STATE OF MAINE

MAINE LABOR RELATIONS BOARD
Case No. 15-19
Issued: February 18, 2016

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| SAD 3 EDUCATION ASSOCIATION, MEA/NEA, Complainant, | |
| v. | DECISION AND ORDER |
| RSU 3, Respondent. | |

The SAD 3 Education Association MEA/NEA filed this Complaint on March 9, 2015, alleging that Respondent RSU #3 (the "Employer") violated §964(1)(E) of the Municipal Public Employees Labor Relations Law (the "Act") by failing to participate in good faith in the Act's mediation, fact-finding and arbitration procedures with respect to the impact of changes in educational policy.[1] Specifically, the dispute involves the impact of a change in the school bus schedule on the working conditions of the teachers in the district.

A pre-hearing conference was held on June 10, 2015, with Chair Katharine I. Rand serving as the presiding officer. Ms. Krystyna Dzialo, MEA UniServ Director, represented Complainant SAD 3 Education Association, and was assisted by Mr. C.J. Betit, also with the Maine Education Association. Campbell Badger, Esq., represented RSU 3, and was assisted by Mr. Roger Kelley. Various exhibits were identified and admitted at the prehearing conference at which time the parties identified their witnesses.

[1] The Complaint also alleged a failure to bargain in good faith over the impact, but this allegation was dropped by the start of the hearing.

An evidentiary hearing was held on October 27, 2015. At the start of the hearing, the parties agreed that any facts in the Complaint admitted by the Respondent should be considered stipulated to for purposes of the hearing. The Complainant did not offer any witnesses, but rested its case relying on the stipulated facts to prove a violation. The Respondent made a motion to dismiss, arguing that the Complainant had not demonstrated that the school district had violated §964(1)(E). After consideration, the Board denied the motion, stating that determining whether a violation occurred depends at least in part on the evidence that the Respondent offers to support its defenses.

## STIPULATIONS AND FINDINGS OF FACTS

1. Complainant SAD 3 Education Association MEA/NEA is the recognized bargaining agent within the meaning of 26 MRSA §962(2) of the Municipal Public Employees Labor Relations Law ("MPELRL") for a unit consisting of classroom teachers; guidance counselors; librarians; nurses; occupational, physical and speech therapists; social workers, and music supervisors employed by the Board of Directors of RSU #3. (STIPULATION)
2. Respondent Board of Directors of RSU #3 ("School Board"[2]) is a public employer within the meaning of 26 MRSA § 962(7). (STIPULATION)
3. RSU 3 is a rural school district comprised of the towns of Brooks, Freedom, Jackson, Knox, Liberty, Monroe, Montville, Thorndike, Troy, Unity, and Waldo. The geographic area of the school district is vast. The RSU has five elementary

[2] For the sake of clarity, the references to the "Board" in the stipulations will be changed to "School Board" so that we may continue our practice of using "Board" for the Maine Labor Relations Board.

schools, one middle school, and one high school. Mount View Elementary School, Mount View Middle School, and Mount View High School are located on the same property, often referred to as "the Complex" in Thorndike. The other schools of Monroe Elementary, Morse Elementary, Troy Elementary, and Walker Elementary are located in communities surrounding Thorndike. School buses travel winding, hilly rural roads to pick up and transport students to and from school. (STIPULATION)

4. RSU 3 had used double bus runs for about ten years, that is, the buses would first pick up and deliver the older students to the central complex, then make another run to pick up and deliver the younger students to the elementary schools.

5. During the spring of 2012 the School Board made the determination that it was going to combine school bus runs so that students in kindergarten through grade 12 would all ride the same bus to and from school. The objective of this change was to reduce the transportation costs for the district. (STIPULATION) The School Board made this decision because it was faced with a loss of $250,000 in the 2012-2013 budget due to a decrease in the state subsidy.

