



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DOVER TEACHERS' UNION, LOCAL 3536 :
N.H. FEDERATION OF TEACHERS, AMERICAN :
FEDERATION OF TEACHERS, AFL-CIO : CASE NO. T-0316:5
V. :
WILLIAM H. MC CANN, CHAIRMAN : DECISION: 87-22
NEGOTIATING COMMITTEE, DOVER :
SCHOOL COMMITTEE :

WILLIAM H. MC CANN, CHAIRMAN :
NEGOTIATING COMMITTEE, DOVER SCHOOL : CASE NO. T-0316:6
COMMITTEE :
V. : DECISION: 87-22
DOVER TEACHERS' UNION, LOCAL 3536 :
N.H. FEDERATION OF TEACHERS, AMERICAN :
FEDERATION OF TEACHERS, AFL-CIO :

ORDER

Given the difficulties of arriving at a negotiated resolution, and following an initial consideration of the facts in the above, and pending a full decision on these cases, the New Hampshire Public Employee Labor Relations Board issues the following order:

Both the School Committee Negotiators and their Spokesperson and the Dover Teachers' Union Negotiating Team and its Spokesperson, as well as all other interested parties, are ordered to refrain from making statements of any kind to the press or in any public forum about the conduct of negotiations or any of the people involved.

Signed this 24th day of March, 1987.

Robert E. Craig
ROBERT E. CRAIG, CHAIRMAN

Richard E. Molan
RICHARD E. MOLAN, ESQ., LABOR REPR.

Richard W. Roulx
RICHARD W. ROULX, MGT. REPR.



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DOVER TEACHERS' UNION, LOCAL 3536, N.H. FEDERATION OF TEACHERS	:	
	:	
Complainant	:	CASE NO. T-0316:5
	:	
v.	:	DECISION NO. 87-22 (A)
	:	
WILLIAM H. MC CANN, CHAIRMAN, NEGOTIATING COMMITTEE, DOVER SCHOOL COMMITTEE	:	
	:	
Respondent	:	

DOVER SCHOOL COMMITTEE AND WILLIAM H. MC CANN, JR., CHIEF NEGOTIATOR	:	
	:	
Complainant	:	CASE NO. T-0316:6
	:	
v.	:	DECISION NO. 87-22 (A)
	:	
DOVER TEACHERS' UNION, LOCAL 3536, AFT	:	
	:	
Respondent	:	

APPEARANCES

Representing Dover Teachers' Union, Local 3536, NH Federation of Teachers

Theodore G. Wells, Jr., State Representative, NHFT, AFT, AFL-CIO

Representing Dover School Committee and William H. McCann, Jr., Chief Negotiator

Bradley F. Kidder, Esq., Counsel

Also in Attendance

William McCann, Chief Neg., School District
 Beverly M. Conway, Pres., Dover Teachers' Union
 Daniel J. McCooey, Dover Teachers' Union
 Marty O'Neill, Reporter, Foster's Daily Democrat
 Eleanor T. Milliken, Chrm., Dover School Committee
 Frank J. Menez, Dover School Committee
 Paul C. Johnson, Dover School Committee
 Gerald A. Daley, Superintendent, S.A.U. #8

BACKGROUND

The Dover Teachers' Union, ("Union"), Local 3536, New Hampshire Federation of Teachers, AFT, AFL-CIO filed improper practice charges (T-0316:5) against William H. McCann, the Chairman of the Negotiating Committee of the Dover School Committee ("Committee").

The Union alleges that Mr. McCann, in his capacity as Chairman of the Negotiating Committee, violated RSA 273-A:5, I (a), (e) and (g). Specifically, the Union alleges that the Chief Negotiator violated agreed upon ground rules by discussing certain topics with the news media thereby, disturbing "good faith" negotiations, interfering with the Union's right to represent its members and otherwise, interfered with the proper conduct of the negotiating process.

The Chairman of the Negotiating Committee and the School Committee denied any breach of RSA 273-A and counter-charged (T-0316:6) that the Union violated RSA 273-A, II, (a), (b) and (e) in that it had requested in its remedy in T-0316:5, that Mr. McCann be removed from his position as Chairman of the Negotiating Team and as a member of the Committee itself. The School Committee alleged that this constituted an unfair labor practice because it sought to interfere in the employer's rights, under RSA 273-A, to the selection of agents to represent them in collective bargaining negotiations.

The Union denied any breach of RSA 273-A and argued that no request for remedy should be allowed to become an unfair labor practice complaint.

A hearing was held on both complaints, with the agreement of both parties, at the Public Employee Labor Relations Board office in Concord, New Hampshire on March 19, 1987.

