o APPROPRIATE UNITS
MAY 1994

1 PELRB No. 2

BEFORE THE
STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NEA-Belen, Petitioner	)	
and	)	
Belen Federation of School Employees, Petitioner	)	Case Nos. CP 38-93(SD) CP 46-93(SD)
and	)	
Belen Consolidated Schools. Employer	)	

DECISION AND ORDER OF THE NEW MEXICO PUBLIC EMPLOYEE LABOR RELATIONS BOARD

On April 11, 1994, Administrative Law Judge Bridget A. Burke of the New Mexico Public Employee Labor Relations Board ("Board" or "PELRB") issued a Decision and Order finding that NEA-Belen's petitioned-for bargaining unit consisting of transportation employees to be appropriate under the Public Employee Bargaining Act ("Act" or "PEBA"), NMSA 1978, §§10-7D-1 to 10-7D-26, (Repl. Pamp. 1992). Based on this conclusion the Administrative Law Judge ("ALJ") ordered an election for the three units of employees at Belen Consolidated Schools ("Employer"). Appropriate bargaining units are a certified unit, a classified unit, and a transportation unit.

Thereafter, in accord with Rule 2.15 of the Board's Rules and Regulations ("Rules"), 4 N.M. Reg. No. 6, 475 (Mar. 31, 1993), the Employer filed a timely request for review by the PELRB of the ALJ's Decision.[1] The Petitioner NEA-Belen filed a timely response to the Employer's request for review; the Petitioner Belen Federation of School Employees notified the Board in writing it would not file a response.

After reviewing the entire record, including the request for review and response thereto, the Board adopts all of the ALJ's findings of fact, analyses, and conclusions of law. The Decision in Case Nos. CP 38-93(SD) and CP 46-93(SD) persuasively and thoroughly analyzes the unit determination issue based on the whole record. It presents a template of research and a guide for labor organizations and employers seeking to resolve disputes arising under the PEBA. We therefore adopt it as decision of the Board.

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[1]Rule 2.15 reads in relevant part:

> The request for review shall state the specific portion of the hearing officer's or Director's recommended disposition to which exception is taken and the factual and legal basis for such exception.

The Employer should not be surprised by our disposition of this case given its failure to cite any fact as a basis to support its exceptions. A party requesting a review must cull from the record and affirmatively present to the Board the particular facts applicable to its exception. A party that fails to do so, as here, acts at its own peril. Merely referring the Board to page numbers without particulars does not satisfy Rule 2.15. We address the inapposite legal basis proffered by the Employer at p. 6.

Notwithstanding our determination that the Employer's pallid exceptions fail to meet the requirements for review in Rule 2.15, we will address the substance of those issues for the benefit of and guidance to other public employers, employees and labor organizations.

1. **Fragmentation**

The first exception is an assertion that the creation of a transportation employee unit violates the principle of efficient administration of government. The creation of a third bargaining unit, beyond the certified and classified units, would fragment its work force according to the Employer.

We appreciate the opportunity to address the significant issue of fragmentation early in the Board's existence. Although there is nothing in the Act or Rules specifically addressing fragmentation, the Act does require that, among other principles set forth in §13, the principle of "efficient administration of government" be considered when determining an appropriate bargaining unit. This requires striking a balance between public employees' rights to self-determination and public employers' rights to maintain stability in government operations. The maintenance of such stability may, under various circumstances, outweigh a group of employees' desire to be placed in a separate unit where the creation of such a unit would lead to fragmentation. *See*, Mallinckrodt Chem. Works, 162 NLRB 387, 64 LRRM 1011 (1966).

Consequently, we adopt an anti-fragmentation policy to avoid unnecessary and needless proliferation of bargaining units. We do so because the failure to promulgate such a policy could have a deleterious effect on the efficient administration of government with simultaneous negative consequences for management, labor, and the community at large.

Of course the balance already has been measured and weighed by labor organizations and employers in certain cases where multiple units were mutually agreed-upon without the invocation of a formal hearing or Board decision and order.[2] Those situations reflect the self-determination and efficient administration of government interests as appropriately determined by those at the operational level of the labor-management relationship. We have no reason to believe or conclude they violate our policy.

While acknowledging the potential problems attendant to fragmentation, we are unpersuaded that the facts of this particular case raise any fragmentation considerations. Again, we note the absence of any fact cited by the Employer in its exception to support the request for review. The Employer's statement that

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[2]*See* Carlsbad Federation of United School Employees and Carlsbad Municipal School District, Case No. CP 15-93(SD)(food service and educational assistants); NEA-Carlsbad and Carlsbad Municipal School District, Case No. CP 34-93(SD)(certified, licensed); NEA-Carlsbad and Carlsbad Municipal School District, Case No. CP 39-93(SD) (clerical and secretarial); and USWA and Carlsbad Municipal School District, Case No. CP 52-93(SD)(custodial\maintenance).

certain "decisions, and others which appear to exist but counsel has been unable to locate so far" does not tilt the balance towards a conclusion that the petitioned-for unit of transportation employees fragments the workforce and, therefore, is inappropriate.

Our review of the ALJ's decision and the record persuades us that the transportation employees constitute a distinct unit with a community of interest separate from other employees. The creation of a separate bargaining unit for them will not fragment the workforce or violate the statutory principle of efficient administration of government. Accordingly, the Employer's first exception lacks merit.

2. Centralization of Labor Relations Policy

With respect to the second issue, the Employer excepts to the ALJ's application of the factors for determining community of interest found in Kalamazoo Paper Box Corp., 136 NLRB 134, 49 LRRM 1715 (1962)(hereinafter Kalamazoo).

Specifically, the Employer objects to what it perceives to be the ALJ's refusal to consider other factors described as "the centralized determination of labor relations policy and the resulting existence of personnel policies which apply generally to all employees." It cites National Labor Relations Board ("NLRB") cases and reviewing courts' decisions involving employers who operate multiple sites or facilities.

The cases relied upon include discussions of the centralized versus decentralized nature of employers' labor relations policies and their consequences. As the Petitioner NEA-Belen observes in its response to the request for review, the issue in those cases was whether to (1) certify separate bargaining units for employees who do similar work at geographically separate facilities or (2) include the employees from multiple facilities in a single bargaining unit.

Here, the determination that the transportation employees constitute an appropriate unit does not turn upon whether the Employer operates numerous facilities under a centralized or decentralized labor relations policy. Moreover, we do not find the analogy to regionally-based businesses or universities with multiple campuses helpful or applicable in this instance.

Furthermore, the ALJ's Decision clearly indicates that she determined the Employer's labor relations policy is centrally based. That the ALJ did not declare "centrally based labor relations policy" to be a separate factor for determining community of interest is inconsequential to the resolution of this case. Therefore, we find that the Employer's second exception is without merit.

In sum, we are satisfied that the nine factors listed in Kalamazoo provide a sufficiently broad-based standard under which a thorough analysis of community of interest may be conducted.[3] No single factor of the nine announced in Kalamazoo will be conclusive on the issue of community of interest. These factors may not always definitively point to a particular outcome as they clearly did in this case; future cases may involve some elements supporting one outcome and others indicating another outcome. Therefore, the test for determining community of interest should not be considered a rule to be mechanically applied but a means of sifting through relevant facts to reach well-reasoned community of interest determinations.

Although not raised by the parties for review, we address the following topics found in the ALJ's Decision because of their central importance in the emerging collective bargaining relationships occurring throughout the State. For example, we recognize the fact-specific, nature of appropriate unit determinations and acknowledge that these determinations must be made on a case-by-case basis.

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[3]We reaffirm our earlier position stated in County of Santa Fe, 1 PELRB No. 1 (November 18, 1993), regarding our intent to follow National Labor Relations Act ("NLRA") practice and precedent where the provisions of the NLRA and PEBA are "closely similar." We also refer to fn. 18 in the ALJ's Decision: "The concept of unit is virtually the same for both private and public sector unit determinations." (Citation omitted.)

Most important, we highlight our adoption of the ALJ's interpretation of §13 of the Act regarding our responsibility to designate "*an* appropriate unit," not necessarily the most comprehensive or most appropriate unit. The ALJ correctly interpreted and applied the statutory phrase "...a clear and identifiable community of interest in employment terms and conditions and related personnel matters among public employees involved," from §13 of the Act (emphasis added) to be part and parcel of the same factor (evaluating community of interest) rather than a separate factor to be considered. Related to these considerations is the ALJ's conclusion, which we adopt, that the occupational groupings listed in §13(A) are advisory as opposed to mandatory directives for configuring appropriate units.

Finally, we emphasize that where a labor organization's petitioned-for unit is appropriate, an alternative proposal or configuration proffered by an employer will not be substituted. In this regard, the Board's function in a unit determination is to determine an appropriate unit consistent with the Act's requirements. Substitution of an alternative unit, which may also be an appropriate one, does not correspond with employees' expression of their self-determined interests and could place an employer in the tenuous posture of subjecting itself to an allegation of interference in the formation of the labor organization's petitioned-for unit.

Based on a whole record review of the two-day formal administrative hearing before an ALJ where each party made offers of proof with an opportunity to call and cross-examine witnesses, followed by the filing of post-hearing briefs, supplemented by the Employer's request for review and NEA-Belen's response thereto, this proceeding now culminates with the PELRB entering the following order:

ORDER

The Employer's two exceptions are denied and dismissed.

A secret ballot election shall be conducted among employees in the units defined below at an appropriate time and place to be determined by the Director and issued in a Notice of Election.