6. The impact of this change on teachers' working conditions was unknown at the time and the parties agreed to wait to address the issue until the 2012-2013 school year when the impact of the change was more clear. (STIPULATION)

7. During the fall of 2012, Ms. Terri Church, the President of SAD 3 Education Association, received input via email from the 19 teachers in the outlying schools on the effect the change in school bus runs had on their hours and working conditions. With a single bus run, the elementary students were dropped off earlier in the morning and picked up later

for the ride home than they had been under the prior system. Ms. Church and Ms. Heather Perry, the RSU #3 Superintendent, met to see if they could try to find a solution without more formal bargaining. As the teachers and the building principals had different views on the matter, this informal approach was not productive.

8. In the beginning of January of 2013, the Association informed the School Board of its demand to enter into impact bargaining regarding the change in working conditions due to the shift to the single bus run, which resulted in an increase to the teacher workday for teachers in certain schools in the district. (STIPULATION) The Association subsequently clarified its demand to bargain and a meeting date was set. (STIPULATION)

9. The Association did not provide the School Board with 120 days' notice, pursuant to Title 26, §965(1).

10. On January 10, 2013, Superintendent Heather Perry e-mailed the Association leadership to let them know that the Board would be willing to meet to hear the Association "present its case that this item should be impact bargained." (STIPULATION). Mr. Roger Kelley, a labor relations consultant employed by the School Board, advised the Superintendent on how to respond to this impact bargaining request. Mr. Kelley had served as the School Board's chief negotiator for several years and continued to do so for the duration of the events addressed in this Complaint.

11. When the School Board and the Association engage in collective bargaining, they use a problem-solving approach during which each side identifies issues of concern to it, and the parties brainstorm ideas and possible solutions. This is different than the traditional approach of each side

presenting written bargaining demands to which the other side responds or presents counter-proposals.

12. On February 14, 2013, the Association and the School Board entered into impact bargaining negotiations regarding this change in working conditions for teachers. (STIPULATION)

13. On February 14, 2013, the first of three impact bargaining sessions, Mr. Kelley explained the School Board's position that if the issue were the length of the teacher day, the School Board did not see an obligation to impact bargain because that issue had been addressed in prior negotiations. He stated that Article 7 (E) of the then-current collective bargaining agreement had been adopted in 2006 to address concerns about the length of the teacher days, that is, how long before and after school the teachers must be in attendance. Article 7 (E) had not changed since it was first added to the agreement and stated, in full,

> (E). With respect to the teachers' in-school work day, the teachers will devote the time necessary to meet their professional responsibilities.

14. The Association did not present any written proposals at this time, but made a verbal proposal of $7,000 for each of the 19 teachers in the outlying schools as compensation for the extra hours they had to work. The Association asserted that there was an equity issue because the teachers in the outlying schools had one hour per day more student contact time than the teachers at the central complex. The School Board contended that the existing salary included the longer work day, and it was opposed to additional compensation.

15. At the second meeting on March 20, 2013, Superintendent Perry shared information on her analysis of student contact time at

the various schools. The result was that the differential between the teacher day at the outlying schools and the central complex was about 30 minutes per day. The parties discussed several different approaches to addressing the issue. The School Board listened to all of the concerns expressed by the Association and asked questions to better understand the proposals being made.

16. Between the second and third meeting, the Superintendent reviewed all of the options that had been suggested to determine which were financially possible or otherwise feasible. The Superintendent provided this information to the Association during the third meeting, on April 10, 2014. At that meeting, the parties also talked about additional options that could be implemented at the start of the following year. The Superintendent offered a stipend of $500 for each of the affected teachers. While the Association members caucused, a School Board member informed the Superintendent that she had not been authorized to offer a stipend as the School Board was opposed to any sort of differential payment. When the Association returned from their caucus, the Superintendent told them she had been in error offering the $500 and it should not have been offered. The Association indicated they wanted to have time to consider all the options that had been discussed and present a comprehensive proposal to the Board. The School Board agreed and the meeting ended. There was no date set for another meeting, nor was there any discussion of a timeframe for putting together the proposal. The Superintendent testified that she assumed that a proposal would be forthcoming in the next two or three weeks.

