



**TEAMSTERS LOCAL UNION NO. 395, APPLICANT v NORTH EAST SCHOOL DIVISION NO. 200, RESPONDENT and CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 4875, RESPONDENT**

LRB File No. 186-18; May 1, 2019

Vice-Chairperson, Barbara Mysko; Board Members: Joan White and Maurice Werezak

Counsel for the Applicant Union:

Heather Robertson

Counsel for the Respondent North East

School Division No. 200:

Geraldine Knudsen

Counsel for CUPE, Local 4875:

Sachia Longo

**Appropriate Unit – Union applies for bargaining rights for non-unionized bus drivers and mechanics – The remaining bus drivers are represented by CUPE – Employer argues that unit is not appropriate – Board considers criteria for determination of appropriate unit – Board determines that proposed unit is appropriate for collective bargaining.**

**REASONS FOR DECISION**

**Background:**

**[1] Barbara Mysko, Vice-Chairperson:** On September 5, 2018, Teamsters Local Union No. 395 (“Teamsters”) filed an Application for Bargaining Rights (“Application”) in relation to employees of North East School Division No. 200 (the “Employer” or the “School Division”). The Employer is a Board of Education, a locally elected government body that operates under the authority of *The Education Act, 1995*. The Employer filed its Reply on September 19, 2019, objecting to the Union’s Application. Canadian Union of Public Employees, Local 4875 (“CUPE”) filed a Reply on September 18, 2018 outlining its position on the description of the proposed unit.

**[2]** Teamsters seeks a certification order for a unit described as follows:

*All Bus Drivers, Spare Drivers and Mechanics employed by the North East School Division #200 of Saskatchewan, excluding those in the North East School Division #200 that are represented by the Canadian Union of Public Employees Local 4875 and excluding administrative positions, supervisors, managers and those above the rank of manager.*

**[3]** CUPE has a certification order in LRB File No. 033-17 issued May 2, 2017 for a unit of employees of the North East School Division No. 200, described as follows:

*(a) That all employees employed by the North East School Division #200 of Saskatchewan, at Maude Burke Elementary School, Melfort and Unit Comprehensive Collegiate, Reynolds Central School, Brunswick School, Gronlid School, Naicam School, Star City School, Star City Colony School except Noon Hour Supervisors; and all employees at Arborfield School, Tisdale Elementary School and Tisdale Middle & Secondary School; and at Bjorkdale School, School Caretakers, Bus Drivers and Spare Bus Drivers; and all employees at Hudson Bay Composite High School, Porcupine Plain Comprehensive School and Stewart Hawke Elementary School including Caretaking Contractors; and at Central Park Elementary School, LP Miller School and Wagner Elementary School, Educational Associates and Caretakers; and at Tisdale Transportation and Technology Office, Computer Technicians; and at Nipawin Support Services Office, Computer Technicians; and excluding those employees at School Division Offices other than Computer Technicians; and except:*

- i. Director of Education*
- ii. Administrative Assistant to the director of Education*
- iii. Superintendent of Human Resources*
- iv. Administrative Assistant of Human Resources*
- v. Superintendent of Schools*
- vi. Superintendent of Business Administration*
- vii. Supervisor of Financial Services*
- viii. Supervisor of Transportation & Technology*
- ix. Supervisor of Facilities*
- x. All employees represented by the Saskatchewan Teachers Federation*

*is an appropriate unit of employees for the purpose of bargaining collectively;*

**[4]** CUPE and the Employer are parties to a collective bargaining agreement in relation to the employees described in LRB File No. 033-17. In its Reply, CUPE provides an alternative description of the proposed bargaining unit in an effort to prevent any jurisdictional issues from arising between the two unions.

**[5]** In response to the Application, the Employer provided the Board with a list of employees who were employed as of the date of Teamsters' Application. Included on the list were 21 full-time or permanent bus drivers, three mechanics, and ten spare bus drivers, also known as casual bus drivers. On September 11, 2018, the Board issued a Direction for Vote and then mailed out the Amended Notice of Vote, listing 34 eligible voters.

**[6]** The Employer objects to the Application on the grounds that the proposed unit includes bus drivers, and other bus drivers are already represented by CUPE. According to the Employer, all of the bus drivers should be represented by one union, or not at all. The prospect of two

separate unions representing the same “classification” raises issues of fairness, fragmentation, whipsaw negotiating, and industrial instability. The proposed unit is not an appropriate bargaining unit for purposes of collective bargaining.

[7] The Board’s task is to determine whether the proposed bargaining unit is appropriate. Teamsters suggests that if the Board decides that the proposed unit is not appropriate, then it may consider an alternative arrangement. It says that if the Board finds that the spare drivers and/or mechanics should not be included in the unit, then it could certify a bargaining unit of the permanent bus drivers only.

[8] The Board held a hearing on the Application on April 8 and 9, 2018. The parties filed an Agreed Statement of Facts<sup>1</sup> and provided written materials, which the Board has reviewed and found helpful.

**Argument on Behalf of the Parties:**

[9] According to Teamsters, while the proposed bargaining unit is under-inclusive, it is not inappropriate. Teamsters offers an assessment of the unit further to the “*Sterling Newspapers* factors”. First, the unit is sufficiently large to foreclose any legitimate concerns about bargaining strength. Second, there is limited intermingling. Third, there is no realistic ability to organize a more inclusive unit, and it is unrealistic to require evidence of an attempted raid in order to satisfy this requirement. Lastly, if the requested certification order is denied, the employees will inevitably remain unrepresented. Ultimately, the unit as proposed is a reflection of the employees’ choice.

[10] According to the Employer, the proposed unit is not appropriate for purposes of collective bargaining. If Teamsters’ request is granted, there will be two unions representing different employees working within the same job classification for the same employer. In all matters including benefits, reporting requirements, and training, unionized and non-unionized bus drivers are treated the same. To allow two different unions to represent the same group of employees raises the specter of inequitable working conditions, multiple bargaining units and long-term industrial instability.

---

<sup>1</sup> The Agreed Statement of Facts, dated April 8, 2019, is affixed to these Reasons, but does not include the accompanying exhibits filed with the Board (Appendix “A”).

[11] The Employer argues that the unit is inappropriate. There is no discrete skill or boundary, there is intermingling, there is a lack of bargaining strength, and there is a more inclusive choice of bargaining units. Furthermore, the requested certification order is unfair to the spare bus drivers who provide services to the entire school division. If the requested order is granted, these employees would be required to pay union dues to two different unions.

