



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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HINSDALE FEDERATION OF TEACHERS, NEA/NH

Petitioner

v.

HINSDALE SCHOOL BOARD

Respondent

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CASE NO. T-0386:2

DECISION NO. 89-54

#### APPEARANCES

##### Representing the Hinsdale Federation of Teachers, NEA-NH:

Mary E. Gaul, UniServ Director

##### Representing the Hinsdale School Board:

Harry S. Gale, Consultant

##### Also appearing:

Richard McCarthy, S.A.U. 38 Asst. Supt.  
Peter W. Zavorotny, Recording Secretary, Budget Committee  
Lawrence Enright, Chairman School Board  
Cecilia B. Hoyer, Hinsdale Federation of Teachers  
Linda DeLong, Pres. Hinsdale Federation of Teachers  
Fred Wolfe, Hinsdale Federation of Teachers  
Neal Murphy, NEA-NH  
Wally Cumings, NEA-NH  
Greg Andruschkevich, NEA-NH  
Hugh Watson, N.H. School Board

#### BACKGROUND

On February 28, 1989 the Hinsdale Federation of Teachers, NEA-NH filed a "Motion for Cease and Desist" and an unfair labor practice complaint against the Hinsdale School Board alleging unilateral action by the Board in having a Town Budget Committee member sit in, as an observer, during negotiations. The Budget Committee member is not a member of the District or School Board, the public employer nor was he appointed as a member of the employer's negotiating team

Hearing on this matter was held on April 20, 1989 in the PELRB office in Concord with all parties represented.

Harry Gale, Consultant for the School Board, agreed that the Budget Committee member was present only as an observer and that the Federation of Teachers had refused to proceed with negotiations with the observer present. He added that the Budget Committee had requested permission to have a member present during negotiations and had sought legal counsel opinion about the request. Counsel advised that it was "not illegal" to place a member of the Budget Committee on the negotiating team.

Mary Gaul, NEA-NH UniServ Director, representing the Federation testified about the sessions; i.e., ground rules, make-up of both teams and occurrences at the January 19, 1989 meeting when the School Board unilaterally permitted the Budget Committee member to be present. She further stated that at that point, both sides agreed to suspend negotiations and talk to their respective counsels.

The Budget Committee member was not present for either the January 25th or the February 27th session and proposals and counter-proposals were made.

Budget Committee member Peter Zavorotny testified that there was no intent on the part of the School Board to torpedo anything by his presence but merely an attempt to try to coordinate the budget for both the Town and the School District.

Chairman of the School Board, Lawrence Enright, testified the Budget Committee requested to have John Smith attend the negotiating sessions only as an observer to enable the Committee to better understand the process and implications, that legal counsel had advised that such action was legal and that a member of that committee could be "appointed" as a member of the School Board's negotiating team.

Both parties testified on the exchange of correspondence and the misunderstanding on the status of John Smith's presence. Issue remained unresolved at the time of the PELRB April 20th hearing.

#### FINDINGS OF FACT

Neither the statute, RSA 273-A, nor does practice provide for observers during negotiation sessions, to do so would be to negotiate in public

Observers could be present only by mutual agreement of the parties involved in the negotiations.

Observer John Smith was present at only one meeting, that of January 19, 1989 at which time the Federation objected and negotiations were suspended.

Only appointed team members can be present at negotiating sessions.

Ground rules could and should make reference to the composition of both teams.

A member of the Town's Budget Committee may be appointed or designated as a team member if the public employer so desires.

DECISION AND ORDER

Having found that the Budget Committee member was officially appointed as a member of the School Board's negotiating team, PELRB finds no unfair labor practice and hereby DISMISSES the charge.

Signed this 15th day of August, 1989.

  
EDWARD J. HASELTINE, CHAIRMAN

By unanimous vote. Chairman Edward J. Haseltine presiding. Present Richard E. Molan, Richard W. Roulx, Seymour Osman and Executive Director, Evelyn C. LeBrun.