In accord with the Act and Rules, eligible employees in Unit A shall be given an opportunity to vote between representation by NEA-Belen and "No Representation."

Eligible employees in Unit B shall be given an opportunity to vote between representation by the Belen Federation of School Employees and "No Representation."

Eligible employees in Unit C shall be given an opportunity to vote between representation by NEA-Belen and "No Representation."

Unit A
All Belen Consolidated Schools' employees in the following job classifications:

Included: All certified employees including diagnosticians, Chapter I teachers, teachers, librarians, bilingual specialists, counselors, nurses, therapists, interpreters, and pathologists.
Excluded: All management employees, supervisors and confidential employees as defined by the Act, classified employees and all others.

Unit B
All Belen Consolidated Schools' employees in the following job classifications:

Included: All classified employees including secretaries, warehousemen, custodians, cafeteria workers, educational aides, and support aides.
Excluded: All management employees, supervisors and confidential employees as defined by the Act, transportation employees, certified employees and all others.

Unit C
All Belen Consolidated Schools' employees in the following job classifications:

Included: All transportation employees including bus drivers, bus aides, mechanics, and mechanic aides.
Excluded: All management employees, supervisors and confidential employees as defined by the Act, certified employees and all others.

Discussed and decided by the Board during open session at its May 4, 1994, meeting in Santa Fe, New Mexico, following notice and publication of the meeting pursuant to the Open Meetings Act.

By direction of the Board.

Patrick J. Halter
Director of the Board

Issued: May 13, 1994

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NEA-Belen, Petitioner	)	
and	)	
Belen Federation of School Employees, Petitioner	)	Case Nos. CP 38-93 (SD) CP 46-93 (SD)
and	)	
Belen Consolidated Schools. Employer	)	

Administrative Law Judge's Decision and Order

On April 7, 1993, NEA-Belen ("Petitioner"), filed a Representation Petition in Case No. CP 38-93 (SD), pursuant to the Public Employee Bargaining Act ("Act" or "PEBA"), NMSA 1978, §§10-7D-1 to 10-7D-26, (Repl. Pamp. 1992), and the Public Employee Labor Relations Board's Rules and Regulations ("Rules"), 4 N.M. Reg. No. 6, 475 (Mar. 31, 1993).[1] Petitioner NEA-Belen seeks to represent all certified employees in the Belen Consolidated Schools ("Employer"). This Petitioner also seeks to represent the Employer's transportation employees in a separate unit. A second labor organization, Belen Federation of School Employees, filed a Representation Petition in Case No. CP 46-

[1] The NEA-Belen's original Petition sought a single unit of certified employees and transportation employees. On January 25, 1994, NEA-Belen amended its Petition to seek two separate bargaining units covering the same two groups of employees.

93 (SD), pursuant to the Act and Rules, on April 21, 1993, seeking to represent all non-certified[2] employees other than the Employer's transportation employees. As a result of a joint request by the parties, the two cases were joined for purposes of hearing.

The cases were heard on January 26, and 27, 1994, at which time all parties were given an opportunity to participate, to adduce relevant evidence, to examine witnesses, to argue orally and to file written briefs.[3] The parties have agreed to the appropriateness of the Petitioner NEA-Belen's petitioned-for certified unit, which includes teachers, physical therapists, occupational therapists, speech pathologists, counselors, librarians, and diagnosticians. The parties could not agree, however, on the appropriateness of the Belen Federation of School Employee's petitioned-for non-certified unit, consisting of cafeteria workers, custodians, secretaries, maintenance workers, clerical aides, instructional aides, and receptionists, as the Employer believes the transportation employees belong in that unit. For the same reason, the parties could not agree to the appropriateness of a third unit consisting only of transportation employees. Because the parties were able to resolve many issues found in the original Petitions, the single issue for hearing concerned the appropriate unit for the transportation employees. These employees are the bus drivers, bus aides, mechanics, and mechanic aides. After full

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[2] The terms non-certified and classified will be used interchangeably in this Decision.

[3] The Belen Federation of School Employees took a passive role in the hearing, declining to call any witnesses, declining to participate in cross-examination of other witnesses, and by declining to submit a post-hearing brief.

consideration of the parties' stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I make the following findings:

I. Stipulated Findings

1. The parties stipulate, and I find, that the Belen Consolidated Schools, is a public employer with the meaning of §10-7D-4(Q) of the Act, and that the Public Employee Labor Relations Board ("Board") has jurisdiction over this matter.
2. The parties stipulate, and I find, that NEA-Belen and Belen Federation of School Employees are both labor organizations within the meaning of §10-7D-4(J) of the Act.
3. The parties stipulate, and I find, that a history of collective bargaining between the NEA-Belen and the Employer, existed prior to 1987, for the certified employees.
4. The parties stipulate, and I find, that there has been no history of collective bargaining between the non-certified employees, including the transportation employees, and the Employer.
5. The parties stipulate, and I find, there is no contract bar to elections in these cases.

6. The parties stipulate, and I find, that certain supervisory[4] and confidential[5] employees originally in issue are properly excluded from the petitioned-for units, and that certain part-time employees[6] originally in issue are properly included in the proposed units.

7. The parties stipulate, and I find, that the long-term substitutes are excluded from the petitioned-for non-certified unit, and that the permanent cafeteria substitutes are properly included in this unit.[7]

8. The parties stipulate, and I find, that the certified unit, petitioned for by the NEA-Belen, is an appropriate bargaining unit.

9. A question of representation exists, at this time, as the Employer declines to recognize the Petitioners as the exclusive bargaining representatives of its employees.

II. Issues and Contentions

The only matter remaining in issue is the appropriate unit for the transportation employees. The Petitioner NEA-Belen petitioned for the creation of a separate unit of transportation employees. The Belen Federation of School Employees has not petitioned for the inclusion of the transportation employees in the unit of non-certified employees it

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[4] Employer's Exhibit 3.
[5] Employer's Exhibit 4.
[6] Employer's Exhibit 5.
[7] Employer's Exhibit 6.

seeks, and does not wish to include the transportation employees in the unit it seeks. The Employer argues that the transportation employees belong with the other non-certified employees.

III. Findings of Fact

A. Background

Belen is a community of approximately 6,600 people located 32 miles south of Albuquerque. Surrounding communities add about 7,000 people to the local school district's potential student population. The Belen Consolidated School District is composed of six elementary schools, one middle school, and one high school. There are approximately 4,100 students enrolled in the Belen schools. The school district employs nearly 250 licensed personnel and 207 support personnel. Compared to other school districts in the state, Belen is considered a middle-sized school district.

The school district is governed by the Belen Consolidated Schools' Board of Education. It consists of five members, elected in odd-numbered years and each serving a term of four years. Meetings of the board of education are generally held twice a month and special meetings are called as necessary. The board of education hires a superintendent to supervise the day-to-day operations of the district. This position is currently held by Barbara Armbruster. Superintendent Armbruster oversees the operations of five departments: support services, business operations, elementary/federal programs/personnel, secondary/collective bargaining/personnel, and health/student

assistance. A director oversees the operations of each of the five respective departments and he or she reports to Superintendent Armbruster.

The Employer's entire budget is approximately $21 million. Ninety-seven percent of the Employer's budget comes directly from the state.[8] This percentage is consistent with funding for other school districts around the state. The funding level for education is determined each year by the state legislature and is appropriated to each district through an equalization formula. The Employer's budget is prepared at the district level, and is approved by the five-member board of education at a public meeting. Although bound by certain guidelines set by the state, the board of education has the authority to set spending levels in all areas including salaries. The Employer's final budget is reviewed and approved by the state Department of Education.

The Employer owns and operates a bus fleet of 42 vehicles. There are 31 regular and special education bus routes and 11 kindergarten routes which cover approximately 2,709 miles per day and transport around 2,800 students. Free bus transportation is provided for: (1) kindergarten through sixth graders who live a mile or more from their assigned school (2) seventh and eighth graders who live one and a half miles or more from their assigned school and (3) ninth through twelfth graders who live two or more miles

[8] The Employer submitted conflicting testimony and evidence on the exact percentage of the federal and other non-state dollars constituting its budget. It appears from the record, however, that the amount of money from the state is at least 97% of the operating budget. The federal dollars appear to be between .2% and 1% of the budget, and the balance of the funds from local sources. The exact percentage of federal dollars is not determinative of the single issue before me, the appropriate unit for the transportation employees. The above figures are sufficient for purposes of examining this case.

from their assigned school. Transportation is also provided for three and four year-olds and special education students based on individual needs.

B. School District Operations

Like most organizations, the Employer uses numerous committees to more effectively and efficiently carry out its functions. These include a personnel advisory committee, budget committees, textbook selection committees, master planning committees, and building and facilities committees. Employees are encouraged to participate in many of these committees. One of the purposes of utilizing the committee structure is to obtain important input from employees regarding specific building, as well as district-wide, policy. There are also less formalized meetings among some department directors with their employees. For instance, the director of support services meets with transportation employees and separately with the cafeteria workers to foster more open communications between the employees and management.

