

attempt to limit # of
attendance at 2nd level
grievance procedure

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

HANOVER EDUCATION ASSOCIATION, NHEA/
NEA AND JOHN STEPHENS

Charging Parties :

CASE NO. T-0231:1

and

DECISION NO. 780030

DRESDEN BOARD OF SCHOOL DIRECTORS
AND RAY EDWARDS, SUPERINTENDENT

Respondents

APPEARANCES

Representing the Hanover Education Association and John Stephens:

John Fessenden, UniServ Director, NHEA/NEA
Herbert Roland, President HEA

Representing the Dresden Board of School Directors and Ray Edwards, Supt.:

David H. Bradley, Esquire, Counsel
William B. Kingston, Metzler Associates

BACKGROUND

On February 9, 1978, the Hanover Education Association and John Stephens, by their representative, John Fessenden, UniServ Director, NHEA/NEA, filed charges of improper practice against the Dresden Board of School Directors and Superintendent Raymond Edwards, alleging that HEA had followed the first step of the grievance procedure with the Superintendent and with nothing resolved. Therefore, they proceeded to the second step and appealed to the Board of Directors. The Board of Directors demanded certain restraints and attempted to limit the attendance at the hearing and granted only an executive session. HEA alleged violation of RSA 273-A:5, 1(a) & (h) in refusing to comply with the grievance procedure in their contract which states:

"the grievant may, at his request, have the meeting with
the Board open to the public."

The Dresden Board of School Directors, through their representative, Attorney Bradley, denied the charges and stated HEA and John Stephens had not filed anything with the District which could be considered a grievance under the terms of the bargaining agreement. They further stated that a grievance under the contract was clearly limited to "possible violation or the improper, incorrect, or wrongful interpretation or application of this contract". That HEA and John Stephens were not entitled to invoke the grievance procedure of the contract unless they alleged facts which violated, misinterpreted or misapplied the contract.

Hearing on the charges was held on May 3, 1978 in the Board's office in Concord. Attorney Bradley submitted a request from the District for findings and rulings in which he stated the document claimed by HEA as a grievance was a letter from Attorney Lawrence A. Kelly, dated October 27, 1977, to Robert McCarthy, Principal of the Hanover High School and Raymond G. Edwards, Superintendent of Schools; that the letter of complaint was supplemented by a letter from Attorney Kelly to Superintendent Edwards on November 17, 1977; and that the only provision of the parties' collective bargaining agreement which the complaint alleged to have violated was Article V, Section B:

"B. By the opening day of school, the criteria and methods of evaluating professional personnel will be available";

further, that no facts were contained in the letters of complaint from Attorney Kelly which related to the foregoing section of the Master Contract.

Oral testimony and several exhibits were presented to the Board by both the Counsel for the District and the Representative for the Association.

FINDINGS OF FACT

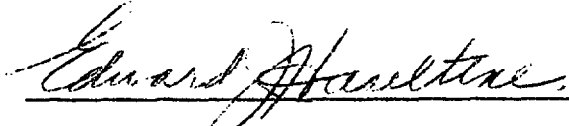
1. On February 9, 1978, HEA filed a complaint against the Dresden Board of Directors and Superintendent Raymond Edwards for violation of RSA 273-A:5, I(a) and (h), by failing to follow the grievance procedure and denying certain rights accorded the grievant under the contract language in that he was denied a public hearing.
2. Testimony supported the position of the HEA regarding the denial of certain procedures called for in the agreement; specifically Article IV (pages 8 thru 22) of said agreement.
3. Testimony at the hearing evidenced a latent desire on the part of both parties to resolve their differences, but each were somewhat reluctant to make the necessary move.
4. At 2:30 p.m., hearing was recessed in an attempt to explore the apparent desire for mutually agreeable resolution. Attempt, however, was unsuccessful and the hearing continued.
5. The Board of Directors did attempt to restrict representation at certain meetings and did deny a public hearing on the matter.

DECISION AND ORDER

After considering all the oral and written evidence, and the statement by both parties of their willingness to resolve the situation, PELRB rules as follows:

- A. Board declines to rule or make a finding on the improper practice charge at this time.

- B. The parties are ordered to pursue the steps of the grievance procedure as set forth in Article IV of the Master Agreement.
- C. The parties are ordered to report any progress and results to this Board no later than July 31, 1978.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 5th day of July, 1978

By unanimous vote. Present and voting: Richard H. Cummings, Joseph B. Moriarty and James C. Anderson; Chairman Edward J. Haseltine presided. Also present Board Clerk, Evelyn C. LeBrun.

Absent: Board Member Edward L. Allman