



NH Supreme Court dismissed appeal of this decision on June 1, 1995, Supreme Court No. 94-280.

**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

WEARE TEACHERS ASSOCIATION,  
NEA/NEW HAMPSHIRE

Complainant

v.

WEARE SCHOOL BOARD

Respondent

CASE NO. T-0278:13

DECISION NO. 93-83

APPEARANCES

Representing Weare Teachers Association, NEA-NH:

Wally Cumings, UniServ Director

Representing Weare School Board:

Gary W. Wulf, Chief Negotiator

Also appearing:

James K. Crane, Weare School District  
J. W. MacAllister, Weare School Board  
Nancy Pearson, Weare Education Association

BACKGROUND

On March 4, 1993, the Weare Teachers Association, NEA-New Hampshire (Association) filed unfair labor practice (ULP) charges against the Weare School Board (Board) alleging violations of RSA 273-A:5 I (a), (c), (d), (g) and (h) because the Board had been placing new employees on the wage scale depending on their experience while it denied placement for similar years of experience to incumbent employees. The Board filed its answer on March 12, 1993 after which this matter was heard by the PELRB on May 20, 1993.

FINDINGS OF FACT

1. The Weare School Board is a "public employer" of teachers and other employees as defined in 273-A:1 X.
2. The Weare Teachers Association, NEA-New Hampshire, is the duly certified bargaining agent for teachers employed by the Board.
3. At all times pertinent to these proceedings, the parties were operating under a collective bargaining agreement (CBA) for the period July 1, 1988 through June 30, 1991 but which did not contain an "evergreen" clause. It did contain wage schedules, the most recent of which was reflective of the 1990-91 school year consisting of five tracks and a minimum of eleven and a maximum of fourteen steps. Thereafter, the parties reached a settlement for school year 1991-92 which called for step increases only to be paid in the future, namely in July of 1993. This agreement did not disturb the track and step scheme of the wage schedule other than to change the figures thereon.
4. Article VII of the 1991-92 CBA provides that "all teachers will be placed on the step as specified in the attached salary schedule corresponding to their experience....."
5. On January 27, 1993, Association President Nancy Pearson wrote to Superintendent Donald Jones to inquire about the "policy of hiring new staff members and the step that you are assigning them to." She alleged that "new staff members were being advanced on the salary schedule when hired during the past two years, while presently employed staff members have not advanced during this time period."
6. In its answer filed March 12, 1993, the Board acknowledged the accuracy of the Association's claim that "even though the continuing contract teachers were being held at 1990-91 experience step increments, newly hired teachers in 1991-92 and 1992-93 were paid the higher experience step increments."
7. In its Hearing Brief, the Board acknowledged the hiring of four teachers (who are still employed by the district) in 1991-92 at steps "higher than appropriate." The inequity of this hiring practice

has been cured by the parties' agreement for a 1991-92 contract which included the payment of steps which will bring continuing contract teachers to the correct and appropriate step levels had they been advanced thereto at the time the four newly employed teachers were hired.

8. In its Hearing Brief, the Board acknowledged the hiring of six teachers in 1992-93 "at a step higher than appropriate." The 1992-93 school year CBA remains unsettled.
9. The cost of paying steps on the current (1991-92) wage scale for the 1992-93 school year is \$27,362. This amount has neither been included in the 1992-93 district budget nor noticed to district voters for approval or rejection at their annual meeting which occurred in March of 1993.

#### DECISION AND ORDER

The Board's answer, its Hearing Brief, and the testimony of witnesses are dispositive of this case. "We acknowledge that we erred [sic] when determining the starting salaries for teachers hired in 1991/1992 and 1992/1993." "The Weare School Board admits that they unintentionally committed an unfair labor practice." (Brief, pp. 1 and 2, respectively). We agree that the complained of conduct constituted a violation of RSA 273-A:5 I (g) and (h) as alleged and conceivably RSA 273-A:5 I (e) had it been charged. Given the status of the pleadings our remaining task is directed to the matter of remedies.

According to representations made to us we are convinced that hiring inequities occurring in the 1991-92 school year have been corrected by approval, belatedly, of the 1991-92 contract package which contained a step raise and brought continuing contract teachers to the proper placement on the step scale so that that placement would recognize their respective levels of experience to the same extent it had been recognized for 1991-92 new hires. As for the 1992-93 new hires, the Board has suggested "it now seems that a reduction in salaries of the six teachers hired at salaries higher than continuing teachers is in order." (Brief, p. 2). We disagree.

If the PELRB were now to condone the reduction of contracted-for rates of hire (by letter contract and not by CBA) for new 1992-93 teaching employees, it would effectively be intervening in the internal business dealings between the Board and its employees...the equivalent of creating or encouraging an impairment of those contracts. Likewise, if it were to do so, it would fail to recognize the effective and equitable technique used to settle this salary discrepancy for 1991-92 hires. We conclude that the

salary discrepancy for 1992-93 hirees versus the continuing contract teachers should be resolved in the same manner, by bringing the continuing contract teachers to the proper placement on the salary scale to reflect their respective levels of experience as contemplated by the contract. If authorized funding levels are insufficient to accomplish this, then the Board shall make necessary modifications in its program to accomplish this remedy.

Finally, and consistent with the pleadings, we direct that the Board CEASE and DESIST from hiring new employees by making placements for those new employees on the salary scale which are inconsistent with the terms of the CBA, either as negotiated or under the maintenance of the status quo pending negotiations, as the case may be.

So ordered.

Signed this 8th day of July, 1993.

  
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JACK BUCKLEY  
Alternate Chairman

By unanimous vote. Alternate Chairman Jack Buckley presiding.  
Members Seymour Osman and E. Vincent Hall present and voting.