



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

KEARSARGE REGIONAL SCHOOL  
DISTRICT

Complainant

v.

KEARSARGE REGIONAL  
EDUCATION ASSOCIATION,  
NEA-NEW HAMPSHIRE

Respondent

CASE NO. T-0238:13

DECISION NO. 96-068

(Remand of Second Motion  
To Supplement Record)

#### BACKGROUND

The Kearsarge Regional School District (District) filed unfair labor practice (ULP) charges against the Kearsarge Regional Education Association (Association) on April 7, 1995 alleging a violation of RSA 273-A:5 II (d) relating to a refusal to bargain by attempting to grieve a non-grievable subject. The Association filed its answer on April 18, 1995 after which this matter was heard by the PELRB on May 16, 1995. The PELRB issued its decision (Decision No. 95-57) in this matter on June 29, 1995. By unanimous vote it required the parties to attempt to negotiate their differences and, if unsuccessful in doing so, to proceed with grievance arbitration originally sought by the Association on February 20, 1995. The District sought rehearing by motion of July 19, 1995. The PELRB unanimously denied rehearing on August 31, 1995. Decision No. 95-76.

The District filed an appeal with the New Hampshire Supreme Court on September 29, 1995. On October 12, 1995, it filed a Motion to Supplement the Record, seeking to have it include the CBA which became effective on July 1, 1995 as well as the written proposals and counter-proposals of the parties. On December 14, 1995, the Supreme Court denied this first motion to supplement the record and accepted the appeal filed October 12, 1995. The

record was subsequently filed with the Supreme Court on April 19, 1996.

On June 12, 1996, the District filed a second motion to supplement the record in this case with the Supreme Court. It sought to have the record include Robert Ragazzo's first individual contract with the District, a copy of the first collective bargaining agreement between the parties which contains the language now found in Article II D of the current collective bargaining agreement, and a copy of the last collective bargaining agreement between the parties which does not contain the language now in Article II D of the current collective bargaining agreement. On August 1, 1996 the Supreme Court remanded this matter to the PELRB for a determination on the District's second motion to supplement the record on or before August 31, 1996.

#### DECISION AND ORDER

After a review of the record and the District's second motion to supplement the record, we weigh the following considerations:

1. Admission of additional documents at this time would broaden the record beyond that which was available to the PELRB at the time the case was decided on June 29, 1995.
2. Admission of additional documents at this time essentially permits the parties, or either of them, to redraft and retry their case based on different arguments than those they originally employed.
3. The PELRB may either not be in possession of documents identified in the District's second Motion to supplement or may be in possession of said documents without knowing that it possesses them because they are not identified consistent with the District's request.
4. The PELRB's decision (Decision No. 95-57, page 4) speaks to the pre-eminence of the collective bargaining agreement over individual teacher contracts, to wit:

"It is the CBA, not the individual teacher contracts, which contains

the grievance procedure. That procedure, then, cannot be blocked by individual teacher contracts signed months or years after the execution of the CBA. The right or obligation to process grievances belongs to the parties to the CBA."

Accordingly, the second motion to supplement the record is DENIED.

So ordered.

Signed this 22nd day of August, 1996.



EDWARD J. HASELTINE  
Chairman

By unanimous decision. Chairman Edward J. Haseltine presiding.  
Members E. Vincent Hall and William F. Kidder present and voting.