

## VERMONT LABOR RELATIONS BOARD

GRAND ISLE SUPERVISORY )  
UNION-NEA )  
 ) DOCKET NO. 14-11  
and )  
 )  
ALBURGH SCHOOL BOARD )

### MEMORANDUM AND ORDER

The issue before the Labor Relations Board in this matter is whether to grant the unit clarification petition filed on January 29, 2014, by the Grand Isle Supervisory Union-NEA (“Association”) to add the two behavioral interventionists employed by the Alburgh School Board (“Employer”) to the support staff bargaining unit represented by the Union. There currently are 18 employees in the support staff bargaining unit. If the Board grants the unit clarification petition, the two employees would be added to the bargaining unit without an election in which they vote on whether they wish to be represented by the Union.

Section 34.1 of Labor Relations Board *Rules of Practice* provides that “a petition for clarification of an existing bargaining unit may be filed by a collective bargaining representative or an employer where no question concerning the majority status of the exclusive bargaining representative is pending at the time” the petition is filed. Such a petition “may be filed where 1) there is a dispute over the unit inclusion or exclusion of employee(s), or 2) there has been an accretion to or reorganization of the workforce, or 3) the collective bargaining representative or employer seeks a reorganization of the existing structure of a bargaining unit or units.” Accretion is a method whereby new employees, whose work and interests are aligned with those of employees in an existing bargaining unit, are added to that unit. If the duties of the new employees are identical or

substantially similar to those of employees in an existing bargaining unit, it is appropriate to find an accretion.<sup>1</sup> A determination shall be made whether the new employees share a community of interests with employees in the existing unit.<sup>2</sup>

The Association position is that an accretion has occurred in this case because the two behavioral interventionists are new hires this school year and their duties are very similar to existing support staff bargaining unit positions represented by the Association. The support staff bargaining unit presently consists of custodians, maintenance workers, bus drivers, secretaries, paraprofessionals and food service workers. The Association asserts that the behavioral interventionists' interests are closely aligned with employees in the support staff bargaining unit.

The Employer has indicated agreement to include the two behavioral interventionists in the support staff bargaining unit based on the Recognition article of the existing collective bargaining agreement between the Employer and the Association which provides that the "Board recognizes the Association . . . as the exclusive representative of a bargaining unit consisting of all support staff employees . . . of the Alburgh School District, excluding teachers and administrators." The Employer states that behavioral interventionists are similar to support staff employees in the bargaining unit because they do not require licensure in their positions.

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<sup>1</sup> Barre Town School Chapter, AFSCME Local 1369 and Barre Town School District, 13 VLRB 364, 368 (1990). Woodstock Union High School Teachers Organization, Educational Support Personnel Unit and Woodstock Union High School District, 22 VLRB 186, 196 (1999). UE Local 267 and University of Vermont, 24 VLRB 260 (2001). AFSCME Council 93 and Town of Colchester, Town of Colchester and AFSCME Council 93, 30 VLRB 281 (2009). Vermont State Employees' Association and Judiciary Department of the State of Vermont, 32 VLRB 21 (2012).

<sup>2</sup> Barre Town, 13 VLRB at 369. Woodstock, 22 VLRB at 196. UE Local 267 and University of Vermont, 24 VLRB at 270.

We approve the parties' agreement to add the behavioral interventionists to the existing bargaining unit through a unit clarification petition. It is appropriate to add them to the unit through an accretion given that the Association currently represents all eighteen support staff employees other than the behavioral interventionists, and the parties agree on the similarity of the two newly hired behavioral interventionists to support staff employees in the existing bargaining unit. It is evident that the work and community of interests of behavioral interventionists are sufficiently aligned with those of employees in the existing bargaining unit to add them to the unit without an election.

Accordingly, it is ordered that the behavioral interventionists are added to the bargaining unit of support staff employed by the Alburgh School Board represented by the Grand Isle Supervisory Union – NEA.

Dated this 6th day of March, 2014, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

/s/ Richard W. Park

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Richard W. Park, Chairperson

/s/ James C. Kiehle

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James C. Kiehle

/s/ Gary F. Karnedy

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Gary F. Karnedy