In addition to using committees for the collection and dissemination of information, the Employer also uses a number of handbooks to communicate policy to employees. There is a manual containing the school board's policies and procedures, and an employee handbook which is generally applicable to all school district employees and covers a broad range of topics from licensure, to benefits, to support services. There are also a number of handbooks which the Employer describes as "site specific" which reflect

specific policies for a given school, and the transportation employees are subject to the policies outlined in the transportation policy handbook.[9]

C. Employer Bargaining Team

The Employer has named six people team to act as the management negotiating team. The team includes Betty Bobroff, Ph.D. (director of secondary/collective bargaining/personnel), Kenny Griego (director of business operations), Laura Gilbert (principal), Macario Sanchez (transportation department foreman), Dolores Padilla (bookkeeper), and Pete Torres (director of support services). Marie Garcia (director of elementary/federal/personnel) is to serve as an alternate. The Employer intends to have this team negotiate all contractual matters with any and all unions that are certified to represent the school district employees.

D. Certified Personnel

As indicated above, the school district consists of five departments. The certified employees, or licensed personnel, are found in the elementary, secondary, and health departments of the Employer. These employees are distinguished from the classified employees because of their level of education and their duties for the most part require

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[9] The Employer's director of secondary/collective bargaining/personnel, Bettye Bobroff, Ph.D., testified that there is no functional difference between the site specific teacher handbooks and the transportation policy handbook. The director of support services, Pete Torres, referred to the transportation policy handbook as "...kind of a local site type of handbook..." and "...it's a handbook for the operations and functions that take place...the manner in which we operate at the bus compound...our guidelines that we use." The actual subject matter covered in these handbooks suggests that they serve different purposes. The teacher handbooks generally include a copy of the school calendar, attention to lesson plans, care of classrooms, and playground as well as cafeteria duty schedules, among other things. The transportation policy handbook covers state-mandated policies and procedures for transportation personnel. Examination of these materials reveals that the teacher handbooks are more advisory or informational in nature, whereas failure to comply with the policies outlined in the transportation policy handbook would result in violating state law.

that they work directly with children. State law provides for a system of tenure for certified personnel and a statutory right to be re-employed from year-to-year after an employee has completed three years of service to his or her district. Certified employees are supervised by their respective building principals, with the exception of the special education teachers who report to the assistant director of special education. Nursing staff report to the health/student assistance coordinator. Applicants for certified staff positions initially must be processed through the Employer's personnel office. When there is an opening at a school, the principal will review the applications submitted and make a recommendation to his or her department director (either elementary or secondary), and the department director in turn makes a recommendation to the superintendent who makes a recommendation to the board of education. The same basic process is followed for discharge determinations. The process for evaluating certified and classified employees is described as being very similar in substance, only different forms are used. In the case of certified staff, the supervisor, principal, completes the annual evaluation of the employee.

For the most part, the certified personnel are located at the individual school sites, although some, certain special education staffers, work at other sites. Generally, certified personnel work each school day from 8:30 a.m. to 2:30 p.m. Although exact times may vary, a typical work day is usually approximately six hours long. These employees are paid on a salary basis and for the most part work 183 days of the year.

E. Classified Personnel

Classified personnel are generally defined as those employees in the school district who perform support services. They are the custodians, cafeteria workers, secretaries, maintenance workers, clerical aides, receptionists, and instructional aides; although the transportation employees fall under the umbrella category of classified employees, they will be discussed more fully below. Classified employees are found throughout the Employer's five departments. They work in the schools as well as administrative offices of the Employer. The state does not regulate the Employer's classified employees to the same degree as the certified employees. Most employment-related decisionmaking regarding the classified staff is left to the discretion of the school district.[10]

As with the certified staff, classified personnel are hired through procedures administered by the Employer's central personnel office. Applicant names are given to the site supervisor, usually a principal, and the supervisor in consultation with others at the site, will decide whether to hire the individual. When classified employees are initially hired, they must perform their jobs satisfactorily during a six-month probationary period in order to be retained. In each subsequent year, these employees sign "letters of intent" providing for employment for the following year.

Classified employees are usually supervised by the school principal, although instructional aides report to the teacher with whom he or she works. The site supervisor performs most annual evaluations, except in the case of instructional aides who are

[10] There are some state-mandated requirements regarding the employment of instructional aides.

evaluated by the site supervisor in cooperation with the teacher working directly with the aide. Classified personnel in the cafeteria, maintenance, and warehouse/purchasing ultimately report to the director of support services, although there are intermediary supervisory personnel at their individual work sites. For instance, the director of support services evaluates the head cook in the cafeteria, and the head cook in turn assists him in evaluating the other cooks. The immediate supervisor for the warehouse/purchasing department is Chris Marquez[11], and the immediate supervisor for the maintenance department is Edwin Vallez.

Discharge of classified staff is handled in much the same way as the certified employees; the supervisor recommends action to the director of the department, who makes a recommendation to the superintendent, who makes a recommendation to the school board.

Classified employees are paid on an hourly, rather than salaried basis. They can enhance their compensation by taking course work recognized by the Employer in order to receive incremental increases in their wages. A typical work day for most classified employees is from 8:00 a.m. to 4:30 p.m., although the instructional aides may only work until 2:30 p.m., and some custodians may begin and end work earlier. Although there is some year-round staff, the clerical workers at the Employer's central office and some custodians, most classified employees employed at school sites work approximately 180

[11] Although Mr. Marquez has apparently retired from the school district, there is nothing in the record to suggest his position no longer exists.

days. Most maintenance personnel work throughout the year and some of them have obtained commercial drivers licenses so that they may drive certain Employer vehicles.

F. Transportation Personnel

The transportation employees are the Employer's bus drivers, bus aides, mechanics and mechanic aides. These employees are charged with the safe and efficient transportation for the 60 % of the school district students who must be brought to and from school each day. This department is heavily regulated by the state. The state issues a number of handbooks and memoranda mandating policy for the school districts regarding the transport of students, qualifications for transportation personnel, and upkeep of transportation vehicles.[12] Additionally, the transportation employees are paid from "categorical funds" from the state.[13] This dollar amount is determined by the state and dispersed to the school district. The district has no discretion about the how these dollars are spent; such funds are only applicable to the transportation functions of the district. In addition, the bus drivers and aides are paid according to a salary schedule developed by the state. The schedule reflects a formula converting miles driven into an hourly wage. The transportation employees, unlike the other classified employees, are not eligible for incentive salary adjustments for additional course work completed.

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[12] The Employer submitted at least five exhibits covering state regulation of the school district's transportation function. The director of support services testified that the state basically tells him how to operate his department.

[13] Unless otherwise specified, all references in this Decision to the term "categorical funds" will pertain to those dollars flowing from the state which provides at least 97% of the Employer's budget. There are approximately 29 classified and certified employees, other than the transportation employees, whose salaries are paid in part or totally by categorical funds from the federal government. As indicated in Footnote 8, above, the federal government provides between .2% and 1% of the Employer's budget.

The director of support services is charged with preparing the transportation department's budget. He does this according to procedures and dollar amounts provided by the state. The Employer's director of business operations, who is otherwise charged with fiscal matters involving the Employer, does not prepare the transportation department's budget.

The hiring process for transportation employees is similar to that of the other classified and certified employees, except that background checks must be conducted in order to determine whether the applicant meets the licensure and physical requirements of the job, and that he or she does not have a criminal record. Transportation employees sign year-to-year employment contracts like the other classified employees. Similar to all the other employees in the school district, these employees are paid twice a month and are eligible for the same benefit packages. The transportation employees report directly to the director of support services. The department director evaluates the bus drivers and bus aides, and the shop foreman in cooperation with the director evaluates the mechanics.

The transportation employees work only at the bus compound. However, some bus drivers spend between one hour and one and a half hours per day doing additional work at school cafeterias or playgrounds, when they are not driving a bus route. Those who do this additional work at the schools are hired by the respective school principals to perform these duties. Each bus driver is required to have a commercial drivers license (CDL). All bus drivers must also pass a physical exam and complete 48 hours of special training which includes behind-the-wheel training, first aid, defensive driving, and

emergency training. Each driver is also required to complete eight additional hours of in-house training each year. New bus drivers are required to attend the Institute for Bus Drivers at Silver City, and every two years thereafter.

There are morning, kindergarten/midday, and afternoon bus runs. Some of the drivers and bus aides begin work at 5:40 a.m. on the earliest runs, and others complete their days on the latest run at 5:15 p.m. The drivers "bid" on runs. Only the drivers who live in a particular geographic area can bid on the route in that area, and the driver with the most seniority gets the run over those with less seniority. This seniority depends strictly on the amount of time an employee has been in the transportation department. The drivers must complete daily paperwork associated with driving their buses. The bus drivers and aides work approximately 180 days a year. Although the Employer's bus driver job description does not contain a high school diploma or General Equivalency Diploma (GED) requirement, the Employer established a policy in July of 1993, that all new school district employees meet this requirement.

The bus aides assist disabled students who use the Employer's buses. The aides insure that the students get on and off the bus safely, and that they are secured properly in their seats on the bus. Although the state does not require that the bus aides be first aid certified, the department director does require they have such certification.

The mechanics and mechanic aides are charged with the maintenance and upkeep of the district's vehicles including making necessary repairs, washing and fueling the

buses. The mechanics also attend some classes offered at the Bus Drivers' Institute in Silver City. If there are not enough drivers available to drive the buses, mechanics who have their CDLs will drive the buses. The mechanics are paid on an hourly basis and generally work eight hour shifts, beginning at staggered times from 6:00 a.m., 7:00 a.m. and 8:00 a.m.

