

University of Hartford and International Union, United Automobile, Aerospace and Agricultural Implement Workers of American UAW, and its Local 376, Petitioner. Case 34-RC-828 (Formerly 39-RC-828)

June 15, 1989

DECISION ON REVIEW AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
JOHANSEN AND CRACRAFT

On July 7, 1988,¹ the Regional Director for Region 34 issued a Decision and Direction of Election in the above-entitled proceeding. He found appropriate for collective bargaining the petitioned-for unit of building service (custodial) and grounds-keeping employees employed by the University of Hartford at its 200-acre campus situated in the communities of Hartford, West Hartford, and Bloomfield, Connecticut. In accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Employer filed a timely Request for Review of the Regional Director's decision. The Employer contended that the unit was too limited in scope, and that the only appropriate unit should be a universitywide, nonacademic unit that would include all its clerical and technical employees, skilled tradesmen, and power plant employees (approximately 225), in addition to the approximately 80 unskilled building service and groundskeeping employees sought by the Petitioner.

The Board, by Order dated August 5, granted the Employer's Request for Review, but denied its motion for stay of the scheduled election; thus, the election was held on August 5, and the ballots were impounded.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case, including the parties' briefs on review, and has decided to affirm the Regional Director's finding that the petitioned-for unit is an appropriate unit for bargaining.

The Employer's administrative functions are organized into six operational divisions, with all division heads reporting to the Employer's president, who in turn is responsible to the board of regents. Each of the Employer's operational divisions consists of a varying number of departments. Departments, in turn, may be divided into various sections. All the employees in the unit found appropriate by the Regional Director are employed in the

Division of Administration and Student Services, and all but six are employed in the Operations Department of that division. Those six employees are employed in the Department of the Dean of Students. There is no history of collective bargaining for any of the employees involved herein, and no labor organization seeks to represent these employees in a broader unit.

The Operations Department is divided into four sections, including custodial (or building services), grounds, trades, and utility services.² The unit found appropriate by the Regional Director consists of 61 custodians, a household aide assigned to the president's residence, and a stock distribution-equipment maintenance employee in the custodial or building services section of the department, all of whom are supervised by the Manager-Building Services; and 11 groundskeepers, a mail delivery person, a vehicle maintenance person in the grounds section of the department, all of whom are supervised by the Manager-Grounds. All of these employees are employed in the Operations Department. In addition to the above, the unit found appropriate includes six custodians who are assigned to the Department of the Dean of Students; these six custodians work in the student union and in community centers, but otherwise perform the same custodial functions as the custodians in the custodial section of the Operations Department.³

The Regional Director excluded the following employees whom the Petitioner did not seek to represent, but whom the Employer would include: approximately 20 skilled tradesmen employed as carpenters, electricians, plumbers, painters, and locksmiths, who are assigned to the physical plant section of the Operations Department; approximately 11 refrigeration and ventilation specialists, who work in the power plant and are assigned to the utility services section of the Operations Department; approximately 25 technical maintenance employees (technicians employed in various departments within the Academic Affairs Division; and various office clerical, secretarial, and mail service employees, who work in a variety of divisions and departments.

² See Emp. Exh 1(d). We note that occasionally witnesses referred to the custodial and grounds sections as the "Building and Grounds" section, and to the trades and utility services sections as the "Physical Plant" sections.

³ The Regional Director also included in the unit found appropriate one mail clerk/courier, whom the Petitioner would have excluded from the unit. The Regional Director found that although the mail clerk/courier was employed in a different division, he spent most of his time performing campus mail and package delivery duties, together with the mail delivery person, and was engaged in unskilled, "blue collar"-type duties. No request for review was filed concerning the inclusion of the mail clerk/courier.

¹ All dates are in 1988 unless otherwise noted

The Employer's Human Resources Department establishes and promulgates a uniform set of personnel policies universitywide, maintains all personnel records, applies a single job evaluation and performance rating system to all nonacademic employees, sets all wage and salary grades within the Employer's single wage system for all hourly employees, administers the benefit program and the single internal grievance procedure, and is involved in recruiting and screening job applicants. Transfers and/or promotions outside a particular department are posted universitywide, and the Human Resources Department arranges interviews, handles paperwork, and ultimately approves all such personnel actions.

The employees in the unit found appropriate by the Regional Director are similarly situated, unskilled employees performing basic cleaning and maintenance functions. The custodians or building service employees perform routine and typical cleaning functions throughout the Employer's facilities, perform some light moving jobs, and change light bulbs; the stock distribution employee distributes cleaning supplies and materials to the custodians; and the household aide performs custodial duties at the president's home. The groundskeepers are responsible for grounds maintenance and seasonal work such as snow removal, completing necessary excavations, and performing heavy moving jobs. The mail delivery employee spends approximately 25 percent of his time doing groundskeeping work, and the rest collecting and/or distributing mail throughout the facility and transporting the mail clerk/courier. The vehicle maintenance employee performs routine maintenance work on all the Employer's vehicles, specialty equipment and small equipment, and drives the plow truck and spreads sand during snow removal. Groundskeeping employees assist him in making repairs on mowers, snowplows, leafblowers, and edgers.

These unskilled employees have only minimal work-related contact with skilled employees in the Operations Department, i.e., the tradesmen and power plant specialists (utility service employees). For example, the custodians are required to clean up after major mechanical repairs are made. Similarly, system repairs outside the buildings may involve contact between groundskeepers and skilled tradesmen. There have been only minimal transfers from building services and groundskeeping positions to other jobs outside the proposed unit, and there is no evidence of other employees transferring into these positions.

