CORRECTED ORDER

# State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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| SANBORN REGIONAL SCHOOL DISTRICT<br>Complainant<br><br>v.<br><br>SANBORN REGIONAL EDUCATION ASSOCIATION/<br>NEA-NEW HAMPSHIRE<br>Respondent | CASE NO. T-0256:15<br><br>DECISION NO. 89-68 |

Representing Sanborn Regional School District:

Bradley F. Kidder, Esq., Counsel

Representing Sanborn Regional Education Association/NEA-NH:

James Allmendinger, Esq., Counsel NEA-NH

Also Attending:

Mark Joyce, Supt., Sanborn Regional School Board
Susan Peterson, Sanborn Regional School Board
Greg Andruschkevich, Staff Rep. NEA-NH
Prudence A. Wood, Pres. S.R.E.A.
Allen S. Taylor, S.R.E.A.
Eva Karandanis. S.R.E.A.
R.E. Barber, Jr., NEA-NH
Ted Comstock, N.H. School Board Assoc.
John F. Swasey, Jr.

## BACKGROUND

On April 12, 1989 Sanborn Regional School Board (Board) by its counsel Bradley F. Kidder, Esq., filed improper practice charge against the Sanborn Education Association (Association) and Prudence Wood as Association president, alleging the Association failed to reopen negotiations to consider salaries which had been bargained for in a 3-year contract for the school year 1989-90, and that such refusal to meet constitutes an unfair labor practice contrary to RSA 273-A:5 II (d), "To refuse to negotiate in good faith with the public employer." As a remedy by The School Board, sought an order directing the Association to meet and negotiate in good faith.

The sole issue before PELRB is whether a duly negotiated 3-year contract between the parties can be binding with respect to salary schedules in each year of the 3-year life of the contract.

Hearing in this matter was held a PELRB office on June 15, 1989.

The facts appear as follows: May 18, 1988 the Sanborn Regional School Board (Board) and the Sanborn Regional Education Association (SREA) entered into a collective bargaining agreement covering the period of July 1, 1988 through June 30, 1991. The voters of the School District voted to fund the salaries in accordance with salary schedule for '88-'89 set forth on page 9 of the contract. The record shows that the voters at the annual School District meeting in the spring of 1989 failed to appropriate sufficient funds to meet the negotiated increases contained on page 10 of the agreement and did in fact reduce the appropriated funds by specific amounts with respect to teacher salaries at the same time funding the raises for year two of the negotiated support staff agreement. Specific warrant articles covering teacher salaries were submitted.

Atty. Kidder for the Board argued that the Board had no discretionary power other than to submit all cost items to the voters (RSA 273-A:3 II (g)) 273-A:5 (e) and recited action taken by the voters at the 1989 School District meeting, citing several cases referencing his position in addition to PELRB decision #84-91 Winnisquam Regional School District and Litchfield School District, Hillsboro Superior Court, Equity #17-25 (1976) dealing with a case, initiated prior to the enactment of RSA 273-A, containing specific references to the voters' rights to modify or reject negotiated cost item. Kidder stipulated that a multi-year agreement had been negotiated and that the legislature in passing 273-A was clear in its intent that the voters have control over all cost items.

Atty Allmendinger for the Association agreed that the cost items to fund year two of the contract were submitted as separate warrant article and that basic issue in this case was unrefuted. In addition he stated that salary schedules for the three years were presented in the agreement, that the Association had refused to reopen negotiations as the membership voted unanimously to abide by the 1988-1991 collective bargaining agreement, that the School Board had the authority to enter into a multi-year contract, and cited the Rochester School Board Supreme Court case and the Winnisquam Case PELRB 84-91.

Witness Susan Peterson, School Board member, testified on the procedure utilized in putting the contract before the voters, stating that historically the teacher salaries were submitted as a separate warrant article, that voter action in making appropriations cuts left few options open to the School Board in the transfer of funds. Under question by Allmendinger as to the School Board authority to make adjustments in the program to provide funds to cover the salary schedule, the response left no specific answer.

Witness Dr. Joyce, Superintendent of Schools testified that separate articles covering salaries had been submitted to voters in 1984 and the voters chose the item they wanted to deal with, and that little could be saved in the salary account by attrition. He introduced a letter dealing with possible reduction in force which should be considered.

Witness Prudence Wood a teacher of 31 years and present President of the SREA testified concerning negotiations and the signing of the current agreement in May of 1988, her attendance at the annual district meeting and stated that all parties were well aware of the 3-year agreement including the salary implications.

In closing Atty. Allmendinger referred to statewide contracts covering multi-year salary schedules between the State Employees Association and State of New Hampshire and several PELRB rulings.

In closing Atty. Kidder stated the law is clear that cost items must be submitted to voters and that voters cannot be excluded when considering cost items.

## FINDINGS OF FACT

The following findings are made in this case and are intended to respond to the parties requests for finding:

1. A multi-year contract containing specific salary schedules for July 1988 to June 1991 was mutually negotiated by and between the Sanborn School Board and the Sanborn Regional Education Association.

2. The multi-year contract and its three year implications was presented by the School Board to the School District voters at the 1988 annual meeting.

3. The voters funded the salary schedule set forth on page 9 of the agreement without question or modification for the first year of the contract '88'89 at the annual meeting.

4. The cost item had been submitted to the voters as required by 273-A:3 II (b).

5. The voters modified the teacher salary schedule for the year '89-'90.

6. The legislature in enacting RSA 273-A:1 declared it a state policy to foster harmonious and cooperative relations between the public employer and the public employee and further required the parties to reduce to writing any agreements reached.

7. The statute is silent as to any limitations placed on the parties as to the length or duration of agreements (multi-year).

8. It is obvious to PELRB that labor peace and harmony are best promoted and stabilized by multi-year agreements.

9. The voters in this case were made aware by the School Board of the results of their negotiations including the implications of the 3-year salary schedule.

10. If one adopts the position that a multi-year contract, as in this case 3 years, can be modified or changed then the incentive to negotiate is completely destroyed.

11. PELRB had consistently held that negotiated agreements that do not violate the statutes are inviolate and the parties can be held to the negotiated terms.

12. The time to object to the provisions of their contract was at its initial presentation to the voters and by their acceptance and funding of the first year seem to accept the agreement as written and to now come and say "nay" to a part of the agreement after acceptance appears to be a violation of the contract language.

13. Compliance with the requested submission of cost items to the voters have been met and the voters have a responsibility to fund its requirements; to not do so would render a contract invalid.

14. The Board notes that the voters funded the 2nd year of the multi-year agreement for the Support Staff of Sanborn School District recognizing their obligation in accordance with the negotiated contract.

15. PELRB takes notice of the practice that the State of New Hampshire in its negotiations with the State Employees Association does in fact negotiate and fund multi-year agreements.

ORDER

For the above reasons PELRB finds that the School Board and the Public Employer have a responsibility to fund the negotiated salary increases negotiated in good faith by the parties in the multi-year agreement and further finds no ULP has been committed by the Association and hereby DISMISSES the complaint.

Signed this 5th day of October, 1989.
Corrected October 24, 1989.

EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members James C. Anderson and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun.

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Signed this 5th day of October, 1989.

EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members James C. Anderson and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun.