VERMONT LABOR RELATIONS BOARD

LOCAL 1201, AFSCME	)	
	)	
v.	)	DOCKET NO. 83-63
	)	
RUTLAND CITY SCHOOL DISTRICT	)	

MEMORANDUM AND ORDER

On October 12, 1983, Local 1201, AFSCME ("Union"), the certified collective bargaining agent for certain maintenance and custodial employees of the Rutland City School District, filed an unfair labor practice charge against the Rutland City School District ("School District"). Pursuant to a request of the Labor Relations Board, the School District filed a response to the charge, and both parties have filed other responses and other material with the Board.

The substance of the Union's charge is as follows: The parties are presently involved in negotiations for a successor collective bargaining agreement to the Agreement which expired on June 30, 1982. The parties have completed or waived the mediation and fact-finding provisions of the Vermont Municipal Employees Relations Act (MERA). The report of the fact finder was issued on July 8, 1983. The parties are now engaged in a dispute as to whether their Contract provisions are subject to the binding arbitration provisions of MERA. In connection with such dispute, the Union has filed a declaratory action proceeding in the Rutland Superior Court, which proceeding is now pending. On September 1, 1983, the School District unilaterally imposed a medical benefits plan upon the employees represented by the Union which is not equivalent and less

desirable than the plan which existed prior to the unilateral imposition. The Union maintains it is an unfair labor practice to impose this changed medical benefits plan until the dispute now before the Superior Court is settled.

We decline to issue a complaint in this matter. It is the Board's interpretation of MERA that municipal employers are entitled, absent a municipal referendum or agreement to submit a negotiations dispute to binding arbitration, to make unilateral changes in conditions of employment 30 days after issuance of a fact-finder report. Burlington Fire Fighters Association v. City of Burlington, 4 VLRB 379 (1981). Rutland School Board v. Rutland Education Association, 2 VLRB 250 (1979). Chester Education Association v. Chester-Andover School Board of Directors, 1 VLRB 426 (1978). The change in the medical benefit plan made here by the School District was imposed during a period unilateral changes were permitted, presuming the inapplicability of binding arbitration to this dispute, since the plan was imposed more than 30 days after issuance of the fact-finder's report.

We recognize the Superior Court may subsequently require submission of the dispute to binding arbitration in which event the School District would be prohibited from ever making unilateral changes in conditions of employment, Burlington Fire Fighters' Association, supra. However, any issues with respect to binding arbitration are currently being resolved by the Court and it would not be appropriate for us to become involved in that issue.

Now therefore, based on the foregoing reasons, it is hereby ORDERED:

The unfair labor practice charge filed by Local 1201, AFSCME, on October 12, 1983, is DISMISSED.

Dated this 17th day of January, 1984, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Kimberly B. Cheney, Chairman

William G. Kemsley, Sr.

James S. Gilson