

THE PUBLIC EMPLOYMENT RELATIONS BOARD  
OF THE STATE OF DELAWARE

IN RE: SEAFORD EDUCATION )  
ASSOCIATION REQUEST FOR ) No. A.D.S. 87-10-019  
MEDIATION )

OPINION AND ORDER

On December 4, 1987, the Public Employment Relations Board ("PERB") published its opinion directing the appointment of a mediator to assist the parties in reaching a collective bargaining agreement. The Seaford Board of Education ("Seaford Board") appealed that decision to the Court of Chancery pursuant to 14 Del. C. §4009. The matter is presently before Chancellor Allen, and a decision is expected in the near future. Subsequent to the filing of its appeal, the Seaford Board asked the PERB stay its decision to appoint a mediator pending the outcome of the appeal to the Court of Chancery. The Seaford Education Association ("Association") has opposed both the appeal and the request for a stay. Both parties have supplied written statements to the PERB regarding their respective positions.

The basic contention of the Seaford Board is that to refuse its request for a stay would be to decide the essence of the issue being appealed. It also argues that if it prevails, the appointment of a mediator and any subsequent proceedings would amount to wasted effort. The Association argues in response that the PERB should proceed because to do otherwise would frustrate the philosophy and purpose underlying the Public Employment Relations Act.

The PERB agrees with the Seaford Board for two reasons. First, it is clear that the appointment and involvement of a mediator while the appeal is pending would be premature and serve no practical purpose. While we do not question whether either party would participate in the mediation process it is not difficult to foresee that any such proceedings could not be effective while the applicability and/or longevity of the mediation process is an open question. Second, the Act clearly provides for an appeal, and there does not appear to exist any exceptional circumstances requiring that the process in question continue notwithstanding the existence of the appeal.<sup>1</sup>

For the foregoing reasons, it is the decision of the Board to grant the stay as requested by the Seaford Board. The PERB's order shall be stayed until the decision on the appeal of the Seaford Board is rendered by the Court of Chancery. The Seaford Board is to contact the Executive Director of the PERB within 72 hours of the receipt of that decision whereupon a conference shall be held to discuss the status of the matter.

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<sup>1</sup>In reaching its decision however, the PERB feels compelled to note that the underlying dispute seems to pale in comparison to the amount and extent of the litigation to resolve the same. It wonders why the energy now being spent would not be better directed towards reaching a collective bargaining agreement. Stated differently, while we do not question the good faith of either part, and the PERB is here to resolve its disputes, this "struggle" seems one of form than of substance.

PUBLIC EMPLOYMENT RELATIONS BOARD

BY: Arthur T. Van Wart  
ARTHUR T. VAN WART, Chairman

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CHARLES H. TOLIVER, IV, Member

Dated: January 18, 1988