17. The Association membership did not meet to discuss the details of its proposal until June. Sometime during the summer, Ms. Church sent out a draft proposal to the members, but did not receive much, if any, response or input.

18. Over the summer, Ms. Church spoke with the Superintendent a couple of times and met with her in August to discuss the evaluation system and a problem teacher. Ms. Church testified that she told Ms. Perry she was working on the proposal for the impact of the busing change, but Ms. Perry did not have a specific recollection of this conversation. Ms. Church testified that every time she raised the issue of the impact proposal, the Superintendent said things like "Well, I'm not involved in that anymore, that's off my plate, not something I'm doing." Ms. Church testified that she didn't know what Ms. Perry meant by such comments, and thought that it was "just Roger saying that it was done at that point." Neither Ms. Church nor the Education Association's professional staff sought clarification from the Superintendent or contacted Mr. Kelley about the status of impact bargaining during this period.

19. Ms. Church emailed the draft proposal to the Association membership for a vote, and it was approved in September.

20. On October 1, 2013, an unsigned "Memorandum of Agreement" (MOA) dated September 13, 2013, appeared on Ms. Perry's office chair. There was no cover letter or explanatory note accompanying the one-page memorandum. As the MOA included items that had not been discussed or agreed to at the April meeting, the Superintendent was confused by the document. She called Ms. Church to get clarification, and learned that it was the Association's proposal. The Superintendent consulted with Mr. Kelley about the matter.

21. On October 16, 2013, the School Board responded with a letter to the Association rejecting the Association's proposal. (STIPULATION) The Association did not respond.

22. On December 6, 2013, the Association filed a request for mediation with Marc Ayotte, Executive Director of the Maine Labor Relations Board, with a copy to the School Board's representative, Roger Kelley. (STIPULATION)

23. On January 15, 2014, Mr. Ayotte assigned Denis Jean as the mediator. The first date scheduled for mediation between the parties was set for March 12, 2014. Due to an unforeseen resignation of their Board Chair, the School Board requested the March 12 meeting be rescheduled. (STIPULATION)

24. At some point around this time, the Association sent a formal letter to request bargaining for a successor contract to the 2011-14 agreement, which was due to expire on August 31, 2014. This request complied with the 120-day notice requirement of Title 26, §965(1). The parties began bargaining in February of 2014, and met several times in March.

25. One of the first issues raised by the Association during successor negotiations was the length of the teacher workday. The specific problem identified was that the language of Article 7(E) was unclear, and needed to be made more specific. The parties brainstormed several possible solutions during their March 25, 2014 negotiating session, and agreed upon language that was approved ("TA'd") on April 1, 2014. The new language included a goal of maintaining equity across all schools and an agreement to consult with the Association before setting school hours. It also set the teacher's in-school workday to begin 15 minutes before the school start time for all teachers. For the teachers at the outlying schools, their day would

end at the same time the students were dismissed, while the teachers at the central complex had to stay an additional 15 minutes. April 1, 2014, was the date the parties concluded their successor negotiations and signed off on all of the tentative agreements for the 2014-2017 collective bargaining agreement.

26. Mediation on the impact bargaining matter did not occur until after the successor negotiations had concluded. The parties met with Mr. Jean two times on April 8 and May 7, 2014, but were unable to resolve any of the issues in dispute. (STIPULATION)

27. The first impact mediation session on April 8, 2014, lasted about three or four hours, first with an initial meeting of both sides with the mediator, then the mediator shuttling back and forth between the parties. Mr. Kelley was not present at this session and the School Board did not raise the question of why they were still meeting after having signed a tentative agreement for the successor contract.

