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6-24-1975

State of New York Public Employment Relations Board Decisions from June 24, 1975

New York State Public Employment Relations Board

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Keywords

NY, NYS, New York State, PERB, Public Employee Relations Board, board decisions, labor disputes, labor relations

Comments

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
HAUPPAUGE UNION FREE SCHOOL DISTRICT,
Employer,
-and-
HAUPPAUGE TEACHERS ASSOCIATION,
Petitioner.

#2A-6/24/75
Case No. C-1200

CERTIFICATION OF REPRESENTATIVE AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected;

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that Hauppauge Teachers Association

has been designated and selected by a majority of the employees of the above named public employer, in the unit described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit:

Included: Teaching assistants

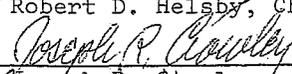
Excluded: All other employees

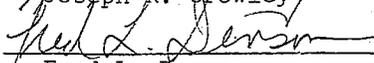
Further, IT IS ORDERED that the above named public employer shall negotiate collectively with Hauppauge Teachers Association

and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Signed on the 24th day of June, 1975.



Robert D. Helsby, Chairman


Joseph R. Crowley


Fred L. Denson

M E M O R A N D U M

June 9, 1975

#3A-6/24/75

TO: THE BOARD

FROM: Harold R. Newman

RE: Fact-Finding by PERB Mediation Staff

Upon my return from Ithaca and at my very first meeting with the Albany Conciliation staff, the topic of fact-finding by staff mediators was resurrected. This time, however, there was not only unanimity on the part of the staff with regard to their belief that they should be allowed to fact-find, but also it was obvious to me that their strong views originated in part from the frustrations they feel at their inability to get settlements in school district disputes as mediators. This is, as you know, an extremely difficult time. There is still, as of this writing, no State aid formula for the schools and the parties are spinning wheels instead of engaging in serious bargaining. The few settlements which have been achieved in teacher disputes in 1975 have all been obtained by fact-finders acting as mediators, and I think it accurate to state that my men are offended and insulted by their inability to get agreements. (The staff has not taken many teacher cases because we are sending them directly to fact-finding.)

I have raised the question with Dr. Helsby and he has suggested that I submit to the Board what I see as the pros and cons of fact-finding by staff, together with my own recommendations.

Arguments For:

1. As indicated above, one of the strong reasons that mediators want to fact-find is because they feel that they do not have the muscle they need. They point out to me that at pre-hearing conferences on improper practice cases it is possible to caution one of the parties that if the matter goes to a formal hearing, they may be found guilty of an improper practice and this usually results in settlement.
2. There have been occasions in the past, albeit not frequently, when parties have requested the staff mediator to stay on as fact-finder and he was compelled to decline.
3. As I indicated in a recent PERB Bulletin column, the parties-particularly in school districts-have tended to institutionalize the conciliation procedures. Neither mediation nor fact-finding is getting the attention and respect it was given in earlier years and my staff believes that being able to wear both hats as per item #1 above will give them the extra clout that they need.

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4. The Board is aware that conciliation caseload has peaks and valleys and the staff believes the assumption of fact-finding responsibilities would enable them to expand over the year the caseload they will carry during slow periods (in December and January, for example). This is especially important in view of the fiscal crunch.
5. The staff believes that they are capable of writing much better fact-finding reports than many of the panel (after all, they have had a lot of experience reading them-good and/or bad).
6. Fact-finding would add considerable interest to their work.

Arguments Against

1. I have some concern that a fact-finding report written by a staff member may be looked upon by panelists working in nearby places as giving a "party line".
2. I have somewhat the same kind of concern in that fact-finding recommendations by a staff member may be looked upon as a directive by the agency.
3. We might suffer some embarrassment if there is a substantial difference in recommendations by individual staff members on specific kinds of issues.
4. There may be some resentment by local governments that Big Brother in Albany is telling them what their budget and taxes should be.
5. There may be some sacrifices in terms of the time demands for fact-finding, secretarial assistance, etc. that might infringe on the prime mediatory functions.

Recommendations:

Although I have indicated that this memo results from intense lobbying by the Albany conciliation staff, I assure you it also reflects views shared by the conciliation staff in the satellite offices.

I think the concerns which I have expressed in the arguments against, are valid concerns, but perhaps the recommendations in favor should lead us to try limited fact-finding by the staff as an experiment. In reflecting on the recommendations pro and con, I have decided that, for one thing, the parties do not really differentiate between staff and panel. If anyone resents the recommendations made by a fact-finder, he is still identified as a representative of PERB even though he is an ad hoc employee. The administrative problems should be de minimis, especially since the staff will be doing most of their

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fact-finding during slack periods of the year.

In any event, I am prepared-should the Board give its approval-to allow staff mediators in carefully selected situations and at specific times to undertake fact-finding, and so recommend.

Harold

Harold R. Newman

HRN:jge

P.S.: I would add, however, that Erwin Kelly maintains strong reservations against our permitting mediators to fact-find.

H.R.N.