G. History of Collective Bargaining

The Petitioner NEA-Belen has maintained some form of presence in the Belen School District since at least the early 1970's. Although NEA has been around for at least twenty years, the record in this case only reflects the existence of one collective bargaining contract. The Employer and the Petitioner NEA-Belen negotiated this contract to cover the years 1985-1987. The contract specifically stated that it applied to teachers, with no mention of any other employees.

There has not been any collective bargaining between the certified staff and the Employer during at least the last two years (1992-1993). Although it is clear that the teachers have undertaken collective activity with NEA assistance since the 1970's, the record does not contain evidence of the same degree of organization among other employee groups, or that other employee groups ever attempted to bargain collectively with the Employer. The record does reflect that the cafeteria workers and the bus drivers each have informal employee associations. In addition to their informal bus drivers' association, the bus drivers have had some form of a relationship with the NEA-Belen

dating back to approximately 1983. Some bus drivers have in fact belonged to NEA, and held leadership positions, since at least 1983. In addition, the Petitioner NEA-Belen has in the last year assisted at least one transportation employee, a bus driver, with processing a grievance. As a result of the bus drivers' affinity to NEA the Belen Federation of School Employees chose not to include the transportation employees in their representation petition seeking to represent the Employer's classified staff.[14] The record contains testimony regarding the "jurisdictional truce" between the NEA and the New Mexico Federation of Teachers (Belen Federation of School Employees) whereby the two unions divided up the educational employees in the state rather than quarrel over them. The testimony regarding the "truce" demonstrates that there was never a question whether the Belen Federation of School Employees would attempt to represent the transportation employees because of the long-standing relationship between the bus drivers and the NEA.

IV. Discussion and Analysis

A. Appropriate Unit

The issue presented in this case is whether the Employer's transportation employees belong in a separate unit as urged by Petitioner NEA-Belen or in the non-certified unit as contended by the Employer. Resolving this issue turns on the determination of an "appropriate unit" for the transportation employees. Accordingly,

[14] School district administrators' as well as employees' testimony during the hearing confirmed the bus drivers' perception that they are a separate and distinct group from the other school district employees.

we turn to the relevant section of the Act dealing with appropriate bargaining units. Section 10-7D-13 (A) of the Act provides:

> The board or local board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining units for collective bargaining. Appropriate bargaining units shall be established on the basis of occupational groups, a clear and identifiable community of interest in employment terms and conditions and related personnel matters among the public employees involved. Occupational groups shall generally be identified as blue collar, secretarial clerical, technical, professional, paraprofessional, police, fire and corrections. The parties, by mutual agreement, may further consolidate occupational groups. Essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act.

At this stage of New Mexico's public sector labor law development, the Board and courts have not had an opportunity to interpret this section of the Act. Therefore, I will use the plain language of the Act, National Labor Relations Board (NLRB) precedent[15], and other state public employee labor boards' decisions for guidance.[16] I begin by examining each of the factors listed in the statute.

First, the above-cited section of the Act clearly states that the Board, "shall designate *the* appropriate units for collective bargaining." (emphasis added). The

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[15] In County of Santa Fe, 1 PELRB No. 1, 43 (November 18, 1993), the Board announced "Where provisions of PEBA are the same as or closely similar to those of the NLRA, we will give great weight to interpretations of such provisions made by the NLRB and reviewing courts."

[16] Although examining caselaw from other state boards may be helpful, it is critical to bear in mind that each state's jurisprudence reflects that particular state board's interpretation of its own law which is not identical to the PEBA. Each state's caselaw also is influenced by policy and or historical circumstances unique to that state.

Employer argues that the use of "the" in the above sentence means the Board has a responsibility to establish the optimum grouping of employees. To do as the Employer suggests would require the Board to ignore NLRB precedent, as well as other state boards' precedents, on this issue.[17] The Petitioner NEA-Belen, on the other hand, points out the similarity between the National Labor Relations Act, 29 U.S.C. §§ 151-159 ("NLRA") and PEBA on this issue, and urges that the Board turn to NLRB precedent for guidance. According to the Employer the Board's responsibility is different from that of the NLRB because the NLRB is only required to find "*a* unit appropriate for collective bargaining" pursuant to the NLRA , 29 U.S.C. § 159(a). (emphasis added).

The alleged difference here concerns the use in PEBA of "the" and the use of "a" in the NLRA. The Employer's argument stems from its citation practice and not substantive law. The analogous provision of the NLRA is not 29 U.S.C. §159(a) which relates to exclusive representatives and employees' adjustment of grievances, but 29 U.S.C. §159(b) regarding the *determination of a bargaining unit by the NLRB*. This section of the NLRA states in relevant part: "The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising their rights guaranteed by this subchapter, *the unit appropriate* for the purposes of collective bargaining..." (emphasis added). As the NLRA and PEBA provisions on appropriate

[17] The Employer cautions that "...federal doctrines must be carefully filtered through the additional provisions of the New Mexico Act." The Employer's concerns about the indiscriminate application of federal law to this case are understood; however, the fact that the NLRA only covers private sector employment does not mean we cannot glean useful and reasonable interpretations from the federal law on basic accepted labor law principles also applicable to the public employment setting.

units are actually quite similar, it is instructive to consider what the NLRB has interpreted this language to mean.[18] The NLRB and reviewing courts have concluded that it is not the NLRB's role to decide the most optimal bargaining unit, but simply an appropriate unit. The leading case on this issue is Morand Brothers Beverage Co., 91 NLRB 409, 26 LRRM 1501 (1950), where the NLRB held: "There is nothing in the statute which requires that the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the *most* appropriate unit: the Act requires only that the unit be 'appropriate.'"

Furthermore, §10-7D-13(B) of PEBA provides that, "Within thirty days of a disagreement arising between a public employer and a labor organization concerning the composition of an appropriate bargaining unit, the board or local board shall hold a hearing concerning the composition of the bargaining unit before designating an appropriate bargaining unit." The drafters' use of "an" in this instance acknowledges the possibility of the existence of more than one appropriate unit.

Therefore, following the NLRB and other state public employment boards'[19] approach on this subject makes more sense, than to do as the Employer suggests, which would give the Board broad authority to fashion what it finds to be the *most* appropriate unit. Moreover, the Board's adoption of the NLRB's approach on the "appropriate unit

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[18] "The concept of unit is virtually the same for both private and public sector unit determinations." George T. Roumell, Jr., Practising Law Institute, Public Sector Labor Relations at 155 (1972).

[19] To name only a few: Montana Public Employees Association and University of Montana, DR #2-76 (MBPA 1976); In the Matter of the Employees of Alleghany County, 11 PPER ¶11031 (Court of Common Pleas of Alleghany County, 1979) [Pennsylvania]; Bensenville District No. 2, 1 PERI ¶1020 (IL ERLB 1984); and Industrial & Public Employees, Local 1998 and Marion County, 12 FPER ¶17182 (Fla. PERC 1986).

issue" would be consistent with its conduct to date regarding voluntary recognition petitions and other representation petitions before it. Thus far, the Board and Director have assumed a deferential role when passing on these determinations. To do otherwise would result in an untenable situation where the Board unduly interfered in the affairs of public employers and labor organizations. This is not to say that the Board, or the Director, should refrain from their statutory responsibilities to examine the issue of appropriate unit in every case, but it does mean that this review should be undertaken with an eye toward allowing for the efficient administration of government and protecting the rights of public employees as required by the Act, and by not meddling in the good faith efforts by unions and employers to fashion appropriate bargaining units. To this end, I recommend that the Board maintain its current posture of noninterference, except where a proposed bargaining unit is clearly inappropriate. As a result, if a petitioning labor organization seeks a unit that is found to be appropriate, the employer's alternative proposals should not be considered. P.J. Dick Contracting, 290 NLRB 150, 129 LRRM 1144 (1988).[20]

[20] In P.J. Dick Contracting Inc., the NLRB concluded, "Board inquiry pursues not the most appropriate or comprehensive unit but simply *an* appropriate unit. Once this unit is determined, the requirements of the Act are satisfied. The inquiry first considers the petitioning union's proposals. If the union's proposed unit is inappropriate, the employer's proposals are then scrutinized." (citations omitted). See also, City of Warrensville Heights, 10 OPER ¶1223 (OH SERB H.O. 1993), where the Hearing Officer found, "The pivotal issue for resolution in a bargaining unit determination case is whether the petitioned for unit is an appropriate unit regardless of any other possible configuration, options and alternative units. Only after a reasoned determination has been made that the petitioned-for unit is not appropriate can other alternate units be discussed." (citation omitted).

B. Occupational Groups

Next we turn to the criteria set forth in the Act for determining appropriate units. According to the Act, appropriate bargaining units shall be established on the basis of (1) occupational groups; and (2) a clear and identifiable community of interest in employment terms and conditions and related personnel matters among the public employees involved.[21] The Act also provides that occupational groups shall *generally* be identified as blue collar, secretarial clerical, technical professional, paraprofessional, police, fire and corrections (emphasis added). Although this sentence should be read as a condition or qualification, it does not state that these are the only appropriate occupational groupings, nor that they are mandatory, but demonstrates a statutory and widely accepted preference for such identifiable groupings.

The Employer maintains that NEA-Belen's petition for the transportation employees as a separate unit violates the Act's requirement that bargaining units be established on the basis of the statutory occupational groupings. Because I read the word "generally" found in this provision to mean usually[22], I decline to do as the Employer suggests, which I believe would read a requirement into the Act that does not exist. I do not believe it was the drafters' intent that this provision mean the only appropriate units

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[21] It is unclear whether the legislature meant for the phrase "and related personnel matters" to be a separate factor when determining the appropriateness of a unit, or if it is meant to simply relate to the preceding phrase concerning "community of interest in employment terms and conditions." Because it would appear to be redundant if treated as a separate element, I will not treat it as such until further guidance is provided by the Board, courts or legislature.

