

Finding the Intersection of Law and Public Education

BY JAMES O'SHAUGHNESSY '10



I applied for a Public Interest Coalition Fellowship for several reasons. I wanted to work in a law office and take advantage of my first summer after law school. I wanted to learn about employment and labor law and I was certain a PIC Fellowship would open doors otherwise unavailable to me. I have always believed that a quality education is the most important part of a person's life.

As an intern, I hoped to learn how the NEA promotes public education and how they accomplish their advocacy goals through representation and legislative action. Additionally, I wanted to learn how the NEA-NH helps teachers mediate disputes, and what role the union plays in negotiating collective bargaining agreements in public education.

Fortunately, my job at the NEA-NH more than surpassed my summer goals. I learned about public education law, municipal and government law, labor and collective bargaining law, New Hampshire Right-to-Know law, and employment discrimination and wrongful termination law. I was surprised by the active role a public union plays in state politics, especially an organization like the NEA, which with approximately 3.2 million members nationwide, is the largest labor union in the country.

My first project was to help determine the legal arguments and issues for a teacher whose contract was non-renewed without receiving any reasons from her superintendent. I was stunned when on my first day my supervisor handed me this teacher's seven-inch-thick personnel file and asked me to write a brief evaluative memorandum stating whether she had a basis for filing a grievance with the school board and the New Hampshire Department of Education.

In my second week, I was asked by the executive director to write a legal memorandum to NEA-NH's Executive Board, its president, its director of public affairs, and both staff attorneys, to answer the question of whether Manchester's Board of Mayor and Aldermen could legally incorporate the school district as part of the City's municipal corporation. I was also asked to determine whether the City of Manchester could legally amend its charter by proposing a ballot amendment in the November 2008 general election. As part of this project, I researched No Child Left Behind, New Hampshire Board of Education regulations, the New Hampshire constitution, and New Hampshire's charter amendment and revision laws to find out if the ballot amendment would create any legal issues for the City.

Later during my externship, when Manchester decided not to pursue incorporation, a group of private citizens gathered over 4,000 signatures to place an amendment question on the ballot in the election, asking voters whether Manchester should put a "tax cap" in its charter. Without a doubt, my first two weeks at NEA-NH far exceeded my expectations. In two weeks, I had already learned a great deal about how New Hampshire's educational and municipal systems function.

My involvement in an unfair labor practices charge brought by the Laconia Education Association against the Laconia School District was the highlight of my summer and the most meaningful experience of my fellowship. In late April 2008, the Laconia School District unilaterally implemented a block scheduling change at the Laconia High School. As a result, NEA-NH's local association, the Laconia Education Association, was denied its statutory and contractual right to negotiate changes in working conditions. The Association filed an unfair labor practices charge and brought the Laconia School District before New Hampshire's Public Employment Labor Relations Board (PELRB).

The case was heard in early July 2008. I helped prepare witnesses and exhibits for the hearing. I drafted a motion and witness questions for testimony. During the PELRB hearing, I recorded testimony and kept a complete record of the hearing. Before my fellowship ended, I wrote the entire brief in support of the association's charge. It was a challenging and rewarding project, requiring me to cite to New Hampshire Supreme Court and United States Supreme Court decisions, as well as PERLB administrative law and American Arbitration Association opinions and decisions.

Overall, my summer externship was a tremendous learning experience. Before beginning the externship, I had so many questions about the intersection of law and public education in New Hampshire. How are the laws made? What are the school's obligations to teachers? And to the children? How are contracts negotiated?

I now have answers for many of these questions. Most importantly, I took one step closer to achieving some of my career goals; helping children, by working in education law, and making a positive impact on society.

A New Hampshire native, O'Shaughnessy is working at Devine, Millimet & Branch this summer. He and his wife, Amy, reside in Manchester, NH.