

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF
RHODE ISLAND STATE LABOR
RELATIONS BOARD
-AND-
NORTH SMITHFIELD
SCHOOL COMMITTEE

CASE NO: ULP-5444

DECISION AND ORDER OF DISMISSAL

TRAVEL OF CASE

The above entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board"), on an Unfair Labor Practice Complaint (hereinafter "Complaint"), issued by the Board against the North Smithfield School Committee (hereinafter "Employer"), based upon an Unfair Labor Practice Charge (hereinafter "Charge"), dated December 30, 1999, and filed on January 4, 2000, by the North Smithfield Teachers' Association, (hereinafter "Union").

The Charge alleged:

"A reprimand, dated 12/23/99 to the President of the Teachers Union from the Superintendent and the Principal of North Smithfield Elementary School, had the effect of intimidating and coercing Union members in violation of the Act." 28-7-13, subsection 10.

Following the filing of the Charge, an informal conference was held on March 8, 2000, between representatives of the Union and Respondent and an Agent of the Board. When the informal conference failed to resolve the Charge, the Board issued the instant Complaint on October 19, 2000. The Employer did not file an Answer to the Complaint.

Formal hearings on this matter were held on May 31, 2001, and August 21, 2001. Upon conclusion of the hearings, both the Employer and the Union submitted written briefs. In arriving at the Decision and Order herein, the Board has reviewed and considered the testimony and evidence presented, and arguments contained within the post hearing briefs.

FACTUAL SUMMARY

In December, 1999, Ms. Juliette E. Elias, Principal of the North Smithfield Elementary School, distributed a memo to the school teaching staff concerning an upcoming "professional development" day, scheduled for Friday, January 7, 2000. The memorandum outlined the day's

schedule and included details concerning the presenters, lunch arrangements, and breaks. The memo also contained the following language:

“Participating in a 2-day workshop on High/Scope’s Child Assessment Process, the Child Observation Record (COR). In High Scope’s approach, accurate developmental information about each child helps educators and parents accompany children on the journey of growth and development. Recording Information with High/Scope Child Observation Record will be practiced from January to June. By September 2000, full use of a child-observation-based alternative to conventional test-based assessment will be expected in all preschool, kindergarten and Grade One classrooms and extended services. COR training is needed for effective use of the COR assessment process.

“Teachers are invited to attend the second day of the workshop and will receive one (1) professional development credit from Rhode Island Department of Education and a \$50.00 stipend. (RSVP to Laurie by December 21st if you are attending on January 8th).”

On December 16, 1999, Ms. Monica Maroney, Union President, responded to the above memorandum with a memorandum of her own, addressed to the teaching staff, copied to Ms. Elias. (Exhibit #2) This memo “clarified” the obligations of the teaching staff for professional development under the parties’ collective bargaining agreement, and was copied to Ms. Elias. On December 17, 1999, after not having had much response to the first memo, Ms. Elias sent a second reminder memo only to the Preschool, Kindergarten, and Grade One teaching staff, restating the fact that responses for the Saturday workshop offer were due by December 21, 1999. This memo requested the staff member to indicate attendance or no attendance, in writing, on a form provided on the bottom of the memo. The form also had a space for signature and date. (Exhibit #3) This memo was not “copied” to anyone else.

In response to this second inquiry by Ms. Elias, Ms. Maroney issued a two-page memorandum dated December 18, 1999, to Ms. Elias, copied to the entire Elementary School teaching staff, local and state-wide Union officials, and the Superintendent. In this memo, she advises Ms. Elias that the Union found Ms. Elias’ second memo objectionable in both “tone and format.” Ms. Maroney goes on to characterize Ms. Elias’ Dec. 17th memo as “coercive”, and puts Ms. Elias on notice that “any coercive measures you devise to obtain signatures for the workshop ...will compel the Union to file a grievance...” Ms. Maroney then wrote a memo to the lower grade teaching specialists, copied to Ms. Elias, local and state-wide Union officials, and the Superintendent, urging staff not to sign the attendance portion of the memo or to return it to Ms. Elias. Ms. Maroney characterized the attendance form as a “coercive tactic” that is “counterproductive and adversely impacts morale.”

