



2. The Weare Education Association is the duly certified bargaining agent for teachers employed by the District.
3. The Association and the District have been parties to collective bargaining agreements (CBA's) the most recent of which was for school year 1991-92. Negotiations on that agreement commenced in October or November of 1990.
4. According to unrebutted testimony from Joseph McAllister, School Board member, agreement in principle was reached on the 1991-92 CBA on November 9, 1992. Funding for the settlement was approved by voters at the annual School District meeting held on March 6, 1993.
5. During the 1993 annual School District meeting, Board Chair Chuck Bolton moved to appropriate the necessary monies to fund the 1991-92 CBA. (The funding vehicle was not to become effective until after July 1, 1993.) During discussion on the appropriation, Edward Sanborn, a member of the Weare School Board, rose and spoke against the settlement. His comments were not inconsistent with his prior positions during negotiations and as a member of the District's negotiating team. Notwithstanding Sanborn's comments at the district meeting, voters funded the 1991-92 settlement. (Finding No. 4)
6. Article XII of the CBA contains a sentence which reads, "the Board and teachers agree to support mutually agreed to settlements before the voters of the District."
7. Teacher-negotiator Gretchen Graham testified that the Association had no knowledge of Sanborn's possibly speaking against the settlement until two days prior to the March 6, 1993 district meeting.
8. Sanborn made his comments to the district meeting from the podium while other attendees at the meeting (other than the moderator and board members) spoke from the floor.

DECISION AND ORDER

In Governor Wentworth Education Association, Decision No. 83-60, (December 7, 1983), this Board held "that there is a duty to support a tentative agreement imposed on negotiating team members" and "that the duty does extend to voting [to support the tentative agreement], violation of which is a prohibited practice, bad faith bargaining." Notwithstanding this policy, the PELRB, noting that there were cross-complaints involving both parties, declined to find either "guilty" of an unfair labor practice.

The Wentworth decision was cited when the Board decided Stratford Teachers Association, Decision No. 85-85 (October 24, 1985), by reiterating that the "statutorily imposed obligation to bargain in good faith extends to the process of securing ratification of a tentative agreement." Notwithstanding this policy, the facts in Stratford are distinguishable from this case. In Stratford, the school board member "spoke forcefully against the tentative agreement." There were two compelling differences from this case: 1) no other member of the school board spoke in favor of the agreement or requested ratification and 2) the finding for the agreement was "overwhelming defeated." Thus, the PELRB determined that "although we do not decide that a dissident member of a negotiating team cannot voice opposition during the ratification process, someone representing the employer must support and seek ratification." (Emphasis is original) In this case, all board members other than Sanborn supported the settlement and the settlement was approved.


By 1990, the PELRB recognized that the conduct of a majority of a school board would characterize the nature of its actions, acting as a whole. In Finding No. 3 in Keene Education Association, Decision No. 90-54 (July 27, 1990), the PELRB said, "the School Board have an obligation to actively support an agreement reached by the parties in all forums and its majority did so." The case was dismissed.

The line of cases concludes with Salem Firefighters, Decision No. 92-09 (January 22, 1992), where a selectman, who hosted a local (cable) television show, encouraged the rejection of any negotiated agreement on that show. Finding that the selectman was acting on his own behalf and no evidence that he was acting on behalf of the selectmen as a group, the PELRB dismissed the case. Had he utilized information only available to him in his capacity as a negotiator or been speaking on behalf of the ... Selectmen, this

would have been impermissible conduct." In this case, Sanborn spoke after the article had been put on the floor, was not speaking on behalf of the Board, did not represent the only Board voice at the meeting since the article already had Board support, and was not successful in achieving rejection of the settlement. For these reasons and consistent with earlier decisions cited herein, the ULP is DISMISSED.

So ordered.

Signed this 26th day of August, 1993.



EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.  
Members Seymour Osman and E. Vincent Hall present and voting.