28. The second impact mediation session was held on May 7, 2014. Mr. Kelley was present and informed the mediator that the express issue of equity had been addressed in the tentative agreement. The Association's position was that the issue was not resolved because the successor agreement made no provision for addressing the situation prior to the effective date of the successor contract.

29. On or about July 3, 2014, the Association sent their request for fact finding to Mr. Ayotte and Mr. Kelley. (STIPULATION)

30. Upon receiving the Association's request for fact finding, Mr. Ayotte sent letters to Ms. Dzialo and Mr. Kelley asking them to select their representative on the fact finding panel. The Association responded promptly but the Employer

did not.

31. On October 17, 2014, the RSU 3 Board of Director's Attorney, Campbell Badger, sent a letter to Mr. Ayotte and Ms. Dzialo saying the Board was "unwilling to expend the time, energy and costs associated with said [fact finding] request."

32. On January 20, 2015, Mr. Ayotte emailed the parties stating that he would not be scheduling a fact finding because it was "clear from Campbell's letter of October 17, 2014, that the Board of Directors will not participate in the proceeding."

## JURISDICTION

The SAD 3 Education Association MEA/NEA is the bargaining agent within the meaning of 26 MRS §962(2) and the Board of Directors of RSU #3 is the public employer within the meaning of 26 MRS §962(7). The jurisdiction of the Board to hear this case and to render a decision and order lies in 26 MRSA §968(5).

## DISCUSSION

Section 964(1)(E) of the Act prohibits a public employer from refusing to bargain with the bargaining agent as required by section 965. In turn, section 965 obligates the parties, among other things, "to participate in good faith in the mediation, fact-finding and arbitration procedures required by this section." There is no dispute that the Employer did, indeed, expressly and unequivocally refuse to participate in fact finding in its letter of October 2014. Such a refusal to participate in the dispute resolution procedures outlined in the Act typically constitutes a failure to bargain in good faith and violates section 964(1)(E). MSAD #68 Teachers Assoc. v. MSAD #68 Board of Directors, No 79-22 at 6 (Jan. 24, 1979); Teamsters Union Local 340 v. City of Biddeford, No. 93-25, at 12 (June 3, 1993).

The Employer presents several arguments that it did not have a legal obligation to participate in fact finding. These various affirmative defenses are:

1. The impact of single busing was already contemplated by Article 7(E) of the 2011-14 collective bargaining agreement;
2. The impact of single busing was conclusively resolved in the 2014-17 collective bargaining agreement;
3. The Association waived its right to further bargain the impact of single busing through its own inaction;
4. The Association's impact bargaining claim is time-barred under section 968(5)(B);
5. The Association is barred from asserting its impact bargaining claim pursuant to the doctrines of equitable estoppel and laches; and
6. The Association failed to provide the School Board with the statutorily required 120-days' notice of its intent to negotiate matters involving appropriation of money.

As the party raising these defenses, the School Board has the burden of proving by a preponderance of the evidence the validity of each defense. 26 MRS §968(5)(C). Steven Duran v. Maine Education Association, 09-06 at p. 8 (June 25, 2009) and MSEA v. State of Maine, No. 82-05 at 8 (Dec. 22, 1982), rev'd on other grounds, 499 A.2d 1228 (Me. 1985).

The first affirmative defense is the same argument that Mr. Kelley raised during the parties' first impact bargaining sessions, that is, that the impact of changing to a single bus run was already contemplated by Article 7(E) of the collective bargaining agreement. At the time, that provision stated:

> E. With respect to the teachers' in-school work day, the teachers will devote the time necessary to meet their

professional responsibilities.