On December 22, 1999, Ms. Elias issued a third memo to the Preschool, Kindergarten, and Grade One teaching staff concerning the upcoming workshop. In this memo, she directs the teachers to respond by Thursday, December 23, 1999 as to whether they will or will not be attending the second day of the workshop.¹

On December 23, 1999, Ms. Elias and Ms. M. Richard Scherza, Superintendent, sent a memo to Ms. Maroney expressing their disappointment and displeasure concerning Ms. Maroney's memos and actions concerning the workshop. They refute Ms. Maroney's allegations of Ms. Elias' alleged "coercive" and "intimidating" actions. Finally, they state: "We find your actions and comments to be unfounded, unprofessional, and unethical. They are contrary to the best interest of the teaching staff and they are certainly not in the best interest of the students we serve." This memo is copied to the Elementary School staff, local union officials, and the School Committee. It is this final memo of December 23, 1999, that is the subject matter of the unfair labor practice charge.

POSITION OF THE PARTIES

The Union argues that the December 23, 1999 memo had the effect of intimidating and coercing union members in the exercise of their protected rights. The Union argues that members considered the Dec. 23rd memo as a "vicious" attack on the Union President, and that they considered it "punitive" and "retaliatory" in nature.

The Employer argues that the Union failed to produce any evidence that the Dec. 23rd memo intimidated or coerced any union member into any "non-enjoyment" of their negotiated benefits. The Employer argues that the Dec. 23rd memo was written in response to Ms. Maroney's memos, which the Employer felt directly challenged Ms. Elias' authority as principal of the school. The Employer argues that it not only has a right, but a responsibility, to respond to the Union's denunciation of the principal, and to publish such response to those who had received the Union memos. Finally, the Employer argues that its representatives have a First Amendment right to free speech that cannot be infringed upon.

DISCUSSION

The series of events here began as a simple effort to identify the level of participation for a professional workshop, so that the appropriate arrangements could be made for its

¹ The record in this case established that the Saturday workshop was canceled, due to lack of enrollment.

implementation. What began with a simple inquiry into the interest level, quickly degenerated into a volley of memos written in an atmosphere of suspicion and “posturing.” Neither party attempted to engage in any face-to-face verbal discussions concerning the subject matter at hand.

Ms. Maroney’s December 18, 1999 memo, when read as a response to Ms. Elias’ December 17th memo, seems to be more than a little “over the top.” The Board believes that it was this memo that “set the tone” for the ensuing memos. Ms. Maroney testified, at length, at the hearings that the Union was afraid that if the younger, newer teachers filled out the form and declined the workshop, the form would be put in their personnel files and used against them in the future, when determining tenure. However, this concern or fear was never enunciated as such in Ms. Maroney’s December 18th memo. This memo simply accuses Ms. Elias of coercive actions. Moreover, Ms. Maroney testified that, although she gave this memo great thought before sending it, she never just picked up the phone to discuss the issue with Ms. Elias. Ms. Maroney just assumed that the attendance forms would be put into personnel files and used against teachers. There was absolutely no evidence, whatsoever, placed into the record that would support such an assumption. That such a failure to communicate could arise within an educational setting is disconcerting, at best.

Ms. Maroney and the Union’s witnesses profess that they felt shock and fear at the “vicious” nature of the December 23rd memorandum. The Union also complains that “the biggest problem is that there were carbon copies of this exchange sent to the entire staff, the membership of the union housed at North Smithfield Elementary School and the union’s executive committee.” (TR 5/31/01, p. 8) However, neither Ms. Maroney nor the Union witnesses saw anything wrong with the tone or content of Ms. Maroney’s December 18th memorandum, which in the opinion of this Board, commenced the escalation of this matter.

