



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

UNFAIR LABOR PRACTICE COMPLAINT

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1. CHARGING PARTY: Hillsboro-Deering Federation of Teachers, AFT #2348, APT-NH, AFL-CIO

Representative: Terrī Donovan Title: Attorney

Address: c/o AFT-NH, 553 Route 3A, Ruggles IV, Bow, NH 03304

E-Mail Address: terridd@metrocast.net Telephone 603-223-0747

2. RESPONDENT: Hillsboro-Deering School Board and/or Chairman Richard Pelletier

Representative: Robert Hassett Title: Superintendent

Address: SAU#34, PO Box 2190, Hillsboro, NH

E-Mail Address: rhassett@hdsd.k12.nh.us Telephone 603-464-4466

3. PUBLIC EMPLOYER (if not named as charging party or respondent):

N/A

Representative: _____ Title: _____

Address: _____

E-Mail Address: _____ Telephone _____

EXECUTION OF COMPLAINT:

Date: 1/5/13

STATE OF NEW HAMPSHIRE)
COUNTY OF Hillsborough

DIANE HINES

, first being duly sworn, does depose and say that I am the complaining party and the allegations in this complaint are true to the best of my knowledge, information and belief.

Diane Hines
Complaining Party Signature

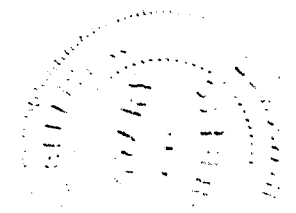
Diane Hines
(Print or type name)

Subscribed and sworn to before me

this 5 day of Jan, 20 13.

Jean Bellevue

(Notary Public/Justice of the Peace)
My Commission Expires APRIL 26, 2013, Notary Public
My Commission Expires March 26, 2013



Certificate of Service

I hereby certify that a copy of this complaint was provided by electronic mail if available and by regular mail or hand delivery this 7th day of 2013 to: (9 pages total)

Hillsboro-Deering School Board, Richard Pelletier, Chairperson

Name(s) of respondent(s)

AND

Supt. Robert Hassett and Attorney Jeannine Poole, Chief Negotiator for the HD School Board

Name of public employer sent via electronic mail only (9 pages total)

Date: January 7, 2013

Jesse O'Donovan
Signature

Reset Form

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Hillsboro-Deering Federation of Teachers * Case No. _____
AFT Local #2348, AFT-NH, AFL-CIO *
*
Vs. *
*
Hillsboro-Deering School Board *
and/or Chairman Richard Pelletier *

UNFAIR LABOR PRACTICE COMPLAINT

#3 DETAIL OF CHARGES

NOW COMES the Hillsboro-Deering Federation of Teachers, AFT Local #2348, AFT-NH, AFL-CIO hereinafter referred to as "the Union" and complains against the Hillsboro-Deering School Board and/or Richard Pelletier, Chairman of the Hillsboro-Deering School Board hereinafter referred to as "the School Board" and "Board Chair", respectively, because the Hillsboro-Deering School Board, Board Chair and/or Board negotiating team and its' members have engaged in unfair labor practices by refusing to bargain in good faith in violation of RSA 273-A:5, I (e), and in support thereof says:

1. That the Hillsboro-Deering School Board is a public employer in the State of New Hampshire.
2. That the Hillsboro-Deering Federation of Teachers, AFT Local #2348, AFT-NH, AFL-CIO is the exclusive bargaining agent for all full-and part-time classroom teachers, librarians, guidance counselors and registered nurses in the Hillsboro-Deering School District who work one-half or more of the school day.
3. The current collective bargaining agreement hereinafter referred to as "CBA" covers the period from July 1, 2009 through June 30, 2013.
4. The current CBA was approved at a special school district meeting on October 25th, 2011.
5. Article 15 of CBA required the parties to commence negotiations not later than May 1, 2012. The Union sent intent to negotiate a successor agreement on April 20, 2012.