[12] CUPE acknowledges that it has no claim to the interested employees and states that its only preoccupation is in preventing jurisdictional disputes. In its Reply, CUPE describes its position in full:

*While there does not appear to be a conflict between the Applicant's proposed bargaining unit and the bargaining unit of CUPE Local 4875 (LRB 033-17), there is a risk of a jurisdictional conflict between CUPE and the Applicant in the event that the Employer opens a new school or if schools are amalgamated.*

*As such, CUPE suggests that the proposed bargaining unit description of the Applicant be amended to specify in which schools the Applicant is seeking to represent bus drivers, spare drivers and mechanics. This is consistent with the Board's certification order for CUPE Local 4875 (LRB 033-17) which specifies the schools where CUPE represents various employees.*

*Based on the scope of CUPE's certification order and its understanding of the Employer's operations, CUPE submits that the following would be an appropriate bargaining unit description:*

*All bus drivers, spare drivers and mechanics employed by the North East School Division #200 of Saskatchewan at Carrot River Elementary School, Carrot River High School, Central Park Elementary School, L.P. Miller Comprehensive School, Wagner Elementary School, White Fox School and William Mason School; and excluding all employees represented by the Canadian Union of Public Employees, Local 4875, all administrative positions, supervisors, managers and those above the rank of manager.*

*Finally, CUPE notes that some spare bus drivers may work for both schools represented by CUPE and those that the Applicant is seeking to represent.*

**Evidence:**

[13] The Board heard testimony from three witnesses, one on behalf of the Employer and two on behalf of Teamsters.

**Heather Shwetz**

[14] Heather Shwetz ("Shwetz") is the Superintendent of Human Resources for the School Division and is responsible for collective bargaining on behalf of the Employer.

**[15]** In 2006, there was a school division amalgamation in the northeastern part of the province leading to what is now known as the North East School Division. Prior to 2006, the non-unionized bus drivers were employees of a distinct entity, or what is referred to as a different “legacy school division”. The amalgamation brought all of the bus drivers together under one employer and they have been together ever since.

**[16]** According to Shwetz, the School Division employs approximately 900 people, including 71 permanent bus drivers and 30 spare drivers. The permanent bus drivers are assigned a regular route that they complete in the course of a 4.5-hour workday. When permanent bus drivers anticipate that they will be unavailable to drive a route, they engage a spare driver directly. Once this is accomplished, the permanent drivers must contact logistics to ensure that the spare is paid. Spare drivers are allowed to drive any route, are the first priority for extra-curricular activities, and are assigned to the jobs based on proximity and interest. Spare drivers are hired throughout the year on an ongoing basis.

**[17]** Shwetz reviewed the organizational chart, focusing on the positions of most relevance to the current Application. She acknowledged that she has “limited” involvement with bus drivers and mechanics. The Superintendent of Business Administration oversees transportation for the School Division, and is the direct supervisor for the Manager of Transportation. The Manager of Transportation supervises the Logistics Planner and all of the bus drivers and mechanics. The Logistics Planner is the “primary daily contact” for the drivers. And lastly, the Mechanic Foreman supervises the work of the three journeyman mechanics employed by the School Division.

**[18]** The School Division is responsible for providing transportation for those students who reside within its attendance areas. Those areas are defined by geographical boundaries corresponding to the schools operated by the School Division. The bus routes are coordinated to ensure that students are delivered to specific schools. The bus drivers subject to the Application are assigned to routes in the communities of Carrot River, Choiceland, Nipawin and White Fox. The routes generally remain the same over the course of the school year. Exceptions arise from the occasional “out-of-attendance” request requiring an adjustment to an existing route.

**[19]** Although the collective agreement covers CUPE members exclusively, Shwetz suggested that CUPE and non-union bus drivers are treated the “same” with respect to employee benefits. Furthermore, all drivers receive the same training. There is a one-day annual in-service in Tisdale that is mandatory for all bus drivers, and there is an annual regional training held at six different

locations across the School Division. The reporting relationships are also the same for all drivers, whether unionized or not.

**[20]** If there is any difference in the conditions of work it is between the bus drivers and the mechanics. Bus drivers are 10-month employees, as compared to mechanics who are 12-month employees. Bus drivers are laid off in June, are paid out for their vacation, and are able to apply for employment insurance.

**[21]** Bus drivers take their buses to be serviced at the shop that is closest to where they live, whether that be in Tisdale or Nipawin. Both garages have spare buses. If the non-unionized bus drivers need a spare bus they contact the mechanic in Nipawin.

**[22]** There is a planned amalgamation of two schools but no scheduled launch or completion date. The project has been on the provincial capital projects list for approximately four years.

### **Joshua Cenaiko**

**[23]** Joshua Cenaiko (“Cenaiko”) is a business agent and organizer for Teamsters. He explained that an interested employee contacted Teamsters via Facebook to make inquiries about forging a representational relationship. After arranging a meeting, making the three hour drive to attend, and meeting with the interested employees, a decision was made to move forward. Cenaiko swore the Application, and in doing so, refrained from listing any individual schools. He took this approach to allow for a unit comprising all employees not covered by CUPE’s bargaining unit. He said it was never Teamsters’ intention to organize another union’s employees.

**[24]** Teamsters has been established in Saskatchewan for over 80 years. There are also locals in Alberta and Manitoba. About 80% of its bargaining units are transportation related, representing couriers, bus drivers, semi-truck drivers, and even drivers (not pilots) for airlines. There are locals of drivers and mechanics elsewhere in Saskatchewan. The locals cross provincial lines to share resources, provide guidance, and draw on each other’s strengths.

### **John Kyndesen**

**[25]** John Kyndesen (“Kyndesen”) lives in Cadet and is the permanent bus driver for Route 80, covering four different schools in Nipawin. He started working as a spare driver and over the past four years has driven Route 80 as the regular driver. He is not represented by a union.

**[26]** Kyndesen stores his bus at home. A typical day consists of a morning safety check, which, if uneventful, is followed by an engine warm-up, and then the completion of the morning run. The time between the morning and afternoon runs is treated as personal time, a portion of which Kyndesen spends socializing in the coffee room at the bus garage.

**[27]** If a significant issue arises in the course of the safety check, Kyndesen calls the mechanic at the Nipawin bus garage to obtain a spare bus and complete the run. If there is no spare bus, he cancels the run by notifying logistics and contacting each one of the parents personally. Logistics proceeds to notify the schools affected by the cancellation and posts a notification on the School Division website. A potential cancellation is not cured by the availability of a spare bus at the Tisdale garage. It is simply too far to drive to Tisdale to retrieve a bus in the available time.

**[28]** Kyndesen has minimal interaction with the Logistics Manager. While the Logistics Manager is responsible for a two-way radio system (installed in the buses and covering the entire School Division), Kyndesen pays attention only to the notifications about local student absences and local highway conditions. Furthermore, if one of Kyndesen's students is going to be absent, the parents usually call him at home.