[22] "Generally" is defined as meaning: 1. For the most part: widely. 2. As a rule: usually. Webster's II, The Riverside Company, p. 524, 1988.

are those which are strictly drawn along the occupational groups listed.[23] Additionally, §10-7D-9(A)(1) of the Act gives the Board the power and duty to establish procedures for, "the designation of appropriate bargaining units." This grant of authority would be meaningless if the only appropriate units are limited to those listed in the Act. Lastly, the legislature had the opportunity to provide that units *must* be established by the listed occupational groups and they did not do so, nor did they, as at least one legislature has, specifically proscribed the number of bargaining units for certified and classified personnel in a school district.[24] Therefore, I find that the Petitioner's proposed bargaining unit of transportation employees does not violate the Act's suggested occupational groupings requirement.

C. Community of Interest

The next factor listed in the Act is "a clear and identifiable community of interest in employment terms and conditions and related personnel matters among the public employees involved." The Act does not define "community of interest" other than with the words which follow it. The phrase community of interest, however, typically refers to a listing of relevant criteria for deciding whether a group of employees have sufficient

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[23] The Board has not narrowly interpreted this section of the Act to date. If it had, the separate units for maintenance workers and custodians (Carlsbad Municipal Schools, Case No. CP 52-93 (SD) (March 1, 1994)) and cafeteria workers (Cobre Consolidated Schools, Case No. CP 45-93 (October 21, 1993)) would no longer be appropriate.

[24] Md. Code Ann., [Educ.] §6-404 and §6-505 (1992 Repl. Vol.). See also Minn. Stat. Ann. §179.A10 and §179.A11 (West 1993) (Minnesota's statute establishes appropriate units for state and university personnel); Haw. Rev. Stat. §89-6 (1988) (Hawaii designates consolidated statewide units in its statute); and Fla. Admin. Code Ann. r. 38D-17.023 (1992) (Florida's Rules specifically define statewide units by listed occupational groups).

economic relatedness to one another to justify their being grouped in a bargaining unit. One commentator described community of interest as:

> [A] vague standard which does not readily lend itself to mechanical application. It is a multi-factor criterion, and it is rare in any given case that all of the factors point conveniently in the direction of the same size unit...it is indeed possible that on the basis of community of interest, the Board may conclude that there are several units any one of which may be, in the language of the statute, "a unit appropriate" for collective bargaining.

Robert A. Gorman, Basic Text on Labor Law Unionization and Collective Bargaining, at 69-70, West Publishing Co., 1976.

Although the NLRA does not contain the phrase "community of interest", the criteria of factors it stands for is considered the fundamental means of determining appropriate unit issues. The case often cited as the principal one on this issue is Kalamazoo Paper Box Corp., 136 NLRB 134, 49 LRRM 1715 (1962).[25] The criteria listed in Kalamazoo Paper Box Corp., are: (1) a difference in method of wages or compensation; (2) different hours of work; (3) different employment benefits; (4) separate supervision; (5) the degree of dissimilar qualifications, training and skills; (6) differences in job functions and amount of working time spent away from the employment or plant situs; (7) the infrequency or lack of contact with other employees; (8) lack of integration with the work functions of other employees or interchange with them; and (9) the history of

[25] Although Kalamazoo Paper Box Corp., is a unit-severance case, it contains the NLRB enumerated criteria for determining whether community of interest factors provide for the separation of one group of employees from another. As explained more fully below, severance cases may be distinguishable from representation cases because they require the petitioning employees to not only demonstrate a sufficient community of interest, but meet additional criteria for severance.

collective bargaining. I recommend that the Board adopt this criteria for determining community of interest issues as the scope of these factors is sufficiently broad to encompass the additional requirements in the PEBA regarding "employment terms and conditions and related personnel matters among the public employees involved." Prior to applying the above criteria to this case, I turn to the parties' arguments on community of interest.

The Employer argues that the transportation workers share a substantial community of interest with the other classified employees and should therefore be included in the same unit. The Petitioner contends that the transportation workers do have a community of interest which sets them apart from the other classified employees. The Employer contends that the transportation workers do not share a sufficiently distinct community of interest among themselves to warrant the creation of a separate bargaining unit. In support of this assertion the Employer cites cases from other states "which have determined that bus drivers share a substantial community of interest with other classified employees and should be included in the same bargaining units."[26] The cases cited by the Employer include representation cases, unit clarification cases, and severance cases. One of the representation cases cited was dismissed because the union left out 95 cafeteria workers who shared a community of interest with the other classified employees in the

[26] Employer's Post-hearing Brief at 14.

petition[27], another was a petition for all classified employees where the transportation employees objected to being included[28], and the other two involved petitions by bus drivers for their own units which were dismissed.[29] Both of the unit clarification cases involved allowing bus drivers who wanted to join an *existing* unit of classified employees to be included in that larger unit.[30] The remaining caselaw cited by the Employer regards severance cases.[31] As previously mentioned, severance cases require the petitioning employees to demonstrate a sufficient community of interest *and* meet additional severance criteria in order to have their request to sever themselves from an existing bargaining unit granted. A petition to split a subgroup of employees from an existing larger bargaining unit implicates considerations absent in an original representation case for the same employees because it involves disrupting an established bargaining relationship between the employer and the broader unit. This difference is illustrated by the Washington Public Employment Relations Commission in one of the cases cited by the Employer where the Executive Director found, "While separate units of bus drivers

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[27] In the Matter of the Employees of Chambersburg Area School District, 10 PPER ¶10307 (Nisi Order of Dismissal, 1979).

[28] Oregon School Employees Assn. v. Cascade Union High School District No. 5, Case No. C-13-78, 3 PECBR 2047 (1978).

[29] Volusia County Bus Drivers Association and School Board of Volusia County, 4 FPER ¶4072 (Fla. PERC 1978) and Levy County Bus Association and Levy County School Board, 3 FPER ¶76 (Fla. PERC 1977).

[30] In the Matter of the Employees of Wilkes-Barre Area School District, 21 PPER ¶21183 (Proposed Order of Unit Clarification, 1990) and In the Matter of the Employees of Cumberland Valley School District, 15 PPER ¶15001 (Proposed Order of Unit Clarification, 1983), 15 PPER ¶15166 (Final Order, 1984).

[31] In the Matter of the Employees of Harrisburg School District, 9 PPER ¶9125 (Nisi Decision and Order, 1978); Yelm School District, Decision 704-A (PECB, 1980) and Yelm School District, Decision 704 (PECB, 1979).

undoubtedly exist in a number of the State's school districts, and while a separate unit of bus drivers could be found to be an appropriate bargaining unit, *the severance of a unit from an appropriate larger unit presents a different question than does organizing a new unit of the same employees.*" (emphasis added.)[32]

Although the caselaw provided by the Employer is illuminating, the cases involved the application of state laws and regulations containing language not present in the PEBA and facts which make them distinguishable from the instant case. For instance, the Employer cites Pennsylvania caselaw for the proposition that bus drivers share a community of interest with other classified employees. In addition to the Pennsylvania public employee bargaining act being different from the PEBA, its law is over twenty years old, contains specific anti-fragmentation language, and its Board decisions reflect that state's unfortunate history of numerous strikes by public employees.[33] Despite these differences, even Pennsylvania's Board has approved bus driver units depending upon the facts presented.[34]

The Employer cites Florida caselaw for the same proposition. Florida has also had a couple of decades to interpret its law, and its Commission over the years has amended its rules to include an anti-fragmentation requirement and mandated state-wide bargaining

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[32] Id.

[33] Public employees in New Mexico are prohibited from striking. NMSA 1978, §10-7D-21 (Repl. Pamp. 1992).

[34] Upper St. Clair Township School District, 3 PPER p. 236 (Order and Notice of Pre-Election Conference, 1973) and Neshannock Township School District, 17 PPER ¶17153 (Final Order, 1986).

units. The Commission has interpreted the Florida statute and rules to reflect a strong anti-fragmentation policy. However, if there are historical or policy reasons for doing so, even Florida will allow a bus driver and bus aides unit.[35]

From the above-quoted case from Washington, see Footnote 32, it is clear that there are bus driver units in school districts in that state. The same is true in Oregon; even though Oregon's statute does not contain anti-fragmentation language, that Board has developed a firm policy favoring wall-to-wall units.[36]

Other states have, depending upon the facts, also approved bus driver or transportation employee units.[37] Because other states' caselaw is helpful, but each case is decided on the basis of the unique facts it presents and the law of that state, I will apply the above-described criteria of factors from Kalamazoo Paper Box Corp., in order to determine whether the transportation employees in the Belen Consolidated Schools share a community of interest.

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[35] Florida Public Employees Council 79 and School District of Polk County, 13 FPER ¶18014 (Fla. PERC 1986) and Seminole County School Bus Drivers Association and School District of Seminole County, 11 FPER ¶16106 (Fla. PERC 1985).

[36] Teamsters Local Union 670, Public Employees Division v. Linn County Parks & Recreation Department, 5 PECBR 3081 (ERB 1980).

