



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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AMERICAN ASSOCIATION OF UNIVERSITY	:	
PROFESSORS	:	
	:	
Complainant	:	
	:	CASE NO. U-0613:2
v.	:	
	:	DECISION NO. 91-86
UNIVERSITY SYSTEM OF NEW HAMPSHIRE	:	
	:	
Respondent	:	

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#### APPEARANCES

##### Representing American Association of University Professors:

Thomas F. Hersey, Esq., Counsel

##### Representing University System of New Hampshire:

Nicholas DiGiovanni, Jr., Esq.

##### Also appearing:

Bronwyn Williams, U.N.H.  
Linda Robinson, U.N.H.  
Stephen Fan, A.A.U.P.  
L. C. Balling, A.A.U.P.  
Joan Tambling, U.S.N.H.  
Walter Eggers, U.N.H.  
John Lawson, U.N.H.  
Gary Wulf, A.A.U.P.

#### BACKGROUND

On December 10, 1990 the American Association of University Professors (AAUP) the New Hampshire Chapter filed an improper practice charge against Dale Nitzschke President of the University of New Hampshire charging the University failed to negotiate in good faith stating as follows. The petitioner was certified as exclusive representative for certain employees of the University of New Hampshire in October 23, 1990. On information and belief the petitioners president, L. C. Balling, wrote the Director of Human Resources of the University System to protest any increase in the costs of benefits provided to employees in the unit pending negotiations. The Director of Human Resources wrote Professor Balling indicating that the university intended to increase these costs without any discussion with the Association. The petitioner refers that the University System's

refusal to negotiate with respect to the cost of benefits and the unit is in breach of its obligations pursuant to 273-A and is prohibited practice.

The remedy sought by the petitioner was an order to cease and desist from such activity.

The University of New Hampshire (UNH) by its counsel Nicholas DiGiovanni, Jr., Esq., in response denied that the conduct of the university in no way violated 273-A. By way of further answer the university alleged that the matter of employee contributions with respect to the health plan had been decided long before the AAUP became certified as the exclusive bargaining representative.

At the time the decision was made to change these costs, the AAUP was not certified and further alleged that it had every right to conduct its business without reference to the Association until such time as the AAUP became the certified bargaining unit.

Hearing in this matter was held in consolidation with a previous case of AAUP v. UNH on May 21, 1991.

Steven Fan representing the AAUP stated that he found out two weeks before the election a change in the benefits had been made and negotiations started in March of 1991. It was further his position that these changes had been made in attempt to influence the outcome of the election.

Counsel for UNH reviewed the dates of the action by the Board of Trustees in which the increase cost of health care services issue was decided, it was approved in 1990 to become effective in 1991. That the issues of these costs had been approved and signed by the Chancellor on May 7, 1990 and further testimony revealed that the Trustees had approved on June 22, 1990 and the plan was to be phased in over a three (3) year period. The University further alleged that there was no requirement to bargain the issue which had been pre-planned by the university which had been approved and instituted long before the bargaining unit was certified and bargaining between the parties was to begin.

There was no evidence presented at the hearing to refute the actions of the Board of Trustees with respect to the Health Care Plan and as to the actions dates of the implementation of such plan.

#### FINDINGS OF FACT

After reviewing testimony and exhibits offered at the hearing the Board makes the following findings:

1. The University had prepared and approved a plan of health care costs to take place over a three (3) year period for the entire university personnel, well before any opportunity for the subject matter to be placed on any negotiating table.

2. There was no evidence presented at the hearing to indicate that this health care cost plan had been designed to effect the outcome of a certification petition.
3. The Board finds that the plan developed by the university concerning this issue had been planned and implemented in good faith and that the plan should not be put on hold pending negotiations.
4. The issue of health care costs is a subject to be negotiated by the parties in the future.

ORDER

After reviewing all of the oral testimony and exhibits offered the Board DISMISSES the unfair labor practice charge against the University of New Hampshire.

Signed this 31st day of October, 1991.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard W. Roulx and E. Vincent Hall present and voting.