**[29]** 21 permanent bus drivers are non-unionized. Kyndesen has personally met each and every one of them, has daily contact with many, and has met most of the spare drivers. There are eight permanent drivers located in town and all of them drive students to and from the schools in Nipawin. Kyndesen interacts with unionized bus drivers only occasionally. Although he can listen to their radio communications, there is no operational reason to interact with them.

**[30]** The responsibilities of the spare drivers are variable and flexible, shaped largely by their personal preferences. That said, only select spare drivers are offered the Nipawin routes. There is a spare drivers list located at the Nipawin bus garage, and accessible to the permanent drivers in the vicinity. The list consists of approximately six to eight names, comprised primarily of individuals who also reside in the general vicinity. According to Kyndesen, the permanent drivers have no access to any other names. Bringing spares in from other locations raises issues of time and resources.

**[31]** In addition to regular routes, spare drivers are the first to receive a call for the extracurricular trips. When Kyndesen worked as a spare he drove the entire School Division. He paid dues to CUPE when he drove for CUPE schools and, predictably, no dues to any union when drove for non-union schools.

**[32]** The Nipawin bus garage provides service to drivers from Nipawin, Carrot River, Choiceland, Whitefox, Gronlid, and Arborfield. Drivers from any of the remaining areas located within the School Division boundaries tend to take their buses to Tisdale.

**[33]** Since 2006, CUPE has tried to organize the bus drivers as many as four times, and in an effort to accomplish its objectives has experimented with various approaches. In the past, when its attempts have failed, CUPE has renewed its efforts in a matter of months or years. CUPE has strategically placed union literature in the coffee room in the Nipawin bus garage and, on other occasions, has attended the school bus loop to capitalize on a captive audience. In 2015, CUPE representatives attended the Nipawin bus garage coffee room and proceeded to distribute brochures to some five or six drivers. After the representatives took their leave, the group's interest was canvassed and the brochures were swiftly tossed into the nearest trash bin. In 2017 or 2018, CUPE again attempted to organize by attending the bus loop. Kyndesen was among those who was offered literature and resolutely declined.

**[34]** Kyndesen rationalized the bus drivers' dogged resistance to CUPE's overtures. According to Kyndesen, the northern bus drivers (those operating in Carrot River, Choiceland, Nipawin, and White Fox) were at one time benefiting from the "Cadillac" employee package complete with higher wages and enhanced benefits relative to the other bus drivers. This exceptional treatment came complete with a regular wage hike in conjunction with the wage increases received by the other drivers. But at a certain point all of this changed. The amalgamation occurred, new management was ushered in, and with it a new labour relations climate. The bus drivers were informed that the era of concurrent wage hikes was over, and a wage levelling was to begin. From the perspective of the northern bus drivers, the CUPE collective agreement had a dampening effect on their wages.

**[35]** Kyndesen was instrumental in researching, contacting and arranging for the bargaining agent in this case. He has been in the market for a proper bargaining representative for a while, but had no interest in CUPE. Nor did the other drivers. That said, Teamsters was not Kyndesen's



first option. Kyndesen had at one point contacted another union altogether, whose representative went so far as to set up a meeting but then reneged after assessing the investment cost of organizing the interested employees.

### **Relevant Statutory Provisions:**

**[36]** The following provisions of the Act are applicable:

6-1(1) *In this Part:*

(a) “bargaining unit” means:

- (i) a unit that is determined by the board as a unit appropriate for collective bargaining; or
- (ii) if authorized pursuant to this Part, a unit comprised of employees of two or more employers that is determined by the board as a unit appropriate for collective bargaining;

...

(c) “certification order” means a board order issued pursuant to section 6-13 or clause 6-18(4)(e) that certifies a union as the bargaining agent for a bargaining unit[.]

...

#### **Right to form and join a union and to be a member of a union**

6-4(1) *Employees have the right to organize in and to form, join or assist unions and to engage in collective bargaining through a union of their own choosing.*

(2) *No employee shall unreasonably be denied membership in a union.*

#### **Acquisition of bargaining rights**

6-9(1) *A union may, at any time, apply to the board to be certified as bargaining agent for a unit of employees appropriate for collective bargaining if a certification order has not been issued for all or a portion of that unit.*

(2) *When applying pursuant to subsection (1), a union shall:*

- (a) *establish that 45% or more of the employees in the unit have within the 90 days preceding the date of the application indicated that the applicant union is their choice of bargaining agent; and*
- (b) *file with the board evidence of each employee’s support that meets the prescribed requirements.*

#### **Determination of bargaining unit**

6-11(1) *If a union applies for certification as the bargaining agent for a unit or a portion of a bargaining unit or to move a portion of one bargaining unit to another bargaining unit, the board shall determine:*

- (a) *if the unit of employees is appropriate for collective bargaining; or*
- (b) *in the case of an application to move a portion of one bargaining unit to another bargaining unit, if the portion of the unit should be moved.*

(2) *In making the determination required pursuant to subsection (1), the board may include or exclude persons in the unit proposed by the union.*

(3) *Subject to subsections (4) to (6), the board shall not include in a bargaining unit any supervisory employees.*

- (4) Subsection (3) does not apply if:
- (a) the employer and union make an irrevocable election to allow the supervisory employees to be in the bargaining unit; or
  - (b) the bargaining unit determined by the board is a bargaining unit comprised of supervisory employees.
- (5) An employee who is or may become a supervisory employee:
- (a) continues to be a member of a bargaining unit until excluded by the board or an agreement between the employer and the union; and
  - (b) is entitled to all the rights and shall fulfil all of the responsibilities of a member of the bargaining unit.
- (6) Subsections (3) to (5) apply only on and after two years after the date on which subsection (3) comes into force.
- (7) In making the determination required by subsection (1) as it relates to the construction industry within the meaning of Division 13, the board shall:
- (a) make no presumption that a craft unit is the more suitable unit appropriate for collective bargaining; and
  - (b) determine the bargaining unit by reference to whatever factors the board considers relevant to the application, including:
    - (i) the geographical jurisdiction of the union making the application; and
    - (ii) whether the certification order should be confined to a particular project.

### **Representation vote**

6-12(1) Before issuing a certification order on an application made in accordance with section 6-9 or amending an existing certification order on an application made in accordance with section 6-10, the board shall direct a vote of all employees eligible to vote to determine whether the union should be certified as the bargaining agent for the proposed bargaining unit.

(2) Notwithstanding that a union has not established the level of support required by subsection 6-9(2) or 6-10(2), the board shall make an order directing a vote to be taken to determine whether a certification order should be issued or amended if:

- (a) the board finds that the employer or a person acting on behalf of the employer has committed an unfair labour practice or has otherwise contravened this Part;
- (b) there is insufficient evidence before the board to establish that 45% or more of the employees in the proposed bargaining unit support the application; and
- (c) the board finds that sufficient evidence of support mentioned in clause (b) would have been obtained but for the unfair labour practice or contravention of this Part.