[37] Gladwin Community Schools, 2 MPER ¶820135 (MERC 1989) [Michigan]; Northwest Local School District Board of Education, 1 OPER ¶1260 (OH SERB 1984) (proposed unit comprised of school bus drivers and bus mechanics was appropriate where totality of factors weighed in favor of community of interest between the two classifications); Bensenville District No. 2, 1 PERI ¶1020 (IL ELRB 1984) (although school bus drivers and other classified staff may have shared a community of interest, such a unit was not petitioned for and the law did not mandate creation of the most appropriate unit); and College Community School District and Chauffeurs, Teamsters, and Aides, Local 238, Case No. 4750 (IA PERB H.O. 1992) (full-time, part-time and substitute bus drivers are an appropriate unit).

1. Method of wages or compensation.

All school district employees are paid twice a month. The classified employees are paid on an hourly, rather than salaried basis. Although the bus drivers' salary schedule reflects an "hourly rate", they are not paid on a truly hourly basis. They are paid according to the state-mandated salary schedule which converts the number of miles driven into an hourly sum. The transportation employees are paid from categorical funds from the state which can go to no other purpose than the Employer's transportation function. The transportation department's budget is not even considered part of the Employer's operational budget.[38]

The other classified employees wages are determined by the Employer, and not set by the state. Although there are some classified employees who are paid in whole or part from federal categorical funds, I find the fact that 97 % of the Employer's budget comes from the state, and that the state is the exclusive source of funding for the transportation department, to be a sufficiently compelling fact to distinguish the transportation employees from those other classified employees who are paid from federal categorical funds. The categorical nature of the funding for all of the transportation employees is not the only distinguishing factor in terms of their compensation. Unlike all of the other classified employees, the transportation employees are not eligible for the incentive salary

[38] The Employer's fiscal officer, the director of business operations, has nothing to do with the preparation or administration of the transportation department's budget. He was not even familiar with the bus drivers' salary schedule because all the work regarding the transportation department's budget is done by the director of support services.

adjustments for completing additional Employer-recognized course work. These facts demonstrate a difference in the method of compensation between the transportation employees and the other classified employees.

2. Hours of work.

Most classified employees work from 8:00 a.m. to 4:30 p.m. The bus drivers' and aides' hours of work is dictated by the bus runs they drive, which may be morning, kindergarten/midday, or afternoon. The bus drivers and bus aides may begin work as early as 5:40 a.m. if they have the first bus run, while others may finish their days on the latest bus run at 5:15 p.m. The mechanics and mechanic aides work eight hour shifts, the first beginning at 6:00 a.m. to coincide with the earliest bus run. The bus drivers' and aides' work days depend entirely on the routes they drive. The routes are dispersed to the drivers through a bidding process which is totally dependent upon where they live and their seniority in the transportation department. None of the other classified employees is subject to a bidding process to obtain their work assignments. Some of the bus drivers perform cafeteria or playground duty between their bus runs. This work is wholly separate from their normal functions as bus drivers and they are hired by the individual principals of the schools where such assistance is required. Based on the foregoing, I find that the hours worked and the method under which the bus drivers receive work assignments differentiates them from the other classified employees as to this element of the criteria.

3. Employment Benefits.

For the most part all school district employees receive the same employment benefits, the only differences having to do with length of service and whether an employee works half of the year, or the whole year. However, it is significant that the transportation employees are the only subgroup of classified employees who are not entitled to the salary increment for continuing education. The Petitioner points out that the Employer prides itself as being one of only a handful of school districts in the state that provides this benefit to classified staff. Despite this, the fact remains that the transportation employees are not entitled to that benefit, and this issue has been the subject of a grievance by one bus driver. Therefore, although the employment benefits for all school district employees, classified and certified are substantially the same, the transportation employees' ineligibility for the salary increment distinguishes them from the other classified personnel.

4. Supervision.

The director of support services oversees the transportation, maintenance, cafeteria and warehouse/purchasing departments. However, he directly supervises only the transportation employees. He evaluates the bus drivers and bus aides, and the shop foreman assists him with the evaluations of the mechanics. His office is also located at the bus compound where the transportation employees work. There is some form of delegation of authority to Mr. Vallez in maintenance, the head cook in the cafeteria, and Mr. Marquez in warehouse/purchasing of the director's supervisory role. Most of the

other classified employees are supervised by the principal where they work, with the exception of the instructional aides who are evaluated by the principal in conjunction with the teacher for whom they work. The same evaluation form is used for all classified employees throughout the district, but as pointed out, most classified personnel are evaluated by their immediate supervisors while the bus drivers and aides are evaluated by the director of their department. The bus drivers and aides are the only classified employees who are actually supervised directly by their department director. This factor too, distinguishes these employees from the other classified personnel.

5. Qualification, training and skills.

There is no question that the classified staff are a diverse group. It would be possible to point out differences in the work done by each of the distinct subgroups of custodians, secretaries, instructional aides, cafeteria workers and bus drivers. That is not the point. The issue here is whether, given that all of these people do undertake distinct job functions, are their basic qualifications, training and skills more similar than they are different?

First of all, the hiring, evaluating, discipline and discharge of all classified employees is carried out through a uniform process by the Employer. In that respect, the employment terms and conditions of all classified employees are alike. For instance, all classified employees including the transportation employees are subject to a six-month

probationary period, and sign a "letter of intent" as an employment contract each year, and all district employees are evaluated on an annual basis.

There is a difference, however, in the degree of regulation by the state of the transportation employees compared to all of the other classified personnel. It has been established that the state regulates the transportation department very closely. This regulation also extends to the qualifications and training of transportation employees. This degree of state regulation simply does not exist for any of the other classified employees with the exception of limited requirements for instructional aides. For example, prior to even being hired, the bus drivers must undergo background and licensure checks as well as a physical exam in order to be qualified to drive a bus. The drivers are required to have commercial drivers licenses (CDLs) and be certified in first aid.[39] Although not mandated by the state, the bus aides are required by the director to be first aid certified. The bus drivers must also complete state-mandated training at the Bus Drivers' Institute in Silver City, and participate in annual training provided in-house.

The bus drivers, aides, mechanics, and mechanic aides are all trained to carry out the function of safely transporting the district's students to and from school each day. Although all of the classified employees are charged with carrying out their support roles to further the district's ultimate mission of educating the students, the support role carried out by the transportation employees has more to do with the technical and logistical

[39] The bus drivers *must* have CDLs to drive the school buses whereas some maintenance personnel in the school district have their CDLs in order to drive Employer vehicles other than school buses.

requirements of transportation, than it does with the actual education of the students.[40] I find that the transportation employees' qualifications, training and skills demonstrates a degree of dissimilarity setting them apart from most other classified employees.

6. Job functions and amount of time spent away from employment situs.

The bus drivers' and aides' normal job duties require them to drive or ride in buses and complete inspection reports on the buses at the bus compound. When not at their employment situs, the bus compound, the bus drivers and aides are on their bus runs. The mechanics and mechanic aides perform maintenance on the buses and work exclusively at the bus compound. Occasionally, a mechanic with a CDL will fill in when there is a shortage of bus drivers. These facts also tend to distinguish the transportation employees from the other classified personnel, whose job functions do not require they spend time away from their employment situs. This is particularly true as to the bus drivers and aides, as their work by definition requires that they be away from the employment situs while carrying out their job functions.

7. Frequency or lack of contact with other employees.

As indicated above, the transportation employees have little if any interaction with the other classified staff while performing their duties due to the nature and situs of their jobs. Again, the function of all of these employees involves the transportation

[40] This is not to say that a similar argument could not also be made about the non-educational support role of the cafeteria workers, custodians, and secretaries. However, at least those individuals, for the most part, perform their job functions at the schools, whereas the transportation employees when carrying out their normal job functions are either at the bus compound or on the road driving the buses.

requirements of the Employer. Their employment situs is the bus compound or the buses. There are no certified employees located at the bus compound and no other classified employees who are eligible to be in a bargaining unit. Although the Employer emphasizes the central location of the bus compound, this does not change the fact that the transportation employees actually have little interaction with other classified employees during their work days. As noted by the Petitioner, if the bus drivers and aides interact with any other employees, it is likely certified staff and principals when they are dropping off and collecting the students at the schools. Therefore, the transportation employees lack contact with other classified employees.

8. Integration with the work functions/interchange with other employees.

I read this factor as relating to the fungibility of the classified employees. Although the record reflects that some of the bus drivers spend their off-duty time doing additional work at the schools' playgrounds or cafeterias, this work is not done incidentally to their duties as bus drivers. Also, no evidence was presented suggesting that anyone other than the transportation employees ever partakes in the crucial function of transporting students to and from school each day. No cafeteria workers or custodians fill in for absent bus drivers. Only mechanics, who have the appropriate licenses, and are fellow transportation employees, are allowed to substitute for bus drivers.

There is also the issue of seniority among the bus drivers in terms of their ability to bid on runs. Building this type of seniority depends solely upon the amount of time an

employee has spent in the transportation department. A classified employee from another department could not carry over her seniority earned in her former position to the transportation department to work as a bus driver. Her salary would be entirely dependent upon the routes available to her and upon the application of the state-mandated salary schedule. As a result of the foregoing, I conclude that there is little integration between the transportation employees and the other classified employees.[41]

9. History of collective bargaining.

The parties agree that there is no history of formal collective bargaining on the part of the transportation employees and the Employer. The Employer argues that there is no adequate history of collective bargaining by the bus drivers to support their request for a separate unit. The Petitioner NEA-Belen contends that the history of informal collective bargaining must be considered.

