



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Monadnock School District	*	
	*	
Complainant	*	
v.	*	Case No: E-0028-2
	*	
Monadnock Education Association/NEA-NH	*	
	*	
Respondent	*	

Monadnock Education Association/NEA-NH	*	
	*	
Complainant	*	
v.	*	Case No: E-0028-3
	*	
Monadnock School District	*	Decision No. 2007-137
	*	
Respondent	*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Monadnock School District (the "District") filed an unfair labor practice complaint on July 19, 2007 alleging that the Monadnock Education Association/NEA-NH (the "Association") committed an unfair labor practice in violation of RSA 273-A by refusing to vote on a proposed change of insurance carrier before the carrier's bid expired as required under the terms and conditions of the parties' expired collective bargaining agreement. The District claims the proposed change of insurance carrier would have resulted in cost savings of at least one million dollars to the District.

As remedies, the District requests that the PELRB: 1) Order the Association to take a vote on the question of whether to change insurance carrier; 2) Order the Association be enjoined from refusing to vote on any future requests to substitute insurance carriers or any other language

changes regarding insurance as governed by Article 9; and 3) Order such other relief as may be just.

The Association obtained an extension of time to file a response and submitted its answer denying the School Board's charge on August 13, 2007. The Association also included an unfair labor practice charge against the District, which it labeled a countercharge. The Association submitted the \$60.00 filing fee on September 6, 2007. The Association claims it did not have any obligation to discuss the proposed change in insurance carriers independent of ongoing contract negotiations. In its charge against the District, the Association claims the District has improperly: 1) refused to bargain the issue of a change in health insurance carriers at the bargaining table; 2) made bargaining proposals concerning health insurance directly to employees, to the press, and the public; 3) refused to bargain on mandatory subjects of bargaining until the Association votes separately on the district's proposed change in health insurance carriers; and 4) has failed to make written proposals regarding mandatory subjects of bargaining for many months.

As relief, the Association requests that the PELRB: 1) Dismiss the District's complaint; 2) Find that the District has committed unfair labor practices; and 3) Order such other and further relief as may be just.

The undersigned hearing officer conducted a pre-hearing conference on September 18, 2007 at the PELRB offices in Concord.

PARTICIPATING REPRESENTATIVES

For the District: Paul Apple, Esq.

For the Association: James Allmendinger, Esq.

ISSUES PRESENTED FOR BOARD REVIEW

- (1) Whether the Association was obligated to vote on the proposed change in health insurance carriers independently of pending contract negotiations;
- (2) Whether the District acted improperly because of the manner in which the District has sought the Association's vote on the proposed change in health insurance carrier and otherwise attempted to elicit support for the proposed change; and
- (3) Whether the District has improperly refused to make written proposals regarding mandatory subjects of bargaining.

WITNESSES

For the District:

1. Ken Dassau
2. Katie Chambers
3. Colline Dryfeuss
4. Mary Gaul
5. All NEA witnesses

For the Association:

1. Cheryl Kahn
2. Diana Elkavich
3. Marie Szymzyk
4. Mary Gaul
5. All District Witnesses

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

For the District:

1. April 16, 2007 Katherine Chambers Letter
2. April 25, 2007 Katherine Chambers Email
3. May 21, 2007 Cheryl Kahn Letter

For the Association:

1. All notes, papers and documents related to negotiations over health insurance at the bargaining table.
2. All notes, papers and documents related to the school district's proposed alternative health insurance proposals.
3. All school district exhibits

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 set aside for this hearing will be one-half (½) 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 twenty (20) days prior to the date of the evidentiary hearing.

DECISION

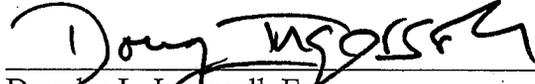
1. The parties' representatives shall meet, or otherwise confer, on or before October 22, 2007 and attempt to reach a stipulation on presenting the instant case by written submission, or, in the alternative, without the need for formal testimony. In the event that agreement is reached to submit the case by written submission, the parties shall forthwith file a joint statement indicating such agreement and include a proposed schedule for the parties' filings.
2. If the matter is to proceed to a hearing before the board, the parties' representatives shall meet, or otherwise confer, on or before October 22, 2007 in order to compose a mutual statement of agreed facts. The parties' representatives shall memorialize those facts upon which they can so stipulate and file that document with the PELRB on or before October 23, 2007.
3. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, 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. As discussed at the pre-hearing, the Association shall file a detailed restatement of its complaint on or before September 26, 2007. The District shall file its answer to the restated complaint on or before October 5, 2007. Any additional filings shall be submitted on or before October 12, 2007, with any responsive filings to be submitted by October 19, 2007.
5. The two cases are consolidated for hearing. 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:

October 23, 2007 @ 9:30 AM (Rescheduled Hearing Date)

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

So ordered.

Signed this 24th day of September, 2007.



Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Distribution:

Paul Apple, Esq.

James Allmendinger, Esq.