(3) Notwithstanding subsection (1), the board may refuse to direct the vote if the board has, within the 12 months preceding the date of the application, directed a vote of employees in the same unit or a substantially similar unit on the application of the same union.

### **Certification order**

6-13(1) If, after a vote is taken in accordance with section 6-12, the board is satisfied that a majority of votes that are cast favour certification of the union as the bargaining agent for a unit of employees, the board shall issue an order:

- (a) certifying the union as the bargaining agent for that unit; and
- (b) if the application is made pursuant to subclause 6-10(1)(b)(ii), moving a portion of one bargaining unit into another bargaining unit.

(2) If a union is certified as the bargaining agent for a bargaining unit:

- (a) the union has exclusive authority to engage in collective bargaining for the employees in the bargaining unit and to bind it by a collective agreement until the order certifying the union is cancelled; and
- (b) if a collective agreement binding on the employees in the bargaining unit is in force at the date of certification, the agreement remains in force and shall be administered by the union that has been certified as the bargaining agent for the bargaining unit.

### **Analysis:**

#### **Onus of Proof:**

[37] It is well established that the applicant union, Teamsters, bears the onus to demonstrate that the proposed bargaining unit is appropriate for purposes of collective bargaining with the Employer. To satisfy this onus, Teamsters is required to present evidence that is sufficiently clear, convincing and cogent.<sup>2</sup>

#### **Is the Proposed Unit an Appropriate Bargaining Unit?**

[38] The central question is whether the proposed unit is appropriate for collective bargaining purposes. Whether it is the most appropriate bargaining unit is not the issue.<sup>3</sup> The holding in *Service Employees International Union, Local 336 v Board of Education of the Chinook School Division No 211 and CUPE*, 2007 CanLII 68762 (“*Chinook School Division*”) is apposite:

[89] ... *The Board is not to choose the most ideal or more appropriate unit, but rather determine whether the unit applied for is an appropriate one. In Northern Lakes, supra, involving a union's application for the amendment of its certification order to include bus drivers in its support staff bargaining unit, the Board stated at 116-117:*

*The basic question which arises for determination in this context is, in our view, the issue of whether an appropriate bargaining unit would be created if the application of the Union were to be granted. As we have often pointed out, this issue must be distinguished from the question of what would be the most appropriate bargaining unit.*

*The Board has always been reluctant to deny groups of employees access to collective bargaining on the grounds that there are bargaining units which might be created, other than the one which is proposed, which would be more ideal from the point of view of collective bargaining policy. The Board has generally been more interested in assessing whether the bargaining unit which is proposed stands a good chance of forming a sound basis for a collective bargaining relationship than in speculating about what might be an ideal configuration.*

<sup>2</sup> See, for example, *North Battleford Community Safety Officers Police Association, v City of North Battleford*, 2017 CanLII 68783 (SK LRB) (“*City of North Battleford*”) at para 38-39, citing *F.H. v McDougall*, 2008 SCC 5, [2008] 3 SCR 41 at para 46.

<sup>3</sup> See, for example, *Service Employees International Union, Local 336 v Board of Education of the Chinook School Division No 211 and CUPE*, 2007 CanLII 68762 (“*Chinook School Division*”).

**[39]** The Board makes an assessment of the appropriateness of a proposed bargaining unit on a case-by-case basis. In making this assessment, it is tasked with balancing the right of employees to organize and join a trade union and the need for viable collective bargaining structures.<sup>4</sup> The Board is guided by the principle of employee choice as affirmed by section 2(d) of the *Charter* and as set out at section 6-4 of the *Act*:

***Right to form and join a union and to be a member of a union***

*6-4(1) Employees have the right to organize in and to form, join or assist unions and to engage in collective bargaining through a union of their own choosing.  
(2) No employee shall unreasonably be denied membership in a union.*

**[40]** The parties agree that, in determining whether an under-inclusive unit is appropriate, the Board is required to apply the principles outlined in *Graphic Communications International Union, Local 75M v Sterling Newspapers Group, A Division of Hollinger Inc.* [1998] Sask LRBR 770, LRB File No 174-98 (“*Sterling Newspapers*”). In *Sterling Newspapers*, the Board listed the following factors to determine whether a proposed unit, being under-inclusive, will not be an appropriate unit:

- i. There is no discrete skill or other boundary surrounding the unit that easily separates it from other employees;
- ii. There is an intermingling between the proposed unit and other employees;
- iii. There is a lack of bargaining strength in the proposed unit;
- iv. There is a realistic ability on the part of the Union to organize a more inclusive unit;
- v. There exists a more inclusive choice of bargaining units.<sup>5</sup>

**[41]** The Board will consider each of these factors in turn.

**[42]** The first factor is whether there is a discrete skill or other boundary surrounding the proposed unit that easily separates the employees in that unit from other employees. Although the bus drivers’ skills separate them from the non-bus drivers, there are no material skills that specifically differentiate the northern bus drivers from the other bus drivers employed by the

---

<sup>4</sup> *Canadian Union of Public Employees, Local 5004 v Saskatoon Housing Authority*, 2010 CanLII 42667.

<sup>5</sup> *Graphic Communications International Union, Local 75M v Sterling Newspapers Group, A Division of Hollinger Inc.* [1998] Sask LRBR 770, LRB File No 174-98 (“*Sterling Newspapers*”) at para 34.

School Division. The northern bus drivers do benefit from the geographical boundary that represents the specific bus routes driven in the relevant area of the School Division. However, to the extent that spare drivers pick up CUPE routes and extracurricular jobs, the geographical boundaries are more porous. Lastly, the mechanics possess discrete skills as mechanics and their geographical boundaries are defined by the garages in which they work, situated at Nipawin and Tisdale.

**[43]** The second factor is whether there is intermingling between the proposed unit and other employees. This factor is properly examined in relation to each of the employee categories captured by the unit. First, intermingling is minimal between the northern permanent bus drivers and employees outside of the proposed unit. As Kyndesen explained, the job of a permanent bus driver is a solitary one, performed chiefly in the company of school children. Permanent bus drivers enjoy the camaraderie of other permanent drivers who reside nearby, and benefit from the occasional support of the locally available spares. The permanent bus drivers rely on the radio communications system, but are inclined to restrict their interactions to the drivers of the local routes. The interaction between the non-unionized permanent bus drivers and the CUPE bus drivers is reserved for the annual training session and for the rare occasion that a mechanical service is required at the Tisdale garage.

