



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Milford Teachers Association/NEA-New Hampshire

v.

Milford School Board

Case No. E-0156-1

Decision No. 2014-040

Order

On February 18, 2014 the Association filed an unfair labor practice complaint under the Public Employee Labor Relations Act (RSA 273-A). The Association charges that the Milford School Board is in violation of RSA 273-A:5, I (a), (e), and (g) because it is refusing to include a February 7, 2014 fact finder's report on the official ballot for the School District's annual meeting. The Association also filed a motion for a cease and desist order seeking an immediate order that will, in effect, require the School Board to include the report on the official ballot. In the alternative, the Association asks the PELRB to order the School Board to request a Special Meeting from the Superior Court for the purpose of having a school district vote on the February 7, 2014 fact finder's report.

The School Board has filed a preliminary response denying the charges in the complaint and objecting to the motion. The School Board points out that the Milford School District is an SB2 District, which means that the annual district meeting consists of a deliberative session (conducted in this case on February 6, 2014) and a second session when a vote on the official ballot is conducted (scheduled for March 11, 2014). The School Board also notes that all members of the School Board did not receive the fact finder's report until the School Board's

February 17, 2014 meeting, that the School Board has not yet voted on whether to accept or reject the fact finder's report, and that the School Board is scheduled to vote on the fact finder's report at its meeting on February 24, 2014 meeting.

As reflected in prior PELRB Decision No. 2014-039 (February 19, 2014), the PELRB Executive Director conducted a conference call with the parties on February 19, 2014 at which time PELRB processing and action on the Association's motion was reviewed. The undersigned board members have considered the filings submitted by the parties, and our order on the Association's motion is as follows.

Our authority to act on requests for a cease and desist order pending a hearing includes the following:

RSA 273-A:6 Violations.

I. The board shall have primary jurisdiction of all violations of RSA 273-A:5...

III. *The board may issue a cease and desist order if it deems one necessary in the public interest, pending the hearing.*

Pub 304.02 Interim Orders.

(a) When the board considers it to be in the public interest, it shall issue a cease and desist order under RSA 273-A:6, III pending a hearing under Pub 201.05.

(b) The board shall issue such an order for reasons to include, but not limited to:

- (1) Protection of the public safety;
- (2) To avoid prejudice to one party or another; or
- (3) To avoid irreparable harm.

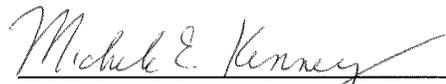
In this case we are not persuaded that the Association's motion for a cease and desist order should be granted. Under RSA 273-A:12, II and III, action by the School Board on the fact finder's report is clearly a prerequisite to action by the local legislative body (voters at the annual school district meeting in this case). There is no dispute that the School Board has not yet voted on the report, and there is no claim that the School Board has improperly delayed its vote.

Additionally, even assuming that it would be appropriate to plan for the possible School Board rejection of the report at its February 24, 2014 meeting, we are not persuaded that the report can legally be placed on the March 11, 2014 official ballot when the deliberative session portion of the School District's annual meeting has already been completed.

Accordingly, the Association's motion for a cease and desist order pending a hearing is denied with respect to the request to have the fact finder's report placed on the March 11, 2014 official ballot. We decline at this time to act on the Association's request that the School Board be ordered to seek Superior Court approval for a Special Meeting without prejudice to the Association's right to renew this request.

So ordered.

Date: 2/21/14



Michele E. Kenney, Esq., Chair

By unanimous vote of the Board (Michele E. Kenney, Esq. (Alt.), Carol M. Granfield, and Senator M. Hounsel (Alt.)).

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