



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**DERRY EDUCATION ASSOCIATION,
NEA-NEW HAMPSHIRE**

Petitioner

and

DERRY SCHOOL DISTRICT

Respondent

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CASE NO. T-0223-19

CASE NO. T-0223-20

DECISION NO. 2000-107

PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

BACKGROUND

The Derry Education Association, NEA-New Hampshire (Association), filed improper labor practice charges on June 6, 2000 pursuant to RSA 273-A:5 I (a), (d) (e), (g), (h) and (i), [PELRB Case No. T-0223-20] alleging that the Derry School District (District) and its agents violated certain statutory prohibitions when its agent refused to hear the grievance and supporting rationale of complaining teachers at South Range School. Further, these complaining teachers allege that provisions of their collective bargaining agreement (CBA) were breached by certain actions of the District's agents. Specifically, they allege that they were threatened through verbal assault and physical violence in breach of Article 3 - Teacher Rights, providing for discipline with just cause, and that they were restrained and coerced during the grievance process in breach of Article 6 - Grievance Procedure. The Association also filed improper labor practice charges on June 6, 2000 pursuant to RSA 273-A:5 I (a), (e), (g), and (h), [PELRB Case No. T-0223-19] alleging that the District and its agents breached the Collective Bargaining Agreement (CBA) by unilaterally prohibiting the teachers at the South Range School from using their lunch time period for exercise walking. In both cases the Association seeks relief in the form of cease and desist orders from the PELRB.

The District generally denies all allegations of fact contained in both of the Association's complaints. It requests the PELRB to first dismiss the complaint of violations of the CBA asserting that the Association has not exhausted its administrative

remedies. By way of further answer to the complaint that it violated statutory rights by refusing to participate in grievance proceedings, it alleges that the Association and its members and agents engaged in conduct that amounted to verbal assaults, coercion, interference and obstruction of the District in the exercise of unspecified contract and statutory rights related to its selection of agents to represent the District in the settlement of grievances. Additionally, the District alleges that the Association failed and refused to negotiate in good faith.

An initial Pre-Hearing Conference was scheduled for July 6, 2000 and continued at the request of both parties. It was later conducted on July 24, 2000 at which time these two matters were consolidated for evidentiary hearing and a final Pre-Hearing Conference scheduled for September 13, 2000 to allow sufficient time for the grievance procedure to be completed. The grievance process is not completed and the parties agree that the grievance process may be dispositive of issues involved in these two complaints.

PARTICIPATING REPRESENTATIVES

For the Complainant: Greg Andruschkevich, UniServ Director

For the Respondent: Michael Elwell, Esq., Soule, Leslie, Kidder, Sayward & Loughman, P.L.L.C.

WITNESSES

For the Complainant:

1. Maureen Kelley
2. Pam Kirby
3. Maurey Davidson

For the Respondent:

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| 1. David Brown | 5. Kathy Garafolo |
| 2. David Jack | 6. Janna Ruiz |
| 3. Kathleen Murphy | 7. Kathy Boyce |
| 4. Susan Walters | 8. Grace Reisdorf |

Both parties reserve the right to amend their List of Witnesses up to five (5) days prior to an evidentiary hearing, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

For the Complainant:

1. Current Collective Bargaining Agreement
2. Teacher Handbooks

For the Respondent:

1. Grievance documents

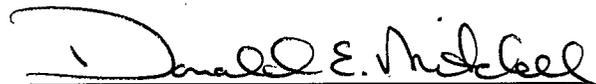
Both parties reserve the right to amend their List of Exhibits up to five (5) days prior to an evidentiary hearing or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

DECISION AND PRE-HEARING ORDER

After discussion with the parties' representatives, the Hearings Officer orders as follows:

1. The parties are directed to complete the grievance process that they have stated they are employing regarding the breach of contract claim.
2. The Association representative is to notify the PELRB, in writing, of the result of that process when completed.
3. Thereafter if either party deems it necessary it may, within thirty (30) days of the date of the final award, file a written request with the PELRB to schedule an evidentiary hearing.
4. In the event that no such request is received within said thirty (30) day period, both matters shall be administratively dismissed by the PELRB.
5. Further, in the event that the grievance or arbitration process has not been completed by December 31, 2000, then the Association representative shall file a written status report with the PELRB. In the event no such report is filed, both matters shall be administratively dismissed by the PELRB.

Signed this 28th day of September, 2000.



Donald E. Mitchell, Esq.
Hearings Officer