**[44]** The second category consists of the spare drivers. The non-unionized permanent drivers limit their interactions to the spare drivers who reside in the area and pick up their regular routes. The spare drivers, on the other hand, are capable of driving all routes, inclusive of CUPE and non-unionized schools. The spare drivers have more opportunity to interact with CUPE members than do the permanent drivers.

**[45]** The third category consists of mechanics. The Nipawin mechanic interacts with the bus drivers residing in and around Nipawin and to some extent with the bus drivers from Gronlid and Arborfield. The two Tisdale mechanics, however, interact with the CUPE bus drivers on a regular basis.

**[46]** The third factor is whether there is a lack of bargaining strength in the proposed unit. The size of a unit is pertinent but not wholly determinative. While relatively smaller bargaining units raise concerns, the proposed bargaining unit is not overly small in comparison to other units that have been certified by this Board. The concern with bargaining unit size arises only in relation to the greater whole. The proposed bargaining unit, if allowed, will be the representative structure

for a comparatively small group of employees within a larger group of CUPE members. It is this context that has the potential to raise concerns about the long-term viability of the proposed unit.

**[47]** Anticipating this concern, Teamsters cites this Board's decision in *North Battleford Community Safety Officers Police Association, v City of North Battleford*, 2017 CanLII 68783 (SK LRB) ("*City of North Battleford*"). In *City of North Battleford*, the Board certified a unit of two employees against the Employer's objections that the unit amounted to an "'island' surrounded by the much larger sea of CUPE".<sup>6</sup> The Board held that any concerns with viability were not sufficient to displace a finding that the unit was appropriate.<sup>7</sup> Teamsters says that *City of North Battleford* is instructive, and the Board agrees. The Board adds further that any concerns about multiplicity of units must be weighed against the relative separateness of the proposed unit, the expertise of the applicant union, and the employees' proven commitment to shaping their working lives.

**[48]** The next factor is whether there is a realistic ability on the part of the union to organize a more inclusive unit. The Board can take into consideration the union's previous attempts to organize a more inclusive unit, but only if there are additional employees to organize. The Employer does not suggest that there are additional non-unionized employees to organize. Instead, the Employer suggests that Teamsters should have conducted a raid of CUPE's members. On cross, Cenaiko explained that it did not even cross his mind to consider a raid of CUPE's members. As an organizer, his goal is to organize non-union members.

**[49]** The Board cannot require that Teamsters raid another union in order to prove that there is no realistic way of organizing a more inclusive unit. Nor can the Board assume that a raid is a realistic way of organizing a more inclusive unit. To allow otherwise would set an inordinately high bar, placing industrial stability at the altar of total inclusion. This is not the test. The Employer has provided no evidence or argument to suggest otherwise.

**[50]** The last factor is whether there is a more inclusive choice of bargaining units. There is no evidence of a more inclusive choice of bargaining units.

**[51]** In determining whether a proposed unit is appropriate, the Board is concerned with balancing the right of employees to organize and join a union of their choice with the need for a

---

<sup>6</sup> *City of North Battleford* at para 71.

<sup>7</sup> *Ibid* at paras 82 to 84.

viable and stable collective bargaining structure exclusive of fragmentation and multiplicity of bargaining units. In assessing viability, the Board considers whether the interested employees, as described in the proposed unit, share a sufficient community of interest. In the current case, there is a shared community of interest among the bus drivers operating out of Carrot River, Choceland, Nipawin and White Fox, inclusive of spare bus drivers picking up permanent routes.

**[52]** The extracurricular and CUPE routes introduce a nuance into the community of interest analysis. To the extent that the spare bus drivers drive a CUPE route, they pay dues to CUPE. Just as spare bus drivers are a part of the CUPE community of interest when driving CUPE routes, they are a part of the northern community of interest when driving the northern routes. And while their dual loyalties add a layer of complexity to the labour relations environment, the effect on the relevant community of interest is minimal.

**[53]** The mechanics raise different issues. One mechanic works in Nipawin and two work in Tisdale. The Nipawin mechanic fits neatly into the community of interest shared by the other interested employees; the Tisdale mechanics less so. But as a group of three, the mechanics share a community of interest with each other, and are properly placed in the same bargaining unit. The mechanics, under the supervision of the Mechanic Foreman, are the only employees responsible for regular maintenance and repairs on the school buses in the School Division.

**[54]** To summarize the *Sterling Newspapers* factors, there is a sufficient combination of discrete skills and other boundaries in the proposed unit. There is some limited intermingling that can be traced to specific circumstances and to the unique responsibilities of the Tisdale mechanics and the spare drivers. The proposed unit is sufficiently large and any concerns that it will be subsumed by the greater whole are outweighed by other factors. Lastly, it is not realistic for the employees to organize a more inclusive unit, and there is no evidence of a more inclusive unit.

**[55]** In applying these factors, the Board must be guided by the employees' right to join a union and choose their bargaining agent. While the proposed unit is under-inclusive, the employees have chosen their bargaining agent. In bringing this Application, the employees are asserting control over their working conditions. They have opted, through careful consideration and experience, for an independent bargaining agent.

**[56]** The Board's comments in *City of North Battleford* are on point:

[79] *The principal reason that motivates this Board to conclude that despite its' size the proposed unit is appropriate, is there is no other union willing or able to admit the CSOs into its membership. Mr. Adam's testimony is uncontroverted on this point. He testified that on behalf of his colleagues, he sought the assistance of a number of unions, including CUPE and the IAFF. None of these unions was able to welcome the CSOs into their ranks. As a result, either the proposed unit is deemed to be appropriate for certification purposes or the CSOs are left without any representation whatsoever.*

[80] *The latter would be a most undesirable result. Not only would it run counter to a central objective of the SEA set out in subsection 6-4(1), namely that all employees "have the right to organize in and to form, join or assist unions and to engage in collective bargaining through a union of their own choosing", it would be disrespectful of the fundamental guarantee of freedom of association enshrined in section 2(d) of the Canadian Charter of Rights and Freedom]. In *Mounted Police Association of Ontario v Canada (Attorney General)*, the Supreme Court of Canada identified "(1) the right to join with others and form associations...and (3) the right to join with others to meet on more equal terms the power and strength of other groups or entities", as two (2) of the core values protected by section 2(d). In this context, the Board is very cognizant of the significant protections for workers found in these important legal documents.*

*[citations removed]*

**[57]** The Employer's concerns about fragmentation are not sufficient to defeat the choice of the employees. If the Board decides not to grant a certification order, or decides to exclude a category of employee, those excluded employees are likely going to remain without a representative agent.

