position of school nurse was a part-time position and that in the Fall of 1983, the position was changed to full-time.

The Hinsdale School District (District), through its consultant, filed an objection to the modification on the basis that the exclusion by the parties at the time of certification was not due to her work status.

Hearing on the petition was held in the Board's office in Concord, N.H. on September 5, 1985 with both parties represented.

FINDINGS OF FACT

On May 11, 1982 a petition for certification was filed by the Federation including all full-time classroom teachers, guidance counselors, department chairmen, elementary reading supervisor, elementary special education teachers and secondary special education teachers. Unit composition was a result of mutual

agreement by and between the Federation and the District; agreement signed by Austin E. Frain, then Superintendent, and Ellen Raissa Edson, Representative. Exclusion agreed as the nurse position at the time was a part-time position with no classroom duties and no teaching, with the nurse solely responsible for the medical problems of the individual students.

RSA 200:29 does allow each school board to appoint a school nurse to function in the school health program and provide her with proper facilities and equipment with the requirement that she shall be a licensed, registered professional.

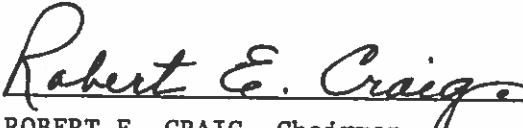
The Hinsdale nurse is a "professional" responsible for the complete health programs of the students. She administers medication/injections, prepares health budgets, coordinates physical health programs and is responsible for the emergency care of children and staff. In addition, she conducts sex education programs for the 5th and 6th grades and a science unit health program for the 7th and 8th grades.

She works under the direct supervision of the school principals, the same as the classroom teachers; she has been required to fill out an "Individual Staff Member" evaluative criteria report, a requirement for each member of the professional staff. She provides a direct service to students and functions as an integral part of the teaching/learning process and shares the same basic work hours and work year; shares common duties including attendance at teachers meetings, PTAs and workshops; she is entitled to some sick leave and Blue Cross/ Blue Shield benefits. She is an employee of the District, as are the classroom teachers, works in the same work location, under the District's organizational structure as a "professional" employee. Although certification by the State of New Hampshire is no longer a requirement, her duties directly relate to the educational programs; such as, psychological counseling of students; consulting with teachers regarding students with special problems; and, participating in evaluating student problems.

In considering the inclusion of other personnel in the same bargaining unit with teachers, one must consider factors other than teaching classes of students, which would suggest that only employees doing the same job or having the same title have a community of interest; RSA 273-A does not in any way suggest this but, in fact, infers a very different interpretation; i.e., Section 8, II which authorizes the combining of professional and non-professional personnel in the same bargaining unit. Obviously if professional and non-professional personnel meet the test of community of interest with each other, various categories of professional employees also meet the test.

DECISION AND ORDER

Having found that the nurse does possess a community of interest with the classroom teachers and is an integral part of the educational process, the petition for modification for inclusion of the school nurse position in the certified bargaining unit is hereby GRANTED.


ROBERT E. CRAIG, Chairman

Signed this 12th day of September, 1985.

By unanimous vote. Chairman Robert E. Craig presiding. Members Seymour Osman and James C. Anderson present and voting. Also present, Executive Director, Evelyn C. LeBrun.