



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Hillsboro-Deering Federation of Teachers, AFT
Local #2348, AFT-NH, AFL-CIO

Complainant

v.

Hillsboro-Deering School District

Respondent

*
*
*
*
*
*
*
*
*
*
*

Case No. E-0045-2

Decision No. 2008-113

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Hillsboro-Deering Federation of Teachers, AFT Local #2348, AFT-NH, AFL-CIO (the "union") filed an unfair labor practice complaint on April 7, 2008 to complain about statements middle school principal Richard Nannicelli made at the end of an April 1, 2008 faculty meeting. According to the union, on March 27, 2008 the union took a no confidence vote in school superintendent Dr. Barbara Baker. The union claims that at the April 1, 2008 faculty meeting principal Nannicelli "stated words to the following effect according to those present that, 'I would hate to think that anyone in this building would have anything to do with this action,' and 'he couldn't imagine that the middle school staff would be part of this.'" The union asserts that the principal also "urged the staff to be present at the school board meeting on Monday and voice their support for Dr. Baker if they were not in agreement with the union." The union charges that the school district's actions constitute coercion and interference with the union and creates concerns about the chilling effect such conduct will have on union activities in violation of RSA 273-A, I (a)(to restrain, coerce or otherwise interfere with its employees in the exercise of the rights conferred by this chapter), (b)(to dominate or to interfere in the formation or administration of any employee organization), and (g)(to fail to comply with this chapter or any rule adopted under this chapter).

The union has requested as remedies that the PELRB: 1) find that the conduct of principal Richard Nannicelli constitutes an Unfair Labor Practice in violation of RSA 273-A, I (a), (b) and (g); 2) order Richard Nannicelli to cease and desist from such prohibited practices; 3)

require the district to disseminate this decision to each bargaining unit member at the middle school; 4) require the district to reimburse the Union for costs and reasonable expenses for staff legal time in preparing and processing this charge; and 5) order such other and further relief as may be just and necessary.

On April 21, 2008 the district filed its answer denying the union's charges. According to the district approximately 25% of the union membership attended the union meeting meeting at which a "surprise" no confidence vote was taken and statements by union president Diane Hines that "we had a substantial majority of union members present" at the union meeting were inaccurate. The district states that many union members have informed principal Nannicelli of comments concerning the no confidence vote. The district acknowledges that principal Nannicelli addressed the no confidence vote at the faculty meeting but disputes the union's depiction of his remarks. According to the district, principal Nannicelli stated "I'm really disheartened about this because my sense is that this does not reflect how all of you feel" and "I want you to know where I stand - 100% behind Barb. I'll attend the board meeting Monday to show support and if any of you agree with me know that you are welcome to join me at the board meeting." The district says there was also discussion at the faculty meeting amongst the staff as to the specifics of the March 27, 2008 union meeting. The district contends that principal Nannicelli was simply exercising his free speech rights by expressing his personal view in support of superintendent Baker.

The district requests that the PELRB: 1) deny the unfair labor practice complaint; 2) award the district its costs and expenses; and 3) order such other and further relief as the board deems just.

The undersigned hearing officer conducted a pre-hearing conference on May 21, 2008 at the offices of the Public Employee Labor Relations Board in Concord.

PARTICIPATING REPRESENTATIVES

For the union: Teresa D. Donovan, Esq.

For the district: Edward M. Kaplan, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

Whether principal Nannicelli's remarks constituted interference with or coercion of the union in violation of RSA 273-A, I (a), (b) and (g).

WITNESSES

For the Union:

1. Diane Hines, union president

2. Rhayna Teich, union middle school building representative
3. Principal Nannicelli
4. Bill Harris
5. Ellen Mims, faculty
6. Other witnesses listed on union's witness and exhibit list filed on May 21, 2008.

For the District:

1. Principal Nannicelli
2. Kim Rawson, faculty
3. Michael Conley, faculty
4. Ellen Mims, faculty

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 Union:

1. 4/7/08 Memo from Principal to Faculty – full exhibit
2. 4/1/08 E-mail from Diane Hines to Babette Haley and others – full exhibit
3. 4/1/08 E-mail Correspondence between Diane Hines and Babette Haley – full exhibit
4. Villager, 4/11/08, id
5. Union Leader, 4/11/08, id
6. 4/2/08 and 4/21/08 Rhayna Teich statements, id
7. 4/21/08 Rhayna Teich statement, id
8. 4/2/08 Jane Adams statement, id
9. 5/08/08 Bill Harris email – full exhibit
10. 4/15/08 Bill Harris email – full exhibit
11. 4/4/08 Diane Hines email – full exhibit
12. 4/4/08 Diane Hines email – full exhibit
13. 4/17/08 Kim Rawson email – full exhibit

For the District:

- A. 4/4/08 Reuben Duncan email – full exhibit
- B. 4/3/08 Ellen Mims email – full exhibit
- C. 4/3/08 letter to school board – full exhibit
- D. 4/4/08 Ellen Mims email – full exhibit

Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

LENGTH OF HEARING

Three hours.

DECISION

1. "Parties" means the named petitioner and respondent or the counsel/representative appearing in the case. The parties shall meet, or otherwise confer, on or before May 29, 2008 in order to compose a mutual statement of agreed facts. The parties shall file their fact stipulations before the hearing.

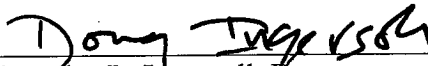
2. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on

May 29, 2008 at 9:30 a.m.

at the offices of the Public Employee Labor Relations Board in Concord.

So ordered.

May 23, 2008.



Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Distribution:

Teresa D. Donovan, Esq.
Edward M. Kaplan, Esq.