It is this Board’s opinion that, when all of these memos are read in order by third parties outside the school system, such as ourselves, it becomes clear that there existed a colossal failure on the Union’s part to effectively communicate its true concerns regarding Ms. Elias’ first memorandum. If the Union’s true concern was to ensure that failure to participate in the workshop would not be held against the new teachers, then it should have stated so, in simple and clear terms, whether in a face-to-face discussion with Ms. Elias, or by a written memorandum. As to the Union’s complaint regarding the carbon copies of the December 23rd

memorandum, the Union again has itself to blame. Prior to the December 23rd memo, Ms. Elias communicated only with the lower grade teachers. It was the Union that began the carbon copying to other parties.

Finally, it is important to note that, while the Union's charge characterized the December 23, 1999 memorandum as a reprimand, we would not so define that document. We believe that this strongly worded memorandum merely expressed the opinion of the Principal and Superintendent. There is no mention of discipline to either Ms. Maroney or the teachers, nor was any evidence produced to suggest that anyone was "disciplined," or "retaliated" against, or "coerced" in any way. If it had the effect of making the Union officials think twice about its tactics and its handling of this matter, this is not such a bad idea. If the effect was embarrassment, then perhaps the same is also justified. In any event, no aspect of the December 23rd memorandum amounts to the commission of an unfair labor practice, and the Complaint herein is hereby dismissed.

FINDINGS OF FACT

- 1) The Respondent is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
- 2) The Union is a labor organization, which exists and is constituted, for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection and, as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.
- 3) During December, 1999, a series of memos were exchanged between representatives of the Union and Employer, concerning a professional development workshop, scheduled for Saturday, January 7, 2000. None of the memos refer to the Union's concern that teachers may be penalized for failing to attend the voluntary workshop.
- 4) No verbal communications regarding the scheduling of the professional development workshop took place between representatives of the Employer and the Union.
- 5) The voluntary professional development workshop scheduled for January 7, 2000 was canceled due to a lack of enrollment by the teachers.

- 6) No Union member was reprimanded, penalized, disciplined or coerced in any way, as a result of the December 23, 1999 memorandum written by the Employer's representatives, or as a result of the workshop's cancellation.
- 7) No Union member was deprived of any negotiated benefit or coerced in any way.

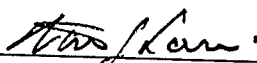
CONCLUSIONS OF LAW

- 1) The Union has not proven, by a fair preponderance of the credible evidence, that the Employer has committed a violation of R.I.G.L. 28-7-13 (10).

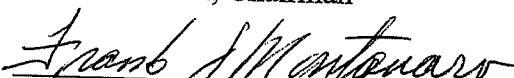
ORDER

- 1) The Unfair Labor Practice Charge and Complaint in this matter are hereby dismissed.

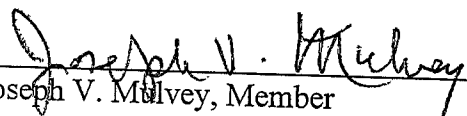
RHODE ISLAND STATE LABOR RELATIONS BOARD



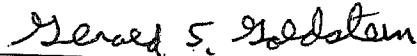
Walter J. Lanni, Chairman



Frank J. Montanaro, Member



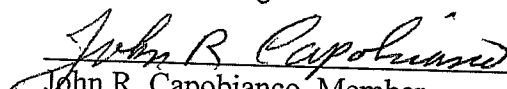
Joseph V. Mulvey, Member



Gerald S. Goldstein, Member



Ellen L. Jordan, Member



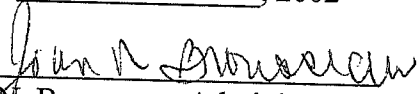
John R. Capobianco, Member



Elizabeth S. Dolan, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: April 29, 2002

By: 
Joan N. Brousseau, Administrator