

Vermont Labor Relations Board

EDUCATIONAL SUPPORT PERSONNEL]	
UNIT OF THE MISSISQUOI VALLEY]	
EDUCATION ASSOCIATION,]	
Petitioners]	
- and -]	DOCKET # 77-38R
]	
MISSISQUOI VALLEY UNION HIGH]	
SCHOOL BOARD OF SCHOOL DIRECTORS,]	
Petitionees]	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case.

This matter was brought before the Board by petition of the Educational Support Personnel Unit of the Missisquoi Valley Education Association dated 28 February 1977 and filed 1 March 1977. No answer was filed by the petitionee, although a letter was received from David M. Corey, Assistant Superintendent of Schools, declining on the part of the School Board to file an answer but requesting that a hearing be set before the Vermont Labor Relations Board. A hearing was set on the petition in the Jury Lounge, Chittenden County Court House, Main Street, Burlington, Vermont on Friday, 25 March 1977 at 2:00 P.M. The petitioners were represented by Norman P. Bartlett, Vermont Education Association UNISERV Representative, and by Leonard Barrett, President. The petitionees were represented by David M. Corey, Assistant Superintendent of Schools of the Franklin Northwest Supervisory Union, and by Hugh Gates, a member of the School Board.

The Board investigated the interest of the petitioners as determined under the provisions of 21 V.S.A., Section 1724.

Discussion of Issues, Evidence and Credibility of Witnesses.

The issues as proposed by the parties were the appropriateness of the proposed bargaining unit, which was to include both custodians and teacher aides. It was noted by the parties that there were also available for inclusion in the proposed bargaining unit bus drivers, secretaries, secretarial aides, library aides, a miscellaneous person retained for disciplinary purposes and known locally as the "gendarme" and cooks. The similarity or divergence of the interests of the separate members of the proposed bargaining unit and the general conditions of employment and whether overfragmentation would result, from the certification of the proposed bargaining unit were sub-issues considered. There was in general no conflict between the testimony presented by the various witnesses.

Findings of Fact.

1. The petition of the Educational Support Personnel Unit of the Missisquoi Valley Education Association was dated 28 February 1977 and filed 1 March 1977, seeking recognition by the Board on the part of the petitioners to become the exclusive bargaining representatives for approximately seven employees, including custodians and teacher aides.

2. It is found that the petitioner had sufficient interest to support an election, to wit, not less than thirty percent of the members of the proposed bargaining unit having signed a petition or interest card within the meaning of 21 V.S.A., Section 1724.

3. That at all times material hereto, the following employees were employed by the Missisquoi Valley Union High School District, viz.: five (5) custodians and two (2) teacher aides.

4. All the employees to be included in the proposed bargaining unit work in the same building, some are paid on an hourly rate and others

on a salary basis and they have the same fringe benefits. Both teacher aides and custodians have signed interest petitions.

5. The custodians and the teacher aides have different work days, a different working year, and they have no previous history of bargaining as a unit.

6. If the custodians and the teacher aides were divided into two units, overfragmentation would result from certification to a degree which would be likely to produce an adverse effect on the effective representation of the employees and on the effective operation of the school.

7. The head custodians are Alfred Jetty and Gordon Cheney. They are both on the daytime shift, and there is no actual supervision of the evening shift. The school administration sets the work schedules and assigns custodians to A, B, C, and D "pods".

8. Negotiations have been conducted in the past informally with the custodians and teacher aides, which negotiations the School Board has found to be effective but perhaps not satisfactory. Formerly, the administration has negotiated with the custodians and the teacher aides separately.

9. Although the head custodians have some supervisory functions, close supervision is not required by the nature of the work done. The head custodians could recommend the hiring of a custodian to administrative personnel. They have the power to fire custodians but do not apparently wish to exercise it. They evaluate the performance of the three other custodians.

10. The teacher aides are salaried personnel and not hourly personnel. They work on school days only.

11. There are approximately 1,200 students in the Missisquoi Valley Union High School and 70 teachers. Negotiations are conducted

annually with the teachers and with the administrators at the present time. No formal negotiations are conducted with the cooks, drivers, disciplinarian, secretaries or bookkeeper.

12. The unit proposed by the Educational Support Personnel Unit of the Missisquoi Valley Education Association is appropriate in regards to similarity of interests, needs, and general conditions of employment.

13. Approximately seven employees could be members of the proposed bargaining unit, and, if included, could be represented effectively in such a unit.

14. The proposed bargaining unit would not result in overfragmentation to a degree likely to produce an adverse effect on the effective representation of other employees or the effective operation of the school district.

15. No rival employee organization seeks to represent the same individual employees or the same jobs or positions for which recognition is being sought.

16. The exhibits and the transcripts are made a part of these findings for purposes of review by the Supreme Court.

Conclusions of Law and Opinion.

Although no specific issue was raised by the parties as to whether or not the "head custodians" were supervisory personnel within the meaning of the law, the Board has reviewed the evidence before it in this area and in balance must conclude that although the head custodians do have some authority, in the interest of the employer, to hire, suspend, discharge or assign the three other custodians, or effectively to recommend such action, it would appear that the exercise of such authority is strictly

under the supervision of the administration, and that actually the custodians on the evening shift have no supervision other than the assignments made for them by the administration.

In general the Board finds that it would be in the best interests of the employees to be included in the proposed bargaining unit and of the School District that an election be held to determine whether or not these employees desire the Educational Support Personnel Unit to become the exclusive bargaining agent for the custodians and teacher aides, and that the unit is an appropriate one under the circumstances, with the exceptions previously noted.

Order.

NOW, THEREFORE, it is hereby ORDERED pursuant to 21 V.S.A., Section 1724, that a collective bargaining unit for the custodians and teacher aides is appropriate; and that a secret ballot election shall be conducted by this Board on 8 June 1977 to determine whether or not these employees wish to be represented for exclusive bargaining purposes by Educational Support Personnel Unit of the Missisquoi Valley Education Association or No Union. The election shall take place between 3:30 P.M. and 4:30 P.M. on Wednesday, 8 June 1977, in the Head Custodians' Office at the Missisquoi Valley Union High School, Swanton, Vermont.

Dated at Montpelier, Vermont this 20th day of May, 1977.

VERMONT LABOR RELATIONS BOARD

By John S. Burgess
JOHN S. BURGESS, CHAIRMAN

William G. Kemsley, Sr.
WILLIAM G. KEMSLEY, SR.

H. James Wallace
H. JAMES WALLACE