In determining the appropriate scope of a unit at a college or university, the Board examines prior

bargaining history, centralization of management (especially with respect to labor relations), employee interchange, interdependence of facilities, differences or similarities of skills and functions, and geographic locations. See *Tulane University*, 195 NLRB 329, 330 (1972); *Cornell University*, 183 NLRB 329 (1970).

Applying these factors to the instant case, we agree with the Regional Director's determination that the petitioned-for unit is an appropriate unit for bargaining, although it consists of only the Employer's unskilled maintenance employees.⁴ We recognize that this unit is not a typical "blue collar" unit such as the Board has found appropriate in other university situations, and as was the case in *Georgetown University*, 200 NLRB 215 (1972), in which the petitioner sought employees in service classifications that included custodial, housekeeping, and "maintenance craft" functions.⁵

Although the employees in the unit found appropriate constitute neither an entire maintenance department nor a grouping with a core of craft-type employees who themselves may constitute a separate appropriate unit, the unit includes all employees doing custodial and groundskeeping work throughout the Employer's 200-acre, 43-building facility, regardless of their administrative departmental classification.⁶ These employees have separate immediate supervision by the managers of their respective sections within the Operations Department, they have only minimal contact with the Employer's other nonprofessional employees, and there has been little or no interchange or transfer into or out of the included classifications.⁷

The other employees whom the Employer would include in the unit do not share a community of interest with the petitioned-for employees as would mandate their inclusion in the unit. The technical maintenance employees, who are employed in the Academic Affairs Division, are assigned to a particular position, are separately supervised, and perform unique, specialized tasks that

⁴ The Board has found that a functionally distinct unit of maintenance employees may constitute an appropriate unit. See *California Institute of Technology*, 192 NLRB 582 (1971) (where the employer's powerhouse employees were highly skilled, separately supervised, and performed readily identifiable job duties). See also *University of Rochester*, 222 NLRB 532 (1976). But compare, *Duke University*, 227 NLRB 1627 (1977).

⁵ In *Georgetown University*, 200 NLRB 215 (1972), the Board drew an analogy between such a "blue collar" unit in a university setting and the usual production and maintenance unit in the industrial area, noting that such a unit normally does not include office clerical or technical employees with manual workers. 200 NLRB at 216.

⁶ See *Harrak's Club*, 187 NLRB 810 (1971).

⁷ Contrary to the Employer, *Harvard College (Harvard II)*, 269 NLRB 821 (1984), does not preclude our finding appropriate a unit that consists of only a portion of the Employer's nonprofessional employees, as this unit is campuswide in scope as to all employees in the same classifications.

are specifically focused on their individual posts. Several possess skills commonly associated with skilled tradesmen and, in some cases, the skilled tradesmen in the Operations Department utilize the technicians' tools, equipment, or shops. Technical maintenance positions include such classifications as television technical specialist and electrical engineering technician; in many cases, the employer requires previous work-related experience in addition to specialized study beyond high school.⁸

The skilled tradesmen and power plant employees perform skilled functions, are subject to separate supervision, and have had virtually no transfers or other interchange with the employees sought. The Employer requires tradesmen and power plant employees to have journeyman-level training and experience, plus responsible work experience, and several of the classifications require licenses. Finally, it is the Board's long-established policy to exclude office clerical employees from units of manual workers such as those included in the unit herein. *Georgetown University*, 200 NLRB at 216.

Accordingly, we find, in agreement with the Regional Director, that the petitioned-for unit of building service and groundskeeping employees is an appropriate unit for collective bargaining, inasmuch as all the employees are performing similar, unskilled duties, and thus share a community of interest that is not defeated by their assignment to different departments within the Employer's organizational structure. *Harrah's Club*, 187 NLRB at 813.⁹

⁸ In *Harrah's Club*, supra, the Board held that the smallest appropriate unit had to include all employees engaged in cleaning and repair functions. Given the different nature of the operation in *Harrah's*, we do not view the inclusion in the petitioned-for unit of the various types of repair employees there as mandating the inclusion of the Employer's specialized technicians.

⁹ See also *Shannon & Luchs*, 162 NLRB 1381 (1967).

ORDER

The Regional Director's Decision and Direction of Election is affirmed. The case is remanded to the Regional Director for further appropriate action, including the opening and counting of the impounded ballots.

MEMBER JOHANSEN, dissenting.

I would find that the petitioned-for unit is too limited in scope to constitute an appropriate unit for collective bargaining. As my colleagues in the majority point out, the unit found appropriate by the Regional Director consists of only a *portion* of the Employer's maintenance employees. In my view, the unit must include the Employer's other general maintenance employees—the skilled tradesmen—who also are part of the Operations Department and who perform work throughout the University. Such a unit is consistent with the typical “blue collar” unit the Board more often finds appropriate. See *Georgetown University*, 200 NLRB 215 (1972). In the instant case, it is clear that these skilled tradesmen—the carpenters, electricians, plumbers, painters, and locksmiths who are assigned to the physical plant section of the Employer's Operations Department—share a substantial community of interest with the petitioned-for employees because of the service and maintenance duties they all perform. Although they perform only the skilled work associated with their trades, it is not unusual for them to work side by side with employees included in the petitioned-for unit. Furthermore, the Petitioner has indicated that it would be willing to proceed with an election in a unit that includes both the building service and grounds employees and the skilled tradesmen.

Accordingly, I would reverse the Regional Director, vacate the election, and direct a new election in an expanded unit that includes the Employer's skilled tradesmen.