

STATE OF KANSAS  
BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of UNIT DETERMINATION  
FOR CERTAIN PROFESSIONAL FACULTY  
MEMBERS OF KANSAS STATE COLLEGE OF  
PITTSBURG

CASE UE 2-1974

ON RELATION OF KANSAS HIGHER  
EDUCATION ASSOCIATION (KHEA)

*Sample*

Comes now on the 29th day of March, 1974, the above captioned matter for hearing. The hearing is conducted before Donald R. Hoffman, duly appointed Hearing Examiner for the Public Employee Relations Board.

The case comes before the Board upon petition of Kansas Higher Education Association (KHEA) for Unit Determination of an appropriate unit for faculty members at Kansas State College of Pittsburg under date of March 7, 1974 as amended under date of March 25, 1974.

Leave was granted to all parties to consider and offer statements, testimony and evidence relative to other plans for unit determination throughout the state's higher education system which would be more "appropriate" than that proposed by petitioner. Appearances of parties were as follows:

Mr. Steve Massoni, Atty., Kansas Higher Education Assn.  
Mr. Victor Salem, Executive Secretary, KHEA  
Mr. J. Bunker Clark, President of Kansas Conference,  
AAUP (American Assn. of University Professors)  
Mr. Grant Goodman, AAUP Representative, KU  
Dr. Charles Oldfather, Atty. for KU  
Mr. James Feldstein, Director of Labor Relations, KU  
Mr. Jerome Freeman, AAUP Representative, K-State  
Dr. Doris Sindt, Representative AAUP, KHEA and  
Faculty Assn., Ks. State College of Pittsburg  
Dr. George Budd, President, Ks. State College of Pittsburg  
Mr. Max Bickford, Exec. Officer, Board of Regents  
Mr. Darrell Hoffman, Labor Relations Administrator

Findings of Fact

1. The unit as proposed by petitioner in its amended petition is composed of approximately 247 professional faculty members at Kansas State College of Pittsburg including approximately 24 "chairmen" of the various academic departments. All "General Departmental Teaching Faculty, Vocational Technical Institute Faculty and Learning Resources Faculty of Kansas State College of Pittsburg" are included.
2. The unit as proposed does not include non-professional employees.
3. Kansas State College of Pittsburg is one of six major institutions of higher learning directly under the supervision of the Kansas Board of Regents.
4. Colleges and universities under the control of the State Board of Regents have historically exercised wide latitude and atonomy in handling personnel matters of non-classified Civil Service employees.
5. Professional faculty members are non-classified Civil Service employees.
6. The Kansas Board of Regents is responsible for the appointment of the chief executive officer (President) of the college; a position presently held by Dr. George Budd, President.
7. The President of the college exercises wide discretion in the appointment, rate of compensation and duties of faculty members.
8. The President of Kansas State College of Pittsburg selects Department Chairmen.
9. Non-teaching administrative personnel are available to the President in academic, as well as non-academic affairs of the college (Executive Vice President, Academic Vice President, Business Manager, Plant Superintendent, Director of Campus Planning, etc.).

Conclusions of Law - Reationale - Order

The instant case is one of first impression to the Public Employee Relations Board. It calls into question the establishment of an "appropriate unit" as defined by the Act for faculty members at a state university or college. Two major issues immediately develop for consideration: (1) Should the state-wide appropriate unit concept be adopted by the Board; (2) Should Department Chairmen be included within the unit or units established by the Board.

It should be noted at the outset that argument was not offered relative to whether faculty members are "public employees" within the purview of the Act.

The Board has not formally ruled on the point in any of its orders to date. The question, while not disputed in the instant case or previous cases is basic as a jurisdictional matter. Accordingly, the Board finds as a matter of law that faculty members are "public employees" under the law and as specifically defined at KSA Supp. 75-4322.

The Act provides at KSA Supp. 75-4327(3) for seven criteria to be considered by the Board in making unit determinations. They are:

- (a) The principal of efficient administration of government;
- (b) The existence of a community of interest among employees;
- (c) The history and extent of employee organization;
- (d) Geographical locations;
- (e) The effects of overfragmentation and the splintering of a work organization;
- (f) The provisions of KSA 1972 Supp. 75-4325; and
- (g) The recommendations of the parties involved.

No single criteria is more important than the others. Other criteria may be considered in addition to those enumerated.

The evidence and statements of the parties is undisputed that each of the institutions of higher learning within the state have been granted wide latitude and autonomy by the Board of Regents both in practice and by law (see KSA 76-711 et seq.). The Board takes notice that each of the institutions are structured organizationally to be self-sustaining. Each maintains a sophisticated array of departments with organic administrative specialists capable of dealing with a multiplicity of management problems. Most, if not all, of the institutions presently employ full-time labor management relations specialists and have rather elaborate business and personnel offices. Only decisions of the highest level appear to necessitate Board of Regents' involvement or approval. This appears particularly true in the area of faculty-management relations. The inference is inescapable that this autonomous relationship is well-known to faculty members and is a relationship which they approve and foster. Employment policies and relationships regarding faculty members are simply not consistent as between institutions.

Accordingly the treatment of the faculty unit at Kansas State College of Pittsburg as proposed by the petitioner would not, in the opinion of the Board, violate any of the criteria set out above. The so-called state-wide concept of faculty-management relations if superimposed over this existing system would be damaging in the following respects:

1. It overlooks that autonomous administrative structure of the institutions.
2. It does not consider geography.
3. It overlooks the unique characteristics and "direction" of the institutions, both academic and administrative.

4. It overlooks the recommendations of the parties directly involved.

5. It overlooks the history of faculty-management relations at Kansas State College of Pittsburg.

Department Chairmen

The question of whether Department Chairmen should be included within the unit highlights the difficulty encountered when traditional labor-management concepts are applied to the college campus.

KSA Supp. 75-4322(b) defines "Supervisory Employee" as:

"means any individual who normally performs different work from his subordinates, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

As related to faculty members, clear lines of authority are traditionally absent on the college campus. Kansas State College of Pittsburg represents no exception. Factors such as academic freedom and classroom independence distinguish the faculty member as a professional. Faculty members play a major role in the development of institution policy. Their input does not necessarily flow through distinguishable channels. In this sense their aggregate role resembles that of management. Co-existing with this relationship, however, is the special status of the Department Chairmen. The Board recognizes that the creation of this position at Kansas State College of Pittsburg is more than a mere formality. Faculty members are in fact employees of the institution. Their number is large enough that even though they are professionals, span of control must be maintained if the institution is to be managed. Accordingly, at Kansas State College of Pittsburg,

Department Chairmen are in fact first level supervisors and should be excluded from the proposed unit. Owing to the unique characteristics of the various campuses, this ruling should not be construed as binding precedence on the question of whether chairmen will be excluded at other locations.

Conclusion

The unit as proposed by petitioner is approved with the exception that Department Chairmen are excluded from the unit.

IT IS SO ORDERED BY THE PUBLIC EMPLOYEE RELATIONS BOARD

BY

Jerry Powell  
Jerry Powell, Executive Director  
For The Public Employee Relations Board

4-23-74

Date