There is evidence that the bus drivers and aides have had an informal bus drivers' association for years, and that many of the bus drivers have belonged to the NEA-Belen since at least 1983. In addition the NEA-Belen assisted at least one bus driver in filing a grievance with the Employer. It is relevant that the transportation employees have had their own informal association, and that they have traditionally regarded themselves as different from the other classified employees. Petitioner as well as Employer witnesses,

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[41] Compare these facts to Kalamazoo Paper Box Corp., and Olinkraft, Inc., 179 NLRB 414, 72 LRRM 1337 (1969), where the NLRB found in both cases that the truck drivers seeking to be severed from an existing larger unit, spent a substantial amount of their work time performing work identical to that of the other employees. The same degree of interchangeability among employees does not exist in the instant case.

including the school superintendent, conceded at the hearing that the transportation employees have historically regarded themselves as a separate and distinct group. The record reflects that they are the only classified employees who were active in NEA-Belen and that the union apparently approved of their participation in the otherwise exclusively certified staff organization. As a result of the foregoing, I find that the transportation employees do not have a history of collective bargaining in the strict sense, but that there is evidence of informal organization on the part of these employees, in particular that the transportation employees see themselves and are treated by management as a distinct and separate group.

Application of the above community of interest criteria indicates that the transportation employees do share a distinct community of interest.[42] The analysis

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[42] The Employer suggests additional community of interest factors in its Post-hearing Brief. I decline to include them in my analysis, but will address them each here. One factor is "the relationship of the employer's administrative organization." The Employer declines to furnish any arguments to illustrate its position on this factor, other than to state it does not have the administrative personnel to staff more than one negotiating team. As explained in the text of this Decision, the Employer fails to adequately demonstrate that bargaining with a third unit would create onerous administrative difficulties, even for one negotiating team. The Employer also asserts that there is nothing to support a finding in NEA-Belen's favor based on the extent of union organization. The extent of union organization here is not, and should not be, determinative of the appropriateness of a proposed unit. Finally, the Employer raises the issue of the "desires of the employees." The Employer asserts that the wishes of the unions who divided up the district are more clear than the wishes of the employees. The desires of the employees is sufficiently manifested by the signature cards demonstrating a greater than 30% showing of interest in representation by NEA-Belen. According to Rule 2.6(a), the sufficiency of the showing of interest once determined by the Director, is not subject to question or review. If the employees in issue were not interested in representation by NEA-Belen, but representation by another union they could have chosen not to sign the cards, or they could have sought to be included in the petition filed by the Belen Federation of School Employees, or they could have organized their own independent union. They pursued none of these alternatives, and therefore the only evidence of their desire to be represented by a union is expressed in the showing of interest for NEA-Belen.

however, does not stop here. It is necessary to consider these facts in light of the remaining factors set forth in the Act for determining an appropriate unit.

D. Further Consolidation of Occupational Groups

The Act provides for *further* consolidation of occupational groups, when the parties *mutually agree* to such a unit (emphasis added). This further consolidation is permitted as a practical consideration.[43] In the case before me, the Employer argues this provision of the law "...does not authorize a consolidation to which the employer objects."[44] As the Employer sees it, the bargaining unit proposed by the Belen Federation of School Employees would consolidate the classified employees, other than the transportation employees, and it will not agree to any consolidation that includes less than all of the district's classified employees. The Employer misreads this provision of the Act. Again I turn to the dictionary for the plain meaning of the word "further." The dictionary defines "further" as additional.[45] The Petitioner NEA-Belen does not propose to create a unit by adding *additional* employees, but rather separating a subgroup from the larger group. This misunderstanding aside, the provision in question has to do with mutual agreements of the parties. Furthermore, this provision was meant to protect an

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[43] At the September 22, 1993 Board Meeting, Chairman Giron made the following remarks concerning a discussion on the appropriateness of a voluntary recognition of a wall-to-wall unit, "A public employer and labor organization can agree that a wall-to-wall unit has a community of interest. They are the first to know whether such a unit will work. In the interest of self-government, the parties should be allowed to work with such a unit." Official Minutes, September 22, 1993, at 2.

[44] Employer's Post-hearing Brief at 10.

[45] Webster's II, The Riverside Publishing Co., p. 513, 1988.

agreement between an employer and labor organization. This section permits parties to create an amalgam of occupational groups so long as the result does not offend the other statutory requirements and survives Board review. Only an extremely generous reading of this provision would allow the interpretation proposed by the Employer. There is no agreement by the parties here, much less an issue of consolidation. Therefore the fact that the Employer does not agree to this "consolidation" is of no moment. The Employer's "consolidation" contention is without merit. Clearly, in this case the parties disagreed about the appropriate unit for the transportation workers and that is why the issue is before me.

The final factors set forth in the Act for determining appropriate bargaining units are the efficient administration of government, the history of collective bargaining, and the assurance to public employees of the fullest freedom in exercising the rights guaranteed under PEBA. These factors require a balancing of the employer's interests and those of public employees seeking union representation. The Employer argues that a third bargaining unit for an employer of its size would violate the principles of efficient administration of government. The Petitioner NEA-Belen counters that no evidence other than conclusory statements of the Employer were presented to establish that a third unit would be burdensome for the Employer.

E. Efficient Administration of Government

The efficient administration of government element requires that employers be allowed to conduct their operations without undue interference from labor organizations and employees desirous of union representation. In most instances, an increase in the number of bargaining units translates into a greater burden for the employer. Therefore, the employer will often be most interested in the most comprehensive bargaining unit(s) possible. Indeed, when listing common preferences of most employers and unions when it comes to unit size, Prof. Robert Gorman points out:

> Fragmented units tend to bring economic headaches to the employer. Not only are they typically easier to organize, but they also involve the greater cost and disruption that come with frequent bargaining cycles and meetings; moreover, they expose the employer to "whipsaw" strikes by employees in one unit which inure, cumulatively, to the benefit of employees in other units...On the whole, however, it is likely that unions will favor the smaller unit, since it can be more readily organized. Since 1960, the Board [NLRB] has tended to echo this preference, since the small unit assures greater homogeneity of employee interest and maximizes employee self-determination.

Robert A. Gorman, Basic Text on Labor Law Unionization and Collective Bargaining, at 68, West Publishing Co., 1976.

The Employer, on the other hand, asserts that the NLRB favors larger groupings and in support quotes Prof. Gorman's text at 82, "Broadly stated, there is an assumption that the fragmentation, from a larger plant-wide grouping, of craft (or departmental) employees is a sources [sic] of industrial instability and is justified only when those employees have very distinct economic interests which cannot fairly be represented on a

larger industrial basis."[46] The Employer goes on to cite caselaw involving the *severance of craft units from larger industrial units.* The Petitioner asserts that the standards for severance of skilled-craft bargaining units has no relevance to the present case. Although these cases involve different standards, I decline to go so far as to say they have no relevance to this case. It is true, as the Employer states, that the NLRB generally favors larger groupings in cases involving *craft employees.*[47] Even so, the NLRB will permit craft employees to have their own unit if they can show they are a distinct and homogeneous group and meet other Board announced standards. Mallinckrodt Chemical Works, 162 NLRB 387, 64 LRRM 1011 (1966).

The Employer points out that the standards announced in Mallinckrodt are generally applied to severance questions involving departmental units, besides true craft units. In Mallinckrodt, the NLRB denied a request by 12 instrument mechanics seeking severance from an existing unit of 280 production and maintenance employees, which had a company-wide bargaining history of twenty-five years. Critical to the NLRB's decision in that case was the operational interdependence of the group desiring to be separated and the rest of the production employees in the existing unit. The same parallel could not be drawn in the instant case. Clearly, the bus drivers perform a very important function for the Employer in transporting the students, but the Employer's essential function is to

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[46] Employer's Post-hearing Brief at 29.

[47] "Craft" is defined as: A trade or employment or occupation which requires skill, manual ability, an understanding of the principle of the trade, and a fixed training period. Early efforts at unionization began among the skilled crafts such as the tailors, printers, and boot and shoemakers. Harold S. Roberts, Roberts' Dictionary of Industrial Relations, at 155-156, Bureau of National Affairs, Inc., 1994.

educate students. Although this function could be greatly impacted by actions of the transportation employees, the type of operational interdependence found in an industrial plant as in Mallinckrodt, is simply not present when comparing the transportation employees and the other employees in the school district. Not only is a school district a very different employment setting than an industrial plant, the Employer ignores a critical difference between the private sector craft employees and the public sector bus drivers in issue here: the bus drivers are prohibited by law from striking. Therefore, the "...cessation of bus services...[that] would prevent the district from performing its essential function for more than two-thirds of its students,"[48] is highly unlikely.

Furthermore, Prof. Gorman points out in his text at 85 that, "The Board [NLRB] has, since Mallinckrodt, appeared to give greatest weight to the existence or nonexistence of a history of bargaining on a basis broader than the craft group." In the instant case, there is no history of bargaining on a broad basis involving all classified personnel, but there is evidence of the bus drivers perceiving themselves and others perceiving them as a distinct group.

Rather than analogize to severance cases involving craft units, the Petitioner argues in favor of applying NLRB caselaw involving bus and truck drivers.[49] These cases also involve arguments an employer favoring a specific unit configuration which it feels

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[48] Employer's Post-hearing Brief at 19.