This Board has previously held that there must be specific contractual language before waiver of a statutory right will be found, and the waiver normally is applicable only to the specific item mentioned. MSEA v. State of Maine, No. 84-19 at 9 (July 23, 1984)(general language in management rights clause including right to direct the work force was not unambiguous express waiver of right to bargain over change in practice that prevented employees from performing job duties not in the job classification). The Board has also frequently noted that a waiver must be express and "a mere inference, no matter how strong, should be insufficient." See, e.g., Id., citing Communications Workers of America v. NLRB, 644 F.2d 923, 928 (1st Cir. 1981), and Paul Coulombe and South Portland Prof'l Firefighters Local 1476 IAFF v. City of South Portland, No. 86-11 at 22 (Dec. 29, 1986)(same).

The language of Article 7(E) is too vague to constitute waiver of impact bargaining related to the change to the school bus run. Were we to accept the School Board's logic, it would be under no obligation to bargain the impact of, for example, a change to the length of the school day by virtue of providing night school.

The second defense listed above is the School Board's claim that it was not obligated to continue bargaining over impact once the parties agreed upon a successor contract which, it argues, "conclusively resolved all bargaining issues relating to the impact of single busing." Brief at 21. This argument also fails. If the successor agreement had, in fact, conclusively resolved all the issues, the parties could have included language in the agreement stating just that. This could have been accomplished in

a 'conclusion of negotiations' provision or as a separate memorandum of agreement. More importantly, whether the issues were "conclusively resolved" is just a matter of opinion. While the Employer was apparently convinced there was nothing left to bargain, the Union had a different view of the matter.

The third defense asserted by the School Board is that the Association waived its right to demand fact finding through its own inaction. The School Board refers to the long period of inaction on this front: At the close of the impact negotiating session on April 10, 2013, the Employer expected the Association to return with a proposal. The Association did not follow up with a proposal or request another meeting. On October 1, 2013, the Superintendent received the proposed Memorandum of Agreement, which the Superintendent rejected in writing on October 16, 2013. No further action was taken until December 6, 2013, when the Association submitted its request for mediation.

It is well established that, to be effective, a waiver of a statutory right must be clear and unmistakable. State v. Maine State Employees Assoc., 499 A.2d 1228, 1232 (Me. 1985). While a lengthy period of inaction may give rise to waiver, the very conduct of the Employer in this case belies any notion that the Association clearly and unmistakably waived its right to bargain over the impact of the change. Specifically, the Employer went ahead and participated in mediation without preserving any argument that the Association had waived its right to bargain. See AFSCME v. Penobscot County Commissioners, No. 15-14 at 14 (Jan. 5, 2016) (Union could have preserved right to object to employer's conduct). The School Board has failed to prove by a preponderance of the evidence that the Association waived its

right to bargain impact by its own inaction.

The Employer's reliance on Mt. Abram Teachers and Saco Valley Teachers is misplaced, as both of those cases dealt with the unions' substantial delay in requesting meet-and-consult sessions with respect to changes in educational policy. Mt. Abrams Teachers Assoc. v. MSAD No. 58, No. 15-09 at 21 (July 29, 2015)(delay until eve of implementation of educational policy change too late); Saco Valley Teachers Assoc. v. MSAD No. 6, No. 85-07 at 15-16 (March 14, 1985)(waiting until after educational policy change was implemented too late). As the Board noted in Mt. Abram, the statutory purpose of meet and consult is to obtain the teachers' input prior to implementing a change in educational policy. No. 15-09 at 22. Consequently, the delayed meet-and-consult requests in these cases frustrated this statutory purpose. This was the basis of the Board's rulings in both cases, not waiver. Id., Saco Valley at 15-16.

The fourth defense raised by the School Board is that the Association's impact bargaining claim is time-barred under §968(5)(B). The relevant portion of §968(5)(B) states:

> . . . [N]o hearing shall be held based upon any alleged prohibited practice occurring more than 6 months prior to the filing of the complaint with the executive director.

The School Board's refusal to participate in fact finding occurred on October 17, 2014. The prohibited practice complaint was filed on March 9, 2015, fewer than six months from the date of the alleged violation, and is therefore not time barred.

