



NH Supreme Court declined appeal of this decision on July 14, 1993, Supreme Court No. 93-053.

**State of New Hampshire**

**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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SANBORN REGIONAL SCHOOL BOARD	:
	:
Complainant	:
	:
v.	:
	:
SANBORN REGIONAL EDUCATION ASSOCIATION/NEA-NEW HAMPSHIRE	:
	:
Respondent	:
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CASE NO. T-0256:8  
DECISION NO. 92-171

APPEARANCES

Representing Sanborn Regional School Board:

Gary W. Wulf, Chief Negotiator

Representing Sanborn Regional Education Association:

Steven Sacks, Esq., Counsel

Also appearing:

- Connie Primiano, S.R.S.B.
- Electra Alessio, S.R.S.B.
- Mark Joyce, S.R.S.B.
- Richard Chretien, S.R.E.A.
- David Taylor, S.R.E.A.
- Greg Andruschkevich, UniServ Director NEA

BACKGROUND

The Sanborn Regional School Board (Board) filed unfair labor practice (ULP) charges against the Sanborn Regional Education Association (Association) on July 22, 1992 alleging a violation of RSA 273-A:5 II (d) claiming that the Association was "attempting to avoid the legal requirement to negotiate changes in their salaries," specifically, step increases. The Association filed its answer on August 17, 1992, denying the commission of any unfair labor practice and claiming that the Board had failed to exhaust other remedies (namely, arbitration) before going to the PELRB.

This matter was heard by the PELRB on October 27, 1992.

FINDINGS OF FACT

1. The Sanborn Regional School Board is a "public employer" of teachers and other personnel as defined in RSA 273-A:1 X.
2. The Sanborn Regional Education Association is the duly certified bargaining agent of teachers and other employees employed by the Board.
3. The parties negotiated and operated under a collective bargaining agreement (CBA) for the period July 1, 1991 through June 30, 1992. Article 7.4 of that CBA provided for final and binding grievance arbitration. Article 25 of that CBA provided that any extensions beyond June 30, 1992 "shall be mutually agreed upon in writing by the parties." The record in this case contains no evidence that such an extension was ever executed.
4. The parties have a history extending more than ten (10) years of not granting step increases under expired CBA's.
5. The individual teaching contracts issued in the spring of 1992 for the 1992-93 school year contained no step increases. Now the Association is seeking to proceed to grievance arbitration on the issue of step increases, said arbitration hearing being scheduled for November 18, 1992.
6. The issue of step increases has been the subject of negotiations both before and at mediation. It remains a subject of negotiations between the parties as no agreement has yet been reached and the parties are now attempting to confirm a date for fact finding.
7. The parties have traditionally negotiated step increases as part of their overall contract package. The costs associated with step increases have traditionally been a part of the overall cost item presented to the voters (legislative body) for approval.

DECISION AND ORDER

Neither the record nor the oral testimony presented to the PELRB establishes that the Association has violated its obligation

to bargain. To the contrary, the record reveals that the subject of step increases has been and continues to be negotiated. Further, the negotiation history reveals no evidence of bad faith bargaining. Accordingly, the ULP will be dismissed and the Motion to Continue, taken under advisement during the hearing on October 27, 1992, will be denied.

Since the CBA expired without extension on June 30, 1992, since the granting of step increases would, ipso facto, have required the appropriation and expenditure of additional funds over the amounts authorized in the 1991-92 CBA, and since there is no evidence of voter approval of additional funds for steps for the 1992-93 CBA, it would be both inappropriate and futile to attempt to arbitrate that issue. Accordingly, the PELRB will direct that the parties not proceed to grievance arbitration on this issue and that they return to the negotiating table to settle the issue of step increases.

PELRB orders as follows:

1. The ULP is dismissed.
2. The pending Motion to Continue is denied.
3. The parties shall not proceed to grievance arbitration on the issue of step increases.
4. The parties shall forthwith return to the bargaining table to negotiate the issue of step increases.

So ordered.

Signed this 5th day of November, 1992.

  
EDWARD J. HASELTINE  
CHAIRMAN

By unanimous vote. Chairman Edward J. Haseltine presiding.  
Members Arthur Blanchette and Richard W. Roulx present and voting.