**[58]** The Employer also cites *Zellers Inc. v UFCW, Local 1518*, 1999 CarswellBC 3399 ("Zellers"), for its recitation of the principles established in *Island Medical Laboratories Ltd. v HSABC*, BCLRB No B308/93 ("IML"). The Employer argues, based on *Zellers*, that there is a presumption against multiple bargaining units that guards against the potential for industrial instability. The Employer commends to the Board the six community of interest factors as outlined in *IML*:

1. Similarity in skills, interest, duties, and working conditions;
2. The physical and administrative structure of the employer;
3. Functional integration;
4. Geography;
5. The practice and history of the current collective bargaining scheme; and
6. The practice and history of collective bargaining in the industry.



**[59]** The Board must exercise caution in relying on precedents from other jurisdictions. In assessing the appropriateness of a bargaining unit, the Board must consider each case on its relevant facts. Where, as here, considerations around employee choice are at the forefront, they may serve to offset the existing concerns with fragmentation.

**[60]** The reality is that the Employer's labour relations are already fragmented. And while the Employer endeavors to treat both groups the same, there are still two groups. In the current scenario, the Employer is able to simplify its labour relations to reduce potential fragmentation and enhance labour relations convenience. But the Employer's labour relations preferences cannot come at the expense of the employees' wishes to shape their own working conditions.

**[61]** The Employer suggests that the Board should take into account the potential for a future amalgamation that could alter attendance areas and associated bus routes. Teamsters states that the Board should disregard the Employer's submissions about events in the future. The specter of future change should not be used to defeat the bargaining rights of the employees.

**[62]** According to the Union, the Board is required to consider the Employer's operations at the time that the Application was filed, being September 5, 2018. The Board in *Saskatchewan Government and General Employees Union v Canora Ambulance Care (1996)*, 2014 CanLII 28134 (SK LRB) ("*Canora Ambulance*") confirmed that it is a longstanding practice of the Board to reject evidence about events that occur after the date that the certification application is filed.<sup>8</sup> The Board follows this practice to prevent the manipulation of support for or against the union and to allow for a more reliable determination of the legitimate wishes of the employees.

**[63]** Unlike the current case, the Board in *Canora Ambulance* had to decide whether to consider existing evidence about an amalgamation that had occurred following the date of the application in issue. In the current case, there is no such evidence. There is only knowledge of a future amalgamation with an uncertain timeline and unclear labour relations consequences. The nature of the evidence is not probative of any matter before the Board. The Board cannot rely on the existing evidence about an amalgamation that will occur sometime in the future as a basis to displace the existing application for bargaining rights in the present.

---

<sup>8</sup> *Saskatchewan Government and General Employees Union v Canora Ambulance Care (1996)*, 2014 CanLII 28134 (SK LRB) at para 27.

**[64]** Lastly, the Employer suggests that the Notice of Vote was under-inclusive, as it included only ten spare drivers and not the approximately 30 spare drivers who work for the School Division. However, it was the Employer who provided the list to the Board. In providing said list, the Employer did not suggest that additional spare drivers could be included, but instead raised an objection to any spare drivers being included at all. Teamsters says that the Employer is now precluded from objecting to the vote on the basis that 30 spare drivers are interested in this Application.

**[65]** At no time did the Employer suggest that the 20 remaining spare drivers were regularly taking the permanent routes driven by the interested employees. When Cenaiko was asked why he did not amend the Application by including the remaining spare drivers, he offered that he was either unaware of the additional spare drivers until he read the Employer's Reply, or until the hearing proper. Either way, it is clear that the permanent bus drivers interact with the spare drivers who reside in the general vicinity and pick up the regular routes. There is no evidence that the remaining 20 spare drivers have a sufficiently substantial relationship to be considered for the purposes of determining the level of support. The fact that additional drivers may occasionally pick up routes or work extra-curricular jobs in the vicinity is not sufficient. For these reasons, the Board concludes that the current list represents the eligible employees for determining the level of support.

**[66]** The Board finds that a bargaining unit made up of permanent bus drivers in the northern region, spare bus drivers, and mechanics is appropriate. The next task is to decide on the proper description for that unit.

**[67]** Teamsters has made an application for bargaining rights for the following unit:

*All Bus Drivers, Spare Drivers and Mechanics employed by the North East School Division #200 of Saskatchewan, excluding those in the North East School Division #200 that are represented by the Canadian Union of Public Employees Local 4875 and excluding administrative positions, supervisors, managers and those above the rank of manager.*

**[68]** In reply, CUPE has suggested the following to avoid potential jurisdictional disputes as between the two unions:

*All bus drivers, spare drivers and mechanics employed by the North East School Division #200 of Saskatchewan at Carrot River Elementary School, Carrot River High School, Central Park Elementary School, L.P. Miller Comprehensive School, Wagner Elementary School, White Fox School and William Mason School; and excluding all employees*

*represented by the Canadian Union of Public Employees, Local 4875, all administrative positions, supervisors, managers and those above the rank of manager.*

**[69]** At the hearing, the Board raised its earlier decision in *Saskatchewan Polytechnic v Saskatchewan Government and General Employees' Union*, 2017 CanLII 85453 (SK LRB) for the consideration of the parties. In that decision, the Board observed that:

*[31] Whenever there are multiple bargaining units within a workplace, the potential for jurisdictional disputes between those bargaining units exists. When formulating appropriate bargaining units, the Board must be careful to define, as much as possible, the scope of the bargaining unit both in terms of the present circumstances and what might occur in the future.*

**[70]** The Board must be careful to define with precision the scope of the bargaining unit so as to contain the potential for jurisdictional disputes. In the present circumstances, a certification order that lists the schools will most closely mirror the status quo and be most effective in preventing jurisdictional disputes. Both unions have suggested that the order should explicitly exclude all employees represented by CUPE, but the Board finds that doing so would be redundant, and potentially confusing. Appreciating the special status of the mechanics, the Board has concluded that the mechanics should be described in reference to the School Division only.

**[71]** For these reasons, the Board has decided to describe the unit as follows:

*All bus drivers and spare drivers employed by the North East School Division #200 of Saskatchewan at Carrot River Elementary School, Carrot River Jr. Sr. High School, Central Park Elementary School, L.P. Miller Comprehensive School, Wagner Elementary School, White Fox School and William Mason School; the mechanics employed by the North East School Division #200 of Saskatchewan; and excluding all administrative positions, supervisors, managers and those above the rank of manager.*

**[72]** The Board makes the following Orders pursuant to sections 6-1(1)(o), 6-11, 6-13, and 6-103(1) of the Act:

a. That the following is an appropriate bargaining unit:

*All bus drivers and spare drivers employed by the North East School Division #200 of Saskatchewan at Carrot River Elementary School, Carrot River Jr. Sr. High School, Central Park Elementary School, L.P. Miller Comprehensive School, Wagner Elementary School, White Fox School and William Mason School; the mechanics employed by the North East School Division #200 of Saskatchewan; and excluding all administrative positions, supervisors, managers and those above the rank of manager.*

- b. That the ballots held in the possession of the Board Registrar pursuant to the Direction for Vote issued on September 11, 2018, in the within proceedings be unsealed and the ballots contained therein tabulated in accordance with *The Saskatchewan Employment (Labour Relations Board) Regulations*.
  