FINDING OF FACT

- (1) At hearing, testimony by Chief Negotiator, Mr. McCann established that ground rules were agreed to for the current negotiations in September of 1986, after some discussion about different proposals by each side and some give and take by both.
- (2) The current ground rules read, in pertinent part:
(see attachment #1 to Teachers' complaint and Union Exhibits #1 and #2) #4. "All discussions are confidential and any press release will be jointly agreed upon. Members of the bargaining teams will not grant interviews (on or off the record) relative to negotiations to representatives of the news media"
#13. "These ground rules shall take effect on the date agreed to by the respective parties and shall continue in full force and effect beyond impasse until ratification by both parties. Failing agreement, by January 15, 1987, both parties shall issue a joint press release identifying general areas of disagreement regarding salary and other cost items only."
- (3) Chief Negotiator, McCann testified he did talk to the Foster's Daily Democrat reporter after she called him upon receiving

the joint press release of January 15, 1987. (See attachment #2 of Union complaint)

- (4) Chief Negotiator McCann, testified he was quoted reasonably by the reporter in the Foster's article of Thursday evening, January 15, 1987 (See attachment #3) (list 6) and had discussed with the reporter, (a) "a philosophical dispute" over performance-based pay; (b) how the School Committee was examining a pay system based on performance while the teachers wanted to retain a plan based on experience; (c) how teachers are currently required to work four extra days beyond the 180 and how the School Committee want five and the teachers want three; (d) and in respect to leave policy, that the School Committee seeks to reduce the number of allowable days while the Union wants more leave time granted, etc.
- (5) Chief Negotiator McCann testified that over the years, the ground rules had been changed to allow for a joint press release, first on February 1 and then on January 15th in order to inform the public and the City Council, which is the legislative body of the city.
- (6) Chief Negotiator McCann testified that it was his understanding that the sentence reading "Failing agreement, by....." meant that the ground rules themselves expire on the date following the expression "Failing agreement", and the only reason this had not happened in the past was because the mediator had imposed a "gag rule".
- (7) Chief Negotiator McCann testified he had negotiated contracts going back to 1975 and felt that the Union was trying to remove him because they had asked for his removal as a remedy in 1983 (dismissed, see #83-18) and was doing so again and that this pattern might harm his standing among his colleagues on the Committee.
- (8) Union President, Conway, testified that it was her understanding that ground rule #4 meant no one was to talk to the press, and she had not; and that Ground Rule #13 meant that the ground rules were in effect until ratification of the contract.

RULINGS OF LAW

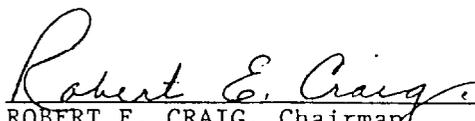
- (1) The ground rules agreed upon in September are clear and unambiguous and do not permit any interviews with the press (Ground Rule #4).

- (2) The ground rules expire with the ratification of a new agreement and not on the date provided for a joint press release. (Ground Rule #13)
- (3) The relief requested by the Union -- removal of the Chief Negotiator -- is an inappropriate remedy. PELRB has consistently upheld the parties' right to select their own negotiator and this cannot be interfered with under RSA 273-A.
- (4) The Union's request for the removal of the Committee's Chief Negotiator, while not rising to the level of an unfair labor practice, if continued, could do so and is at any rate, repugnant to the spirit of RSA 273-A and a fair and vigorous negotiations process; therefore, the Union is advised to cease and desist in any and all attempts to remove the School Committee's Chief Negotiator from his proper role in the negotiating process.

DECISION

After consideration of all the evidence and testimony in this matter, PELRB rules. as follows:

- A. The School Committee is guilty of unfair labor practice by committing a breach of the ground rules, rules which they agreed to which prohibit interviews or statements to the news media, unless jointly agreed to, which rules are in effect until ratification of a new agreement.
- B. The School Committee is hereby ORDERED to abide by the ground rules and Cease and Desist making unilateral statements to the news media.
- C. In accordance with PELRB Rules and Regulations, Pub 304.01(b) copies of the complaints and answers shall be posted in conspicuous locations along with this Decision and Order in all schools where employees work.
- D. The parties are ordered to continue vigorous attempts to mediate their differences with a view to arriving at a new agreement.



ROBERT E. CRAIG, Chairman
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 10th day of April, 1987.

By unanimous vote. Chairman Robert E. Craig presiding. Members Richard E. Molan, Esq., and Richard W. Roulx present and voting. Also present, Executive Director, Evelyn C. LeBrun.