[49] Duke University, 306 NLRB 555, 139 LRRM 1300 (1992); Memphis Furniture Mfg. Co., 259 NLRB 401, 108 LRRM 1361 (1981); Institutional Food Services, 258 NLRB 650, 108 LRRM 1175 (1981); and Wright City Display Mfg. Co., 183 NLRB 881, 74 LRRM 1360 (1970).

will allow it to best conduct its operations while providing the employees with union representation. As in the instant case, the unit petitioned for by a union is not driven by the same considerations as the employer. Of particular relevance is a NLRB decision where the union had petitioned for a single unit consisting of professional and nonprofessional employees in a school; the employer favored three units, and the NLRB found that the bus drivers should have a separate unit because they worked different hours than the other employees, were separately supervised, had little contact with other employees, and performed their duties under different working conditions. German School Society, 260 NLRB 1250, 109 LRRM 1305 (1982).

Also persuasive, are the cases from Florida, Michigan, Pennsylvania, Oregon, Illinois, Iowa, and Ohio referred to above which, depending upon the circumstances, have allowed the creation of bus driver or transportation employee units.

The Employer also states, "Even the unions do not allege that requiring the Belen Consolidated Schools to deal with a third bargaining unit for fewer than 50 transportation employees would promote the efficient administration of government, as required by the NMSA §10-7D-13A."[50] The unions are obligated to make no such showing. The Act does not require *promoting* the efficient administration of government, but a consideration of the principles of efficient administration of government.[51] Although admittedly an

[50] Employer's Post-hearing Brief at 32-33.

[51] *Promoting* the efficient administration of government is a criterion for unit determination in the federal sector (5 U.S.C. 7112 (a)(1)), but not under the PEBA.

assumption, the status quo is supposed to be that the government is administered efficiently. It is not the Board's responsibility to determine whether requiring employers to deal with unions will *promote* these principles, but to determine whether such relationships will interfere with the existing efficient administration of government.

Although the employer's belief of what will be administratively efficient and contribute to workplace stability is important, it is not controlling. In order to determine what constitutes the efficient administration of government, I recommend that the Board interpret this principle to include as a matter of policy, the concept of fragmentation of the workforce. Fragmentation, or proliferation, concerns the creation of an excessive number of bargaining units. Even though the Act does not include fragmentation as a factor to be considered in appropriate unit determinations, the efficient administration of government should be read to discourage fragmentation of the workforce.[52]

The Employer argues that it does not have the administrative personnel to staff more than one bargaining team.[53] So much of the transportation employees' functions are regulated by the state, that the Employer will not have a great deal of latitude in dealing with the transportation employees regardless of their unit placement. I do not find that requiring the Employer to negotiate with a third unit under these circumstances will necessitate it to have another bargaining team, nor will it lead to an undue burden, nor

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[52] Many states specifically include fragmentation as a factor to be considered in determining appropriate units. Fla. Admin. Code Ann. r. 38D-17.023 (1992); Ind. Code Ann. §20-7.5-1-10 (Burns 1992); Conn. Gen. Stat. Ann. §5-275(b) (West 1988); Pa. Cons. Stat. Ann. tit. 43, §1101.604 (1991). Fragmentation is not specifically addressed in the NLRA, however, NLRB caselaw demonstrates a policy discouraging it.

[53] Employer's Post-hearing Brief at 20.

fragmentation.[54] In this case I do not find the evidence proffered by the Employer, nor general fragmentation considerations, so great as to overcome the other evidence, as well as caselaw, that points to the petitioned-for unit of bus drivers as an appropriate one.

F. History of Collective Bargaining

The history of collective bargaining, which in this case is only informal, slightly favors the transportation workers having their own unit.[55] It is entirely possible the Board may decline to recognize informal collective bargaining activities as proof of this element; however, the absence of a history of formal collective bargaining should not count against a separate unit for the transportation employees.[56] After all, there is evidence of informal activities by transportation employees, while there is no evidence of the classified employees attempting to engage in any form of collective activity as a broad-based group.

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[54] Logan Elm Local School Board of Education, 4 OPER ¶4192 (OH SERB H.O. 1987). In Logan Elm, the employer made many of the same arguments as the Employer in this case. It claimed that the small size of the school district required putting all of the classified employees in a single unit and that allowing the bus drivers their own unit would lead to overfragmentation. Despite the small number of employees in the proposed unit, only 28, the Hearing Officer found that the employer failed to show a unit of bus drivers would be overfragmentation, and lead to impairment of the school district's operation. Similarly, in Bensenville District No. 2, 1 PERI ¶1020 (IL ELRB 1984), the Administrative Law Judge concluded that a proposed unit of 14 bus drivers was appropriate and did not impose undue unit fragmentation on the employer.

[55] The history of collective bargaining is also discussed on pages 35-37.

[56] In Northwest Local School District Board of Education, 1 OPER ¶1260 (OH SERB 1984), the Ohio Board held, "...it would be absurd, in light of the statutory objectives, to conclude that the absence of a history of collective bargaining counts against the establishment of a petitioner's request." Despite the employer's arguments that the bus drivers and mechanics belonged in a comprehensive unit with the other classified staff, the Board found the transportation unit to be appropriate.

G. Public Employees' Rights

The last factor to be considered when determining appropriate bargaining units is the assurance that public employees have the fullest freedom in exercising the rights guaranteed them under the PEBA. The Employer contends that the transportation employees' statutory rights can be adequately protected within an overall bargaining unit covering all classified employees. The Petitioner NEA-Belen on the other hand argues that the Act's guarantee of the fullest freedom in exercising their statutory rights includes the transportation employees having a separate bargaining unit.

I have only the following facts to help me ascertain how the public employees in issue here may be assured the fullest freedom in exercising their rights under the Act. The transportation employees have expressed an interest in being represented by the Petitioner NEA-Belen[57], the record does not contain any evidence suggesting that the transportation employees would prefer to be in a more broadly-based classified staff unit represented by the another union, the other union (Belen Federation of School Employees) has shown no interest in representing the transportation employees, and finally the employees in the petitioned for unit have shown a sufficient community of interest to warrant their representation as a distinct group. As a result, this last essential factor for determining an appropriate unit also indicates that the transportation employees may have their own unit for purposes of bargaining with the Employer.

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[57] In Northwest Local School District, id., the Ohio Board found that the showing of interest suggested that at least 30% of the transportation employees wanted to be represented by the petitioner.

H. Conclusion

According to the standards set forth in the PEBA, the proposed unit consisting of transportation employees is an appropriate one. Appropriate unit determinations require very fact-specific inquiries. As a result, although the transportation employees in the instant case constitute an appropriate unit, this Decision does not stand for the proposition that school district transportation employees will always constitute such a unit. For this reason, analogies to other caselaw is helpful, but ultimately each case must be resolved solely upon the basis of the facts therein and the application of the law to those facts. In this case, the transportation employees met the statutory requirements found in the Act which allows their placement in a separate unit. The transportation employees may be placed in a separate unit because: they are paid from categorical state funds, they work different hours than the other classified personnel, they are not eligible for the incremental salary increases like the other classified staff, nearly all of them report directly to the department director, they have dissimilar training and skills compared to the other classified staff, they spend time away from their job situs unlike other classified personnel, they lack contact and integration with the other classified staff, have an informal history of collective activity, and recognition as a bargaining unit will not negatively impact upon the Employer's operating efficiency; and finally, their fullest freedom to act in exercising the rights guaranteed them by the Act would appear to be best served by recognizing them as a separate unit.

V. Conclusions of Law

1. The transportation employees in the unit proposed by NEA-Belen share a community of interest.

2. The proposed transportation employee unit is an appropriate unit under the Act.

VI. Order Directing Election

Unless this Decision and Order Directing an Election is rejected or modified by the Board, a secret ballot election shall be conducted among employees in the units defined below, at an appropriate time and place to be set forth in a Board or Director issued Notice of Election. In accordance with the Act and the Rules, eligible employees in Unit A shall be given an opportunity to vote between representation by NEA-Belen and "No Representation." Eligible employees in Unit B shall be given an opportunity to vote between representation by the Belen Federation of School Employees and "No Representation." Eligible employees in Unit C shall be given an opportunity to vote between representation by NEA-Belen and "No Representation."

Unit A
All Belen Consolidated Schools' employees in the following job classifications:

Included:	All certified employees, including diagnosticians, Chapter I teachers, teachers, librarians, bilingual specialists, counselors, nurses, therapists, interpreters, and pathologists.
Excluded:	All management employees, supervisors and confidential employees as defined by the Act, and all others.

Unit B
All Belen Consolidated Schools' employees in the following job classifications.

Included: All classified employees, including secretaries, warehousemen, custodians, cafeteria workers, educational aides, and support aides.
Excluded: All management employees, supervisors and confidential employees as defined by the Act, and all others.

Unit C
All Belen Consolidated Schools' employees in the following job classifications.

Included: All transportation employees, including the bus drivers, bus aides, mechanics, and mechanic aides.
Excluded: All management employees, supervisors and confidential employees as defined by the Act, and all others.

VII. Request for Review

Pursuant to Board Rule 2.15 within ten work days after service of this Decision any party may file a request for Board review. The request for review shall state the specific portion of the Decision to which exception is taken and the factual and legal basis for such exception. The request may not rely on any evidence not presented at the hearing. The request must be served on all other parties. Within ten work days after service of a request for review, any other party may file and serve on all parties a response to the request for review.

Issued in Albuquerque, New Mexico, April 11, 1994.

Bridget A. Burke
Administrative Law Judge
Public Employee Labor Relations Board