- c. That the result of the vote be placed in Form 21, and that form be advanced to a panel of the Board for its review and consideration.

**DATED** at Regina, Saskatchewan, this **1st** day of **May, 2019**.

**LABOUR RELATIONS BOARD**

---

Barbara Mysko  
Vice-Chairperson

Appendix "A"

L.R.B. FILE No. 186-18

SASKATCHEWAN LABOUR RELATIONS BOARD

In the matter of an application for bargaining rights pursuant to *The Saskatchewan Employment Act*

BETWEEN:

**TEAMSTERS LOCAL UNION NO. 395**

APPLICANT

(hereinafter "the Teamsters")

- and -

**NORTH EAST SCHOOL DIVISION #200**

RESPONDENT

(hereinafter "NESD" or "the Employer")

-and-

**CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 4875**

(hereinafter "CUPE")

RESPONDENT

**AGREED STATEMENT OF FACTS**

1. The parties agree:
  - (a) the documents listed in this Agreed Statement of Facts are admissible in evidence in this Labour Relations Board hearing;
  - (b) these documents are authenticated without the oral evidence of their creators;
  - (c) these documents are evidence of the facts (acts, transactions, occurrences or events) and opinions they record;
  - (d) the facts and opinions proven in this Labour Relations Board hearing by the contents of the documents so listed and admitted into evidence may be rebutted or supplemented by any other evidence that the hearing panel considers sufficient.

2. The parties agree that the use of this Agreed Statement of Facts is for the sole purpose of determining the issues raised in LRB File No. 186-18.

### **The Parties**

3. The Teamsters Local Union No. 395 (referred to hereafter as “the Teamsters” or “the Applicant Union”) applied to the Saskatchewan Labour Relations Board on September 5, 2018 for certification for a unit of employees of the North East School Division #200 (referred to hereafter as “NESD” or “the Employer”) as follows:

“All Bus Drivers, Spare Drivers and Mechanics employed by the North East School Division #200 of Saskatchewan, excluding those in the North East School Division #200 that are represented by the Canadian Union of Public Employees Local 4875 and excluding administrative positions, supervisors, managers and those above the rank of manager.”

4. The Employer filed its Reply in LRB File 186-18 on September 19, 2019.

5. The Canadian Union of Public Employees Local 4875 (“CUPE”) filed its Reply in LRB File 186-18 on September 18, 2018.

6. CUPE has a Certification Order in LRB File No. 033-17 issued May 2, 2017, for a certain unit of employees of NESD. A copy of the CUPE Certification Order is attached hereto as Exhibit “A”.

7. CUPE and the NESD are parties to a collective bargaining agreement in effect at the time the Teamsters applied for certification effective for the period of September 1, 2015 to August 31, 2018 (“CUPE 2015 to 2018 CBA”). At the time of signing this Agreed Statement of Facts, the CUPE 2015 to 2018 CBA remains in effect. A copy of the CUPE 2015 to 2018 CBA is attached hereto as Exhibit “B”.

### **The Voter’s List & Vote in LRB File 186-18**

8. Heather Shwetz, Superintendent of Human Resources, on behalf of the Employer provided to Jonathan Swarbrick at the Board a list of employees that were employed at that time

within the scope of the Teamsters' application. On that list there were 21 Bus Drivers (which are full-time Drivers), 3 Mechanics, and 10 Casual Bus Drivers.

9. The Amended Notice of Vote in LRB File 186-18 listed 34 eligible voters, which included the names of the 21 Bus Drivers, 3 Mechanics and 10 Casual Bus Drivers. Attached as Exhibit "C" is a copy of the Amended Notice of Vote.

10. The Vote in this file has occurred. Through consent of all parties, a "sneak peak" of the vote has occurred.

11. If the bargaining unit as applied for was granted (including the Casual Drivers) the bargaining unit would consist of 34 persons.

#### **NESD Schools & the NESD School Division**

12. The NESD Board Office is located at 402 Main Street, in Melfort, Saskatchewan. The Employer's human resources are located at the Board Office in Melfort.

13. The NESD also has satellite offices located in Tisdale and Nipawin.

14. The Transportation Department is located in Tisdale, Saskatchewan.

15. The Transportation Logistics Planner is located in Tisdale, Saskatchewan

16. NESD is a school division in the Province of Saskatchewan that covers a large geographic area. NESD encompasses an area of approximately 28,500 square kilometres.. The current geographic boundaries currently applicable to the NESD with sub-divisions is illustrated by a map that is posted on the NESD website and is attached hereto as Exhibit "D".

17. Within the school division of the Employer, there are 22 schools consisting of one (1) online school: the NESD online school, and 21 physical schools. The 21 physical schools are as follows in alphabetical order:

<u>School Name</u>	<u>Location</u>	<u>Grades</u>
Arborfield School	Arborfield, SK	K-12
Bjorkdale School	Bjorkdale, SK	K-12
Brunswick School	Melfort	K-6
Carrot River Elementary School	Carrot River	K-4
Carrot River Jr. Sr. High School	Carrot River	5-12
Central Park Elementary School	Central Park	K-3
Gronlid School	Gronlid	K-8
Hudson Bay Community School	Hudson Bay	K-12
L.P. Miller Comprehensive School	Nipawin	7-12
Maude Burke Elementary School	Melfort	K-6
Melfort & Unit Comprehensive Collegiate	Melfort	7-12
Naicam School	Naicam	K-12
Porcupine Plain Comp. School	Porcupine Plain	K-12
Reynolds Central School	Melfort	K-6
Star City Colony School	Star City	1-10
Star City School	Star City	K-12
Tisdale Elementary School	Tisdale	K-5
Tisdale Middle and Elementary School	Tisdale	6-12
Wagner Elementary School	Nipawin	4-6
White Fox School	White Fox	K-9
William Mason School	Choiceland	K-12

18. The following seven (7) schools are those to which the Bus Drivers subject to the Teamsters' application drive students to by school bus:

<u>Name of School</u>	<u>Location</u>
Carrot River Elementary School	Carrot River, Saskatchewan
Carrot River Jr. Sr. High School	Carrot River, Saskatchewan
Central Park Elementary School	Nipawin, Saskatchewan
L.P. Miller Comprehensive School	Nipawin, Saskatchewan
Wagner Elementary School	Nipawin, Saskatchewan
White Fox School	White Fox, Saskatchewan
William Mason School	Choiceland, Saskatchewan

19. The student enrollment count as of September 28, 2018 for each of the schools within the NESD is listed on the NESD website and is attached hereto as Exhibit "E".