The fifth defense argued by the School Board is that the Association is barred from asserting its impact bargaining claim

through equitable estoppel and laches. The School Board points to no statutory provision granting equitable jurisdiction to the Maine Labor Relations Board. While it is true that the Board has a considerable amount of discretion in its remedial authority once it has found a violation to have occurred,[3] the Board's authority to find that conduct violates the act is limited by the statute. In Oxford Hills Teachers Association v. MSAD #17, the Board rejected the assertion that the complaint should be dismissed because the complainant had engaged in improper behavior, stating,

> . . . While this sort of "clean hands" doctrine was cognizable before the chancellor of equity, it is not a defense before the Board. Pursuant to the mandate of 26 M.R.S.A. §968(5), the Board will consider the allegations of both parties' misconduct. If both parties have violated the Act, we will consider the relationship between such violations, if any, in fashioning remedies. Sanford Highway Unit of Local 481 AFSCME v. Town of Sanford, MLRB No. 79-50, 1 NPER 20-10012, slip op. at 16-17 (Apr. 5, 1979), aff'd, 411 A.2d 1010 (Me. 1980).

Oxford Hills, No. 88-13 at 6. The same principles apply today.

In support of its assertion that equitable estoppel is an appropriate defense in the context of a prohibited practice case, the Employer cites Teamsters Local 48 v. Town of Oakland, No. 79-67 (Dec. 30 1979). In that case, the union enjoyed the benefits of a collective bargaining agreement for a couple of months before it took the position that the contract was not signed by an authorized union representative. The Board stated that the union should be barred by the principle of equitable estoppel from asserting that the executed agreement was not a valid contract.

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[3] See, e.g., City of Bangor v. AFSCME, 449 A.2d at 1129, 1136 (ME 1982)("The Board has broad discretion in fashioning appropriate relief for the employer's prohibited practices . . ."); and Minot School Comm. v. MLRB and Minot Educ. Assoc., 1998 ME 211 ¶18 ("We acknowledge that the Legislature has given the Board broad discretion to fashion remedies for prohibited practices.")

No. 79-67 at 4. In a later case, the Board held that a union was equitably estopped from repudiating a provision of a ratified agreement because the union's membership had "enjoyed the benefits of the collective bargaining agreement." AFSCME v. Cumberland County, No. 83-09 at 10 (June 3, 1983). These two cases are merely examples of how the Board, when it is required to interpret a contract in order to decide a prohibited practice complaint, will apply established principles of contract law, which may include equitable estoppel. Neither case expands the statutory authority granted to the Board in §968(5)(C); therefore, this defense fails.

The Employer's last defense to its refusal to participate in fact finding is based on the Association's failure to provide the necessary notice of intent to bargain over matters that would require the appropriation of money. Section 965, subsection 1 defines collective bargaining and establishes the obligation of both the public employer and the union to bargain collectively. Part of the statutory obligation is the following notice requirement:

> Whenever wages, rates of pay or any other matter requiring appropriation of money by any municipality or county are included as a matter of collective bargaining conducted pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the public employer at least 120 days before the conclusion of the current fiscal operating budget[.]

The Employer's description of the purpose of this provision and its application is correct. The required 120-day notice gives the public employer the opportunity to plan for appropriations that might be necessary as an outcome of

bargaining. If the union does not provide notice 120 days prior to the end of the fiscal year, the employer may lawfully refuse to bargain over those matters requiring the appropriation of money. Teamsters Union Local 340 v. Town of Falmouth, Nos. 79-10 and 79-18 at 5 (June 6, 1979). The Employer may agree to bargain over those matters, however, as they become permissive, not mandatory, subjects of bargaining due to the failure to provide the 120-day notice. Maine Teachers Association v. Saco School Committee, No. 84-10 at 4 (March 9, 1984). As with all permissive subjects of bargaining, it is a refusal to bargain in good faith to insist upon keeping a permissive subject on the table at or beyond fact finding. Id. Finally, the School Board is also correct to note that the proposals regarding impact that did not involve the appropriation of money continue to remain mandatory subjects of bargaining over which the parties must bargain. Teamsters v. Falmouth, No. 79-10 at 5.

