

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Fall Mountain Teachers Association/NEA-NH

Petitioner

and

Fall Mountain School Board

Respondent

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Case No. T-0227-20

Decision No. 2003-114

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The Fall Mountain Teachers Association (hereinafter "the Association") filed a Modification Petition with the Public Employee Labor Relations Board (PELRB), on August 19, 2003, seeking to include Junior ROTC instructors into an existing bargaining unit.

The Fall Mountain School Board (hereinafter "the Employer") filed its objection on September 2, 2003. Its stated objections are based upon several grounds, including the allegation that the salaries of the instructors are set by the United States Army and that the instructors are otherwise subject to dissimilar educational requirements, employment contracts and other benefit levels than the employees in the existing bargaining unit.

PARTICIPATING REPRESENTATIVES

For the Association: Mary E. Gaul, UniServ Director

For the Employer: Daniel Ferreira, Superintendent of Schools

ISSUES FOR DETERMINATION

1. Whether or not the Junior ROTC instructors have a community of interest with the employees contained in the existing bargaining unit?
2. Whether or not the composition of the bargaining unit should be modified to include the JROTC instructors?

WITNESSES

For the Association:

1. John Cenney, JROTC Instructor
2. Gordon Hunter, JROTC Instructor
3. Heidi Gove, President, FMEA
4. Dr. Judy Fillian, Director, Division of Program Support, NH Dept. of Education
5. Arthur Brown, Certification Specialist

For the Employer:

1. Stephen Varone, Business Administrator, SAU No. 60
2. Tom Ferenc, Principal, Fall Mountain Regional High School

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 – 6/30/04
2. John Cenney, JROTC Instructor Annual Certification of Pay and Data Form
3. John Cenney, JROTC Instructor Monthly Statement, 6/30/03
4. Gordon Hunter, JROTC Instructor Annual Certification of Pay and Data Form
5. Gordon Hunter, JROTC Instructor Monthly Statement, 6/30/03
6. Application and Contract for Establishment of JROTC Training Corps Unit
7. John Cenney, Gordon Hunter 2002 Form W-2's.
8. John Cenney, '03 – '04 Contract
9. Gordon Hunter, '03 – '04 Contract
10. Letter dated 11/26/02 from M. Butterfield, NHRS, to Stephen Varone.
11. Letter dated 11/26/02 from M. Butterfield, NHRS, to John Cenney.
12. Program of Studies, Fall Mountain Regional H.S., ROTC Excerpt.
13. ROTC Program Guide

For the Association:

1. E-mail dated 11/26/02 from M. Butterfield, NHRS, to Cenney/Hunter.
2. E-mail dated 12/3/02 from M. Butterfield, NHRS, to Cenney/Hunter.

For the Employer:

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 day. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least fourteen (14) days prior to the date of the evidentiary hearing.

DECISION

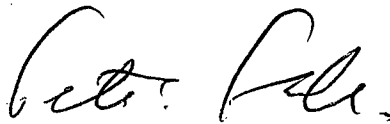
1. The parties' representatives shall meet, or otherwise confer, on or before November 12, 2003 in order to compose a mutual statement of agreed facts and to further explore whether they may be able to reach a settlement of the instant matter.
2. In the event that the parties are able to agree to certain relevant facts, then they shall memorialize those facts upon which they can so stipulate and file that document with the PELRB at least five (5) days prior to the date of the hearing.
3. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative, and to the PELRB, at least five (5) days prior to the scheduled hearing date. 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.
4. The parties shall file any additional preliminary, procedural or dispositive motions no later than fourteen (14) calendar days prior to the scheduled hearing date.
5. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on:

December 1, 2003 at 9:30 AM

at the offices of the Public Employee Labor Relations Board, Concord, New Hampshire.

So ordered.

Signed this day 9th October, 2003.



Peter C. Phillips, Esq.
Hearings Officer

Distribution:
Mary E. Gaul, UniServ Director
Daniel J. Ferreira, Superintendent