

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

State Employees Association of New Hampshire
Local 1984 SEIU,

Complainant

v.

State of New Hampshire

Respondent

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Case No. S-0330-5

Decision No. 2003-039

PRE-HEARING DECISION and ORDER

BACKGROUND

State Employees Association of New Hampshire Local 1984 SEIU, (hereinafter referred to as the "Union") filed unfair labor practice charges against the State of New Hampshire (hereinafter referred to as the "State") on March 7, 2003 alleging violations of RSA 273-A:5 I (a), (b), (e), (g), (h) and (i) and RSA 91-A New Hampshire's so-called "Right to Know Act." Specifically, the Union alleges that the State's refusal of the Union's request for the names and home addresses of all unit members for whom the Union acts as the exclusive representative constitutes a refusal to bargain in good faith, interference with the Union's administration and interference with the general exercise of rights afforded to public employees and their exclusive representative under RSA 273-A, the Public Employee Labor Relations Act. It further asserts that the Union is entitled to release of the requested information under the provisions of RSA 91-A. As relief, the Union asks that the requested information be provided and that the Union be reimbursed reasonable market value of representation and fees necessitated by this action.

The State of New Hampshire filed its answer and a Motion to Dismiss asserting a failure of the Union to state a claim upon which relief may be granted on March 21, 2003. The Union filed its response to the State's Motion to Dismiss on April 4, 2003. Thereafter, the matter was scheduled for a pre-hearing conference that was continued by agreement and, later, conducted on April 23, 2003.

PARTICIPATING REPRESENTATIVES

For the Union (Complainant): Lorri Hayes, Esquire, Contract and Field Operations
Administrator SEIU, SEA Local 1984

For the State (Respondent): Laura E. B. Lombardi, Esquire, Assistant Attorney General
Sara Willingham, Employee Relations Manager

PRIMARY ISSUE FOR DETERMINATION BY THE BOARD

1. Whether the Union is entitled to obtain the names and home addresses of all state employees who are members of the bargaining units for which the Union is the executive representative?

WITNESSES

The parties have agreed that this matter may be determined by the PELRB without the necessity of witness testimony.

In the event it is later determined that witness testimony is necessary. Both parties reserve the right to amend their List of Witnesses, as appears on their Pre-Hearing Worksheet, in conformity with administrative Rule Pub 203.01 (b). Each party shall also file a copy of any Witness List to the PELRB at the same time they forward it to the opposing representative. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

The parties have agreed to submit a stipulation as to joint exhibits that may be included in the record for determination by the PELRB.

In the event that either party believes it is necessary to present additional exhibits, the parties reserve the right to amend their List of Exhibits, as appears in their respective Pre-Hearing Worksheets at least five (5) days prior to any evidentiary hearing, or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Administrative Rule Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

LENGTH OF HEARING

No evidentiary hearing is planned. In the event that either party desires to make oral argument to the PELRB, each party shall be allotted fifteen (15) minutes to do so.

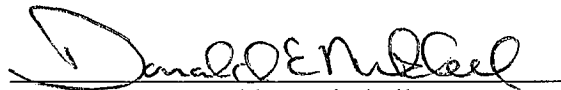
DECISION AND PRE-HEARING ORDER

Following discussion with the parties' representatives at the Pre-Hearing Conference, it is ordered as follows:

1. The parties have stipulated that the PELRB has jurisdiction to decide the issue raised by the Union's complaint.
2. The parties have agreed that this matter may be determined by the PELRB without the necessity of witness testimony.
3. The parties shall confer in order to compose a mutual statement of agreed facts and joint exhibits as may be stipulated between the two sides and the same shall be submitted to the PELRB by the Union on or before May 2, 2003.
4. The parties shall file written legal memoranda in support of their respective legal positions with the PELRB on or before June 2, 2003.
5. The parties shall indicate, on or before May 2, 2003, whether or not each waives its right to present oral argument in support of its legal position and shall inform the PELRB, in writing, to indicate whether oral argument is waived or a hearing for the purpose