



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

UNIVERSITY SYSTEM OF NEW HAMPSHIRE

Petitioner

CASE NO. U-0613:12

AMERICAN ASSOCIATION OF UNIVERSITY
PROFESSORS

Respondent

AMERICAN ASSOCIATION OF UNIVERSITY
PROFESSORS

Petitioner

CASE NO. U-0613:13

UNIVERSITY SUSTEM OF NEW HAMPSHIRE

DECISION NO. 2000-034

Respondent

PRE-HEARING DECISION AND ORDER

BACKGROUND

In the absence of a new Collective Bargaining Agreement (CBA), the parties have continued to operate under the existing CBA which was to have expired June 30, 1998. The parties have, since March 6, 1998 been unsuccessful in reaching agreement to a successor CBA. The parties have also participated in both mediation and fact-finding, again resulting in no final resolution. Injunctive relief, sought by the University System in the court system has been denied. The parties seek resolution before this Board.

The University System of New Hampshire filed unfair labor practice charges on January 26, 2000 alleging breach of contract pursuant to RSA 273-A: 5 II (e) and that the American Association of University Professors undertook certain actions including a "strike vote" and other actions directed towards soliciting members for picket duty. The American Association of

University Professors generally denies that the actions alleged by the University System violate the provisions of RSA 273-A:5 (e) or RSA 273-A:13 and further answers that any actions alleged to have been undertaken constituted a lawful exercise of free speech and freedom to associate rights.

Thereafter, the Association filed unfair labor practice charges on February 10, 2000, pursuant to RSA 273-A:5 I (a), (d), (e) and (g) alleging that actions of the University System in filing its complaint with the PELRB constitutes an attempt to restrain, coerce or otherwise interfere with the Association members in the exercise of rights conferred by RSA 273-A and the above referenced constitutional rights of free speech and Association. Also, in its complaint the Association alleges that the relief sought by the University System constitutes an attempt to improperly dominate or interfere in the formation or administration of an employee organization in violation of RSA 273-A:5, I (b).

The primary relief sought by both parties in these two cases, now consolidated for hearing, consists of each party seeking cease and desist orders to issue against the actions of the other, pending full hearing on the merits of the respective complaints. The University further requests relief in the form of an immediate order compelling the Association to undertake certain public acts that would result in the withdrawal of any previous orders, directions, requests or suggestions to any persons consistent with the University System's allegations of actions related to a strike or other job action.

PARTICIPATING REPRESENTATIVES

For the Complainant/ Cross Respondent University System of New Hampshire:
William G. Meserve., Esq. and Ronald F. Rodgers; Esq.

For the Respondent/Cross Complainant American Association of University Professors:
Glen R. Milner, Esq. and John Krupski, Esq.

STIPULATIONS

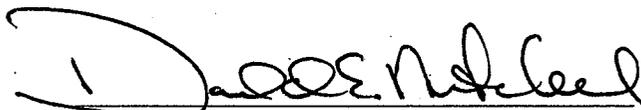
The parties stipulated as follows:

1. The two cases, numbers U-0613:12 and U-0613:13, are hereby consolidated for all purposes.
2. The parties agree to meet and confer to develop an "Agreed Statement of Facts" relevant to both cases. It is further understood that said statement may include several concise expressions of concern of William Farrell, on behalf of the University System, as to the consequential harm to the University System, in the event of a strike by the Association.
3. In the event that the parties are able to stipulate as to the relevant facts and to stipulate that William Farrell, in good faith, holds the concerns expressed and made a part of the the

"Agreed Statement of Facts", said document shall be executed by both counsel and filed with the Board on or before April 26, 2000. If the parties cannot agree as to the language to appear in said document expressing the specific nature of assent of the Association as to those concerns expressed by William Farrell, then the parties shall submit, to the Board by said date, the "Agreed Statement of Facts" document containing the facts which have been stipulated and separate individual statements of the nature and scope of their disagreement as to the expression of concerns by William Farrell.

4. In the event that the parties do submit an unqualified "Agreed Statement of Facts" by April 26, 2000, then each shall file such appropriate dispositive pleadings with the Board, including memoranda of law in support thereof on or before May 15, 2000.
5. Thereafter, the parties specifically agree that the Board may render its decision and make such orders as necessary based upon the "Agreed Statement of Facts" as submitted and the relevant law as applied without the need for further hearing, unless the Board determines, sua sponte, that the testimony of witnesses or oral arguments of law by counsel are necessary.
6. In the event that the parties are unable to come to agreement on all relevant facts, then each shall notify the Board on or before April 26, 2000, in which case they shall submit their "Agreed Statement of Facts" containing those facts upon which they have agreed. The Board will then schedule an evidentiary hearing, in its normal course, to hear testimony and receive evidence on relevant facts remaining in good faith disagreement.
7. Should an evidentiary hearing be deemed necessary in accordance with Paragraph #6, above, the parties shall exchange their final witness lists and final exhibit lists and submit the same to the Board no later than five (5) business days before any such evidentiary hearing is to be conducted. Thereafter, additional witnesses and exhibits shall be allowed only upon a showing that reasonable efforts would not have revealed the necessity of such testimony or submission of such evidence before that time.

Signed this 12th day of April, 2000



Donald E. Mitchell, Esq.
Hearing Officer

Sent to : William G. Meserve, Esq.
Glenn R. Milner, Esq.