



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LACONIA ASSOCIATION OF SUPPORT STAFF,
NEA-NEW HAMPSHIRE

 Petitioner

 v.

LACONIA SCHOOL BOARD

 Respondent

CASE NO. C-0801:2

DECISION NO. 85-86

APPEARANCES

Representing the Laconia Association of Support Staff, NEA-NH

James Allmendinger, Esq., Counsel

Representing the Laconia School Board

Jay C. Boynton, Esq., Counsel
Frank Poole, Superintendent

BACKGROUND

The PELRB found in its decision #84-78 that the Laconia School Board was not guilty of an unfair labor practice having adopted a policy for evaluating custodians annually. In its decision of October 25, 1984 (parenthetically Decision #84-78), the PELRB further ordered that the parties must negotiate any impact of the new policy which may affect other "terms and conditions of employment".

On November 14, 1984, the Laconia Association of Support Staff, NEA-NH filed a motion for rehearing asking that the PELRB review its decision in 84-78 on the grounds that the Board had failed to apply properly the Supreme Court's decisions in the appeal of Watson, 122 N.H. 664,668 (1982). Further that the Board did err in applying rules that it has previously laid down in other cases.

On July 1, 1985, in Decision #85-55, the PELRB, in view of the gravity of the case, agreed to hear further argument before the Board.

The Laconia School Board objected to the motion for reconsideration on the grounds that no new evidence was put forward by the Association and that the findings and rulings of the PELRB, in its original decision, were correct both in law and in fact.

The hearing was scheduled for October 3, 1985 at the Board's headquarters in Concord, New Hampshire with all parties represented.

RULINGS OF LAW

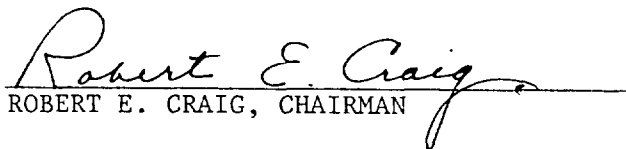
During the course of the re-hearing, the Association argued that since the PELRB was bound by the Watson case, in short that the method of termination is a mandatory subject of bargaining, then so should be the "method of evaluation". Insofar as the "method" involves procedures to directly evaluate individual employees, which procedures will clearly effect the individual "conditions of employment", the PELRB concurs with the Association that these procedures, which effect the "conditions of employment", are indeed mandatory subjects of negotiations.

Insofar as the Laconia School Board seeks to make a decision adopting a policy of evaluation stipulating their concerns for employee performance that decision per se is not of itself a mandatory subject of negotiation but rather is a reserved management prerogative.

However, insofar as procedures and/or "methods" of implementation are adopted, these procedures and/or methods will effect the "conditions of employment" encompassed and foreseen by the act and are therefore themselves mandatory subjects of negotiation. In short, the PELRB continues to draw the distinction between the adoption of policy and the necessary adoption of correlate of procedures and/or methods which are mandatory subjects of negotiation since they will of their very nature interfere with and change the conditions of employment.

DECISION AND ORDER

The PELRB reconfirms its decision and order in its 84-78 decision with the above clarification and orders the parties to negotiate those procedures and/or methods of implementing the policy of evaluation of support personnel.


ROBERT E. CRAIG, CHAIRMAN

Signed this 25th day of October, 1985.

By unanimous vote. Chairman Robert E. Craig presiding. Members Seymour Osman, Richard Roulx and James Anderson present and voting. Also present, Executive Director Evelyn C. LeBrun.