

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

* * * * *

Greenland Teachers Association,
NHEA/NEA

vs.

Greenland School Board, Supervisory
Union #52, Clough Drive,
Portsmouth, New Hampshire

* * * * *

+6203

UNFAIR LABOR CHARGE

APPEARANCES:

Greenland School Board: Herbert Wilson, Muriel J. Hayden

Greenland Teachers Association, NHEA/NEA: Sally Potter,
Project Director, NHEA/NEA and GEA; Ward Newton Jones,
Chief Negotiator

FINDINGS

The Board held a hearing on June 23, 1977 on unfair labor charges filed by the Greenland Education Association against the Greenland School Board. Basically, the Teachers Association (hereinafter GEA) charged the School Board with an unfair labor practice for publishing individual teacher contracts with salary schedules which were not negotiated with the GEA, the exclusive representative of the teachers in the bargaining unit under Board certification. The parties had entered into negotiations and, in fact, negotiated concerning salary rates. The GEA had

requested a raise of approximately 8.2% and the School Board had originally offered teachers 7.6% increases. The budget as approved by the voters, however, included only enough money to fund a 6.2% increase. After that approval by the voters, the School Board sent contracts to teachers, understanding it to be its duty to send such contracts under the master agreement within certain time limits specified in that master agreement, without negotiating with the teachers' certified representative as to the application and distribution of the monies available for increases. The teachers received the contracts and many of the contracts were signed, some being returned by individual teachers and some collected by the GEA and returned with a cover letter from the GEA.

The GEA requested negotiations as to the application of the available funds, which request was not honored. The GEA then filed unfair labor practice charges with the Board.

In Article II, Section II, the master contract between the parties provides "The BOARD shall make every effort to secure the funds necessary to implement the Agreement. If such funds are not forthcoming, the BOARD and the TEACHERS shall resume negotiations regarding the matters affected thereby, in accordance with the provisions of this Agreement."

In the case before the Board, the School Board attempted to get the voters to approve a larger amount of funds than the voters, in fact, approved, after hearing the recommendations of the Budget Committee. Under the contract, the parties are required to bargain regarding the actual amounts of funds provided. The Greenland Education Association brought its complaint under R.S.A. 273-A:3 II(b) which states in part" . . . If the legislative body rejects any part of the submission, or while accepting the submission takes any action which would result in a modification of the terms of the cost items submitted to it, either party may reopen negotiations on all or part of the entire agreement." The return of signed contracts with a cover letter from the Greenland Education Association, and the return of other contracts by individual teachers, along with the knowledge by the School Board that the Teachers Association was the exclusive bargaining representative of the teachers and desired to discuss the effect of the action of the voters, has several effects. First, the signing of the contracts in and of itself does not establish binding relationships between individual teachers and the School Board since the School Board was not within its rights to distribute such contracts when it knew

that negotiations were not complete. Notwithstanding this fact, the signing of the contracts by the teachers and indication from the exclusive bargaining representative that the only item which they sought to continue to discuss was that of salaries, in effect accepted all the terms except for salaries under the contracts and that action limits the examination by this Board of the issues before it to the question of the continuing negotiability of money items after the decision of the voters.

The purpose for the statutory language cited above R.S.A. 273-A:3 II(b) is to allow the parties to decide what action should be taken after a legislative body decision on a term of a contract (in this case the action by the voters). Indeed, the agreement between the parties in Article II, Section II, contains language substantially similar to the statute in its last sentence, "if such funds are not forthcoming, the BOARD and the TEACHERS shall resume negotiations regarding the matters affected thereby, in accordance with the provisions of this Agreement." Both the statute and the Agreement recognize that it is a matter for negotiation when funds are available in whatever amount, and the parties should negotiate the application of such funds between salaries, benefits,

individuals in the bargaining unit and the like. To refuse such negotiations would be to refuse the teachers the right to negotiate the effect of legislative action. While it is true that there is nothing further the parties can do about the amount of funds which are made available by the legislative body, it is clearly the intent of the statute and the contract that they be able to negotiate the effect of that legislative action so that the funds can be applied in a way most acceptable to the parties. Therefore, the action by the School Board in unilaterally sending out salary schedules as to the application of funds without negotiations was improper. The Board is therefore constrained to find an unfair labor practice against the Greenland School Board for unilaterally sending contracts with salary schedules attached thereto absent negotiations to arrive at those salary schedules.


ORDER: The Board orders the following:

1. The Greenland School Board rescind the salary schedule sections of the contracts unilaterally sent to members of the bargaining unit.
2. The parties shall forthwith enter into negotiations as to the effect of the financial appropriations made by the voters of the school district for the application of those funds to the contracts signed by the

teachers and the School Board, which contracts shall be valid as to all other items and shall have attached to them schedules of salaries and/or benefits following negotiations under this Order.

PUBLIC EMPLOYEE LABOR
RELATIONS BOARD

By:


Edward J. Haseltine
Chairman

DATE:

8/30/77