State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

EXETER EDUCATION ASSOCIATION

NEA-NEW HAMPSHIRE

Complainant

v. : CASE NO. T-0412:2

EXETER REGIONAL COOPERATIVE : DECISION NO. 97-062

SCHOOL BOARD AND SAU #16

Respondent

MOTION TO DISMISS

The Public Employee Labor Relations Board (PELRB), meeting at its offices in Concord, New Hampshire, on June 17, 1997, took the following actions:

- 1. It reviewed the Association's unfair labor practice (ULP) complaint filed February 12, 1997, involving allegations of refusal to bargain, presenting a new economic package by the Cooperative School Board which is inconsistent with the 1996-99 CBA with the Exeter School District, unilateral changes in working conditions and direct dealing, as well as the Cooperative's answer and motion to dismiss filed on March 5, 1997. Counsel for the Cooperative School Board filed an amended motion to dismiss during the course of its opening argument on June 17, 1997, which was also considered by the PELRB.
- It convened a hearing to take evidence and hear testimony relating to the pending ULP complaint.

- 3. It heard opening arguments from representatives for each party and accepted and considered the Cooperative's amended motion to dismiss.
- 4. It reviewed the hearing officer's decision in the Association's petition for declaratory judgment (Decision No. 97-008 dated February 18, 1997), the PELRB's affirmance thereof (Decision No. 97-035 dated March 21, 1997) and its denial of the Cooperative's Motion to Stay Pending Appeal because the proceedings below involved a declaratory judgment and because no corrective or remedial measures were directed (Decision No. 97-051 dated May 8, 1997).
- 5. Based on representations from counsel for the Cooperative that, as a result of Decision No. 97-008, it intended to adhere to and apply the terms of the Exeter Education Association CBA for 1996-99 for those teachers transferring to the employ of the Cooperative/SAU #16, unless reversed or held in abeyance by a court of of competent jurisdiction, and based on the fact that the Cooperative, having fewer than ten (10) employees when the ULP was filed on February 12, 1997, was not a "public employer" at that time, the PELRB GRANTED the Cooperative's amended motion to dismiss.

So ordered.
Signed this 24th day of June, 1997.

EDWARD J HASELTINE

Chairmán

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