In the present case, the Association did not provide the requisite 120-day notice prior to filing its request for fact finding. Thus, the School Board was not legally obligated to bargain over matters requiring the appropriation of money. The failure of the Association to provide the 120-day notice had no impact, however, on the School Board's legal obligation to continue bargaining over non-monetary issues. Consequently, to the extent that the School Board has refused to participate in fact finding over non-monetary issues, it has violated §965(1)(E).

The School Board's argument that the failure to give the 120-day notice is a complete defense to its refusal to participate in fact finding is unavailing. The School Board

argues that all matters that could be addressed were already addressed in the 2014-2017 collective bargaining agreement, and "there are simply no non-monetary issues that could possibly be submitted to the fact finders for impact bargaining." Brief at 18. Because the only possible issue that the Union could have submitted to fact finding was a monetary issue, the School Board argues, its refusal to participate did not violate 965(1)(E). It is not this Board's job to analyze bargaining proposals and speculate on what a party might suggest at the bargaining table. It is the purpose of the dispute resolution process to work through these issues. The School Board is entitled to argue at the fact-finders' table that there are no non-monetary issues left to be bargained, but it cannot lawfully refuse to participate in fact finding on that basis.

Before moving to the remedy for this violation, we make a few observations concerning the parties' conduct in this case beyond the refusal to participate in fact finding. We note that neither party engaged in conduct that would be considered a failure to bargain in good faith under our long-standing standard for such cases. See Waterville Teachers Assoc. v. Waterville Board of Educ., No. 82-11 at 4 (Feb. 4, 1982). Both parties were entitled to take firm positions during bargaining and to reject proposals considered to be unacceptable. Of particular concern to us, however, was the protracted process of impact bargaining following the initial three meetings in 2013. Even though we rejected the Employer's arguments concerning waiver by inaction, we are nonetheless concerned about the exceedingly slow pace of bargaining and the Association's long periods

of silence in this case. Collective bargaining is best served by open and timely communication between the parties, rather than operating on the basis of assumptions.

To effectuate the policies of the Act, we will order the School Board to cease and desist from refusing to participate in fact finding on matters not requiring the appropriation of money regarding the impact of the changed bus runs. The Association will have 30 days from the date of this order to provide the School Board with a written request to initiate fact finding, should it choose to do so. A copy of that request, if any, must be filed with the Executive Director of this Board so that he may coordinate the appointment of a fact-finding panel. Failure to submit a written request within this 30 day period will be deemed a waiver of that right.

ORDER

On the basis of the foregoing discussion, and by virtue of and pursuant to the powers granted to the Maine Labor Relations Board by 26 MRS §968(5), it is ORDERED:

> That the RSU 3 Board of Directors cease and desist from refusing to participate in fact finding on matters not requiring the appropriation of money regarding the impact of the changed bus runs.
>
> IT IS FURTHER ORDERED THAT the Association will have 30 days from the date of this order to provide the Board of Directors with a written request to initiate fact finding and to file a copy of that request with the Executive Director of the Maine Labor Relations Board. Failure to submit a written

request within this 30-day period will be deemed to be waiver of that right.

Dated at Augusta, Maine, this 18th day of February 2016

MAINE LABOR RELATIONS BOARD

The parties are advised of their right to seek review of this decision and order by the Superior Court by filing a complaint pursuant to 26 MRSA § 968(4) and in accordance with Rule 80C of the Rules of Civil Procedure within 15 days of the date of this decision.

Katharine R. Rand
Neutral Chair

Robert W. Bower, Jr.
Employer Representative

Wayne W. Whitney
Employee Representative