

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF
EAST LYME BOARD OF EDUCATION

DECISION NO. 3854

-and-

January 18, 2002

EAST LYME EDUCATION ASSOCIATION

Case Nos. TPP-21,931
TPP-22,288

A P P E A R A N C E S:

Attorney Richard D. O'Connor
For the School Board

Attorney Martin A. Gould
For the Association in Case No. TPP-21,931

Attorney Ronald Cordilico
For the Association in Case No. TPP-22,288

DENIAL OF MOTIONS TO DISMISS

On August 31, 2000, the East Lyme Teachers Association (the Association) filed a complaint, amended on May 7, 2001, with the Connecticut State Board of Labor Relations (the Labor Board) alleging that the East Lyme Board of Education (the School Board) had engaged in practices prohibited by the Teachers Negotiation Act (TNA or the Act) by discriminating against a bargaining unit member for engaging in protected activities.

On February 15, 2001, the Association filed another complaint, amended on May 14, 2001, with the Labor Board alleging that the School Board had engaged in practices prohibited by the Act by retaliating against another bargaining unit member for engaging in protected activities.

On November 8, 2001 and November 9, 2001 the School Board filed identical Motions to Dismiss for Lack of Jurisdiction in Case Nos. TPP-21,931 and TPP-22,288,

respectively. On November 16, 2001, the Association filed a Brief in Opposition to the Motion to Dismiss in Case No. TPP-22,288. On November 19, 2001, the Association filed a Brief in Opposition to the Motion to Dismiss in Case No. TPP-21,931.

DISCUSSION

In its Motions, the School Board argues that the instant cases should be dismissed because the individual bargaining unit members involved in these cases have commenced a civil lawsuit in Superior Court in which they have made allegations identical to those made before the Labor Board. As such, the School Board argues that the Labor Board should decline jurisdiction in these matters pursuant to the reasoning in *City of Danbury*, Decision No. 2316 (1984).

The Association opposes the Motions to Dismiss, arguing that the *Danbury* case does not support dismissal of the complaints. Instead, the Association argues that the Labor Board should retain jurisdiction of the matters in order to address any matters which are not disposed of by the Superior Court proceeding.

We agree with the Association. In *Danbury, supra*, this Board did not dismiss the pending Labor Board complaints due to the pendency of a court action. In fact, in that case, the Labor Board stated:

It is possible that the court review will not settle the issue presented to us. We should not, therefore dismiss the complaint but rather defer action on it to see whether the court proceedings will in fact make complete disposition of the issue presented by the complaint in this case. *Danbury, supra* at 2.

We follow the same reasoning in this case. We will defer action on these complaints but retain jurisdiction in order to later address any issues not appropriately resolved by the Superior Court.

ORDER

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by the Teacher Negotiation Act, it is hereby

ORDERED that:

- I. The Motions to Dismiss filed by the School Board in Case Nos. TPP-21,931 and TPP-22,288 are hereby, **DENIED**;
- II. Case Nos. TPP-21,931 and TPP-22,288 will be held in abeyance pending the outcome of the related civil action filed in Superior Court;

- III. The Complainant will periodically inform the Labor Board of the progress of the related civil action and will immediately inform the Labor Board of the disposition of said action.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

John W. Moore, Jr.
Chairman

Wendella A. Battey
Board Member

Patricia V. Low
Board Member

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 18th day of January, 2002 to the following:

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