



**State of New Hampshire**

**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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Amherst School District	*	
	*	
	*	
Complainant	*	
	*	Case No. T-0299-12
v.	*	
	*	Decision No. 2003-104
	*	
Amherst Education Association/NEA-NH	*	
	*	
Respondent	*	
	*	

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**PRE-HEARING MEMORANDUM AND ORDER**

**BACKGROUND**

The Amherst School District (hereinafter "the District") filed an unfair labor practice complaint on August 4, 2003 alleging that the Amherst Education Association, NEA-NH (hereinafter "the Union") committed an unfair labor practice by seeking to arbitrate an issue that is purely discretionary on the part of District officials and to do so based upon a document that is not part of, nor referenced within, the parties' collective bargaining agreement. The District states that the Union's actions violate RSA 273-A:5, II (a), (d) and (f). The District requests, among other things, that the PELRB find that the Union has committed an unfair labor practice and that it order the Union to cease and desist in attempting to arbitrate the issue. The District also requests that the PELRB direct the Union to pay the District's legal fees and other costs associated with the instant charge.

The Union filed its response to the District's unfair labor practice complaint on August 19, 2003. The Union denies that it has committed an Unfair Labor Practice by pursuing the instant grievance to arbitration and requests that the PELRB dismiss the District's complaint and order it to participate in the arbitration process.

PARTICIPATING REPRESENTATIVES

For the Complainant: Thomas J. Flygare, Esquire

For the Respondent: Philip G. Pratt, Uniserv Director, NEA/NH

ISSUE FOR DETERMINATION BY THE BOARD

Does the action of the Union, in demanding arbitration of its grievance relating to the granting of sabbaticals, constitute a failure to negotiate in good faith in violation of RSA 273-A:5 II (a), (d) and/or (f)?

WITNESSES

For the Complainant:

1. Michael Ananis, Supt. of Schools

For the Respondent:

1. Patrick Dubreuil, Grievance Comm., AEA
2. Peter Desnoyers, Pres., AEA
3. Samuel Giarrusso, Contract bargaining team, AEA
4. Mary Westwater, grievant
5. LeeAnn Steenhoek, grievant

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with 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

Joint Exhibits:

1. Parties' collective bargaining agreement, 7/1/01-6/30/03
2. Grievance Documents
3. District guidelines for granting sabbaticals

For the Complainant:

1. None other than those marked as "Joint."

For the Respondent:

1. None other than those marked as "Joint"

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with 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 understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

#### LENGTH OF HEARING

The time being set aside for this hearing is one (1) day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB at least twenty (20) days prior to the date of the evidentiary hearing.

#### DECISION

1. The parties shall meet, or otherwise confer, on or before October 17, 2003, to compose a mutual statement of agreed facts as may be stipulated.
2. The party representatives shall forward any amendments of their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB at least five (5) days prior to the scheduled hearing. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
3. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than twenty (20) calendar days prior to the scheduled hearing date.
4. Unless otherwise ordered as a result of the filing of any subsequent motion or other good cause shown, an evidentiary hearing between the parties will be held on **November 6, 2003 at 9:30 AM** at the offices of the Public Employee Labor Relations Board.

So ordered.

Signed this 23<sup>rd</sup> day of September, 2003



Peter C. Phillips, Esq.  
Hearings Officer

Distribution:

Thomas J. Flygare, Esq.

Philip O. Pratt, UniServ Director, NEA/NH