



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Winchester Teachers Association/NEA-NH

Complainant

v.

Winchester School Board

Respondent

*
*
*
*
*
*
*
*
*
*
*
*
*
*

Case No. T-0317-7

Decision No. 2001-036

PRE-HEARING CONFERENCE MEMORANDUM and ORDER

BACKGROUND

On April 2, 2001, the Winchester Teachers Association/NEA-NH, (hereinafter referred to as the "Association") filed an improper labor practice charge pursuant to RSA 273-A:5 I (a), (c), (g), (h), and (i) alleging that the Winchester School District, (Respondent) and its Assistant Superintendent failed to bargain in good faith, and imposed a method of certification that discriminated against a teacher in retaliation for that teacher's union activities.

The Association seeks relief in the form of an order of the PELRB "grandfathering" the subject teacher/union official, maintaining the subject individual as a computer teacher, paying for all costs of the individual's completion of the certification process, and making the subject individual "whole" for all losses suffered.

On April 11, 2001, the Respondent School District answered the Association charges by first asserting that the Association has presented insufficient facts to support any violation of the parties' collective bargaining agreement then specifically denying that any discriminatory action was undertaken against the subject teacher/union official and requesting that the PELRB dismiss all alleged statutory violations.

PARTICIPATING REPRESENTATIVES

For the Association: Mary E. Gaul, UniServ Director, NEA-NH

For the Board: Douglas S. Hatfield, Esquire for Margaret-Ann Moran, Esquire,

ISSUE FOR DETERMINATION BY THE BOARD

1. Whether or not the actions undertaken by the Board and its agents, including its Assistant Superintendent, relating to Richard Durkee's certification and consequent non-renewal constituted discriminatory or retaliatory actions that are prohibited by the parties' collective bargaining agreement or operation of RSA 273-A:5, I.

WITNESSES

For the Association (Petitioner):

1. Richard Durkee, Teacher and Association official
2. Mary Gaul, Uniserv Director, NEA-NH
3. Thomas Warner, Director of Technology for SAU #38
4. Deb Trabucco, School District Technology Director
5. Curt Cardine, SAU Superintendent
6. Margaret Sullivan, Assistant Superintendent
7. Judy Fillion, New Hampshire Department of Education staff person

For the District (Respondent):

1. Margaret Sullivan, Assistant Superintendent
2. Colleen Duquette, School Board Member
3. Debbie Trabucco, School District Technology Director

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

For the Association:

1. Durkee correspondence with New Hampshire Department of Education
2. Durkee teacher contracts since 1990
3. Cardine letter to Warner, dated 11/13/00
4. Cardine letter to Fillion, dated 11/13/00
5. Cardine letter to Durkee, dated 11/14/00
6. Parties' existing collective bargaining agreement
7. Staff Development letters and records regarding Durkee and others
(Association to specify to Board)

For the Board:

1. McCarthy letter to Durkee, dated 3/29/90
2. McCarthy letter to Durkee, dated 3/29/93
3. New Hampshire Teacher Contract between District and Durkee,
Dated 5/2/00
4. Sullivan letter to Durkee, dated 10/3/00
5. Sullivan letter to Durkee, dated 10/24/00
6. Cardine letter to Fillion, dated 11/13/00
7. Cardine memorandum to Warner, dated 11/13/00
8. State teacher standards (Board to specify to Association)

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

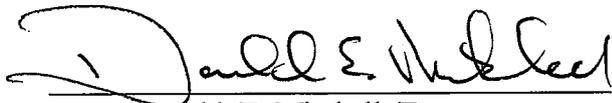
LENGTH OF HEARING

The time being set aside for this hearing is one half day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB no later than May 30, 2001.

DECISION

1. The parties have agreed to cooperate in further identifying specific pieces of correspondence, contracts and standards relating to this matter that they may respectively seek to enter into evidence. The parties shall therefore confer and produce to the other such documents as exist and are in their possession or control on or before May 29, 2001 at 4:30 P.M.
2. The parties shall also cooperate to obtain any relevant documents or copies of documents presently in the possession or control of the New Hampshire Department of Education.
3. The party representatives shall provide any amendments to their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB no later than June 15, 2001 at 4:30 P.M. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
4. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than fourteen (14) calendar days prior to the scheduled hearing date.
5. Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on Thursday, June 21, 2001 beginning at 9:30 A. M.

Signed this 15th day of May, 2001.



Donald E. Mitchell, Esq.
Hearings Officer