20. The NESD has attendance areas for which students in particular geographic areas attend schools assigned within geographic boundaries. Attached hereto as Exhibit "F" is a copy of the attendance areas assigned for each school within NESD for the 2018-2019 school year.
21. At the time of the application for certification and currently, the Bus Drivers subject to the Teamsters' application drive students to schools located in the communities of Carrot River, Choiceland, Nipawin and White Fox, located in Saskatchewan.
22. As per Exhibit "F" that lists the attendance areas, Carrot River is area 9, Choiceland is area 1, Nipawin is area 7 and White Fox is area 6.

#### **School Division Amalgamation**

23. In 2006, in Saskatchewan, smaller school divisions were amalgamated in the province into larger school divisions. NESD was formed out an amalgamation of school divisions that occurred in 2006.

#### **Bus Drivers & Spare Drivers/Casual Drivers**

24. The term "Bus Drivers" is used refer to permanent bus drivers employed by NESD.
25. Each Bus Driver is assigned their own respective route and is assigned a school bus. Not all school buses are the same size.
26. Attached as Exhibit "G" is a general Job Description for the position of Bus Driver.
27. The reference to "Spare Drivers" can also refer to "Casual Drivers" or "Casual Bus Drivers" or "Substitute Drivers" and those terms of classification are used interchangeably.

28. Casual Drivers fill in for Bus Drivers on existing routes for both unionized and non-unionized drivers. Casual Drivers can accept or refuse requests to fill in on existing routes.
29. With the exception of the attendance area of Choiceland, and 2 routes in White Fox, all Bus Drivers that would be within the scope of the unit applied for by Teamsters would deliver students to a minimum of two (2) schools.
30. The Bus Drivers, Spare Drivers and Mechanics are employees of NESD, they are not independent contractors.
31. The school buses that are driven by the Bus Drivers and receive repair and maintenance by the Mechanics are owned by the NESD.
32. Generally, due to the large geographic distance of the NESD, the majority of Bus Drivers take their assigned school bus home with them on a daily basis.
33. Bus Drivers are responsible to fuel their assigned school buses with a card supplied by NESD.
34. The routes driven by the Bus Drivers are located on the NESD website. In the Carrot River attendance area, there are 5 Bus Driver routes: Routes 60; 61; 66; 74; and 79. Attached hereto as Exhibit "H" a copy of the map from the NESD website showing the routes. Route 60 is dark blue, Route 61 is green, Route 66 is maroon, Route 74 is light blue, and Route 79 is green.
35. In the Choiceland attendance area, there are 4 Bus Driver routes: Routes 57; 64; 67 and 73. Attached hereto as Exhibit "I" is a copy of the map from the NESD website showing these routes. Route 57 is green, Route 64 is dark blue, Route 67 is light blue, and Route 73 is green. At this time, the Choiceland Bus Drivers deliver to William Mason School located in Choiceland.

36. In the Nipawin attendance area, there are 8 Bus Driver routes, Routes 36, 55, 59, 63, 68, 69, 78, 80. Attached hereto as Exhibit “J” is a copy of the map from the NESD website showing these routes.
37. In the White Fox attendance area, there are 4 Bus Driver routes, Routes 70, 72, 75 and 76. Attached hereto as Exhibit “K” is a copy of the map from the NESD website showing these routes. Route 70 is blue, Route 72 is green, Route 75 is Black and Route 76 is green.
38. When a Spare Driver drives a bus for a school not covered by CUPE’s Certification Order in LRB File 033-17, the Spare Driver is non-unionized and is not covered by CUPE’s collective bargaining agreement. When a Spare Driver drives a bus for a school within the scope of CUPE’s Certification Order in LRB File 033-17, they are then covered by the CUPE’s collective bargaining agreement.
39. The group of non-unionized Bus Drivers who are the subject of this Application are to be paid according to the Salary Grid at Appendix “A”, a copy of which is attached hereto as Exhibit L

### **Mechanics & Bus Garages**

40. Attached as “Exhibit “M” is a general Job Description for the position of Mechanic.
41. At the time of the Teamsters’ application for certification and at the time of signing this Agreed Statement of Facts there were 3 Mechanic positions and 3 persons employed by NESD in the position of Mechanic: 1) Mark Backstrom; Casey Randall; and Bradley Genge. Currently, all three mechanics are Journeyman Mechanics.
42. The Mechanic positions work in the two bus garages of the Employer. One bus garage is located in Tisdale, and the other is located in Nipawin.

43. The bus garages are used for maintenance and repair of school buses. Each garage is located in a compound where buses can be parked or stored.
44. Two mechanic positions are physically located to work in Tisdale at the bus garage at that location, and one mechanic, Mark Backstrom works in Nipawin at that bus garage.
45. All of the Bus Drivers on the routes that are within the proposed unit by Teamsters usually take their buses into the bus garage located in Nipawin. Union and non-unionized Bus Drivers can go to either garage for maintenance or service.
46. The Bus Drivers that are represented by CUPE normally take their buses to the mechanics located in Tisdale.
47. There are spare school buses located in the two compounds of the bus garages.
48. If there is something wrong with a bus, such as a mechanical problem, a Bus Driver contacts a mechanic and requests a spare bus which the Bus Driver can obtain from either compound. The location of the compound from where a spare bus is obtained is at the direction of the mechanic and depends on factors such as proximity to the bus garage (mileage), and availability of a spare bus.

### **Pension Plan**


49. The Bus Drivers that are currently non-unionized and the Mechanics that are currently non-unionized, are part of the Municipal Employees Pension Plan – MEPP.

**Historic CUPE Organizing**

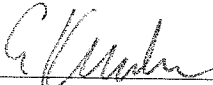
50. Since the amalgamation of the school divisions in 2006, CUPE has held organizing drives to certify non-unionized Bus Drivers in the NESD with the goal to expand its union membership. These organizing drives have been unsuccessful.

By their signatures, the facts and exhibits herein are agreed to by legal counsel for the parties on the dates indicated below:

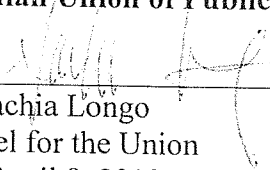
**Teamsters Local Union No. 395**

  
\_\_\_\_\_  
Per: Heather L. Robertson  
Counsel for the Union  
Date: April 8, 2019

**North East School Division #200**

  
\_\_\_\_\_  
Per: Geraldine Knudsen  
Counsel for the Employer  
Date: April 8, 2019

**Canadian Union of Public Employees, Local 4875**

  
\_\_\_\_\_  
Per: Sachia Longo  
Counsel for the Union  
Date: April 8, 2019