6. Despite attempts to meet in May and June of 2012 for negotiations, the parties did not schedule a negotiations meeting until September 26, 2012 in part due to change in administration. A new Superintendent was hired effective July 1, 2012.
7. On September 26th, the day before the scheduled initial negotiations sessions, the Union received notice of the cancellation of the negotiations meeting by the office of the district's legal counsel, Attorney Edward Kaplan. The Union was informed that they would be in touch to reschedule the meeting.
8. Ultimately, a negotiations meeting was scheduled for October 24th, 2012.
9. The School Board negotiating team is comprised of School Board Chair Richard Pelletier, Board Member Nancy Egner Denu, Assistant Superintendent Patricia Parenteau and Business Administrator Jean Mogan.
10. The Union negotiating team is comprised of HDFT President Diane Hines, Joseph Walker, John Bramley and Rhayna Teich.
11. The parties discussed ground rules and exchange of proposals at the October 25th, 2012 negotiating session.
12. On November 13th, 2012, the parties signed ground rules which established a deadline of November 21st as the date by which all proposals on new topics would need to be presented.
13. The parties put a limited number of proposals on the table.
14. The School Board negotiating team stated they would not settle a contract unless the Union agreed to remove the contractual evergreen clause.
15. The contractual evergreen clause has been part of the HDFT CBA for more than a decade.
16. The School Board Chairman and negotiating team member, Richard Pelletier stated emphatically at the November 13th, 2012 negotiations session that the School Board had "promised" the voters when they approved the last contract that the School Board would negotiate this clause away in the subsequent contract and this Board would not agree to a new contract that included the evergreen clause. The Union negotiating team challenged this assertion that this was ever said to the voters during the approval process for the last contract.
17. A review of the tape of the deliberative session held on September 19th, 2011 by members of the Union negotiating team is clear that in fact Board Chair Richard Pelletier stated to the voters that the School Board had taken no position on evergreen at that time. The Union negotiating team presented this information to the Board negotiating team on November 28th, 2012 and received no explanation or response from the Board team.

18. The Union negotiating team specifically asked for a specific public meeting date in which the School Board made any such promises to the voters about evergreen. To date, the Union negotiating team has not been able to find any such record nor has it been produced by the Board negotiating team.
19. The parties agreed to schedule an all day negotiations session for November 28th, 2012. Upon arrival at the November 28th session, the Union negotiating team was informed that neither of the two school board members on the Board negotiating team was going to be in attendance.
20. At the November 28th session, the Board negotiating team informed the Union team that the School Board had met and the Board was in agreement that they needed to insist on the removal of the contractual evergreen language.
21. On December 4, 2012, the Union declared impasse.
22. The parties agreed to utilize the services of Attorney Donald E. Mitchell as mediator.
23. Mediation was scheduled for December 12th, 2012.
24. After ten hours of mediation, the parties reached a tentative agreement for a one-year contract.
25. The tentative agreement did not include the removal of the evergreen clause.
26. The Union scheduled a ratification vote for December 20th at 3:30pm.
27. The Union was not informed or aware of when the School Board would vote on the tentative agreement. Historically, the Union has ratified the tentative agreement before the Board takes action.
28. On December 20th at approximately 3:27pm, HDFT President Diane Hines had a chance meeting in the school hallway with Jean Mogan, School District Business Administrator and member of the School Board negotiating team. At that time, Ms. Mogan informed her that "the School Board didn't vote on the contract-they couldn't get a second to the motion." Ms. Hines expressed her surprise at this news. This was the first time the Union negotiating team had been advised from any member of the board negotiating team of any action taken by the School Board on the tentative agreement. Ms. Mogan was not the Chief Spokesperson for the Board negotiating team. Ms. Hines immediately contacted Attorney Donovan, Chief Spokesperson for the Union team to determine if she had received any notification. She was told she had not.
29. The Union negotiating team still did not know if this was the final status of the Board action and proceeded with the 3:30pm ratification meeting.

30. At approximately 4:16pm on the same date, Attorney Jeanine Poole, Chief Spokesperson for the Board negotiating team emailed Attorney Terri Donovan, with a copy to Assistant Superintendent Patricia Parenteau and informed her as follows:

"I am writing to ensure that you are aware of the outcome of the December 17, 2012 Hillsboro-Deering Board meeting. At that meeting, the Board considered the tentative agreement reached in mediation on December 12, 2012, subject to ratification, but did not agree to it.

31. The HDFT was in the middle of a membership ratification meeting at the time the above email was received and due to the confusing messages from the Board negotiating team, the Union membership proceeded with their voting and ratified the tentative agreement since time was of the essence. The school board negotiating team failed to effectively communicate with the Union negotiating team during this critical time period.
32. Additionally, the HDFT membership took a vote of no confidence in the School Board negotiating team based on the afore-mentioned events.
33. The audiotape of the December 17th, 2012 school board meeting reveals that the Hillsboro-Deering School Board went into non-public session to discuss the proposed tentative agreement. School Board Chair Richard Pelletier stated that *"A majority of the negotiating team has agreed to a tentative agreement."*
34. The School Board returned to vote in public on the tentative agreement without revealing the details of the agreement. A motion to approve the agreement was made by School Board Member and Negotiating Team Member Nancy Egner Denu. There was no discussion regarding the tentative agreement by the Board members in public session.
35. The School Board is comprised of five (5) members. One member, Terry Cutter, recuses himself from voting on the teacher's contract since his wife is employed as a teacher in the district.
36. The four remaining Board members were present when the motion was made including Board Chair and negotiating team member Richard Pelletier. None of the remaining members seconded the motion. Accordingly, the tentative agreement was never voted upon by the Hillsboro-Deering School Board.
37. Neither of the board negotiating team members made any public statements during the public meeting supporting the tentative agreement.
38. Members of negotiating teams have an obligation to support tentative agreements when they present those agreements to their respective memberships for ratification.

39. In these negotiations, the parties agreed to ground rules on November 13th, 2012 which included the following provisions:
4. Tentative Agreement: When tentative agreements are reached on individual proposals, the agreed to terms shall be reduced to writing, dated and initialed by the spokesperson of each team. Any tentative agreement(s) reached shall not be final or binding until complete and final agreement is reached on all parts of the contract and ratified by both parties and their governing bodies and the cost items are approved by the voters. Such entire tentative agreement package is then submitted to the membership of the Hillsboro-Deering Federation of Teachers and the Hillsboro-Deering Cooperative School Board for ratification. **The negotiating teams agree to recommend and advocate for adoption of any signed tentative agreements. [Emphasis added.]** The parties acknowledge that any tentative agreement is subject to approval by voters on cost items as required by law.
 11. A ratification vote by the constituencies of each side of a tentatively agreed upon final package must occur within fifteen (15) calendar days following such agreement being reached in negotiation or earlier if necessary to meet statutory deadlines for submission to school district meeting.
 40. The Hillsboro-Deering School Board negotiating team, or at least Richard Pelletier, failed to support the tentative agreement or even bring the tentative agreement to a ratification vote as required by the ground rules and as necessitated by law.
 41. The Board Chair had established parameters during the November 13th, 2012 session regarding the contractual evergreen provision in the CBA that set forth he would not agree to a tentative agreement unless this section was removed which represents bad faith negotiations.
 42. The School Board met on November 19th and it was communicated to the union negotiating team that the School Board supported the removal of evergreen. The record indicates that the tentative agreement reached in mediation was not done so in good faith by the school board negotiating team.
 43. The actions of the School Board negotiating team and members of the School Board constitute bad faith negotiations by insisting on the removal of the contractual evergreen which demonstrates a lack of intent to bargain in good faith towards a settlement, failing to support the tentative agreement which was reached in negotiations, failing to attend a mutually agreed upon all day negotiations meeting and failing to have the full school board vote on the tentative agreement and promptly report to the union negotiating team the results of the December 17th school board meeting.

44. RSA 273-A:3, I requires good faith negotiations by the parties in collective bargaining and the conduct of the Hillsboro-Deering School Board, Chairman Pelletier and the Board negotiating team violate RSA 273-A:5, I (e) in that they refused to bargain in good faith, abide by negotiations ground rules by failing to advocate for the tentative agreement and submit to their full membership for a vote on the tentative agreement.

#5 STATEMENT OF REMEDIES

WHEREFORE, the Union respectfully requests that the PELRB issues the following orders:

- A. That the Board finds that the Hillsboro-Deering School Board, the Board Negotiating Team and/or Board Chair Richard Pelletier have committed an Unfair Labor Practice by failing to bargain in good faith in violation of RSA 273-A:5, I (e);
- B. That the Board order the Hillsboro-Deering School Board, Board Negotiating Team and/or Board Chair Richard Pelletier to cease and desist from such prohibited practices.
- C. That the Hillsboro-Deering School Board be required to publish this decision on the district website and post in conspicuous places in each school.
- D. That the Hillsboro-Deering School Board be required to pay the full cost of mediation not only the School District's fifty-percent (50%) share of such expenses. The Union's share of mediation is \$627.90.
- E. That the respondent be required to reimburse the Union for costs and reasonable expenses for staff legal time in preparing and processing this charge.
- F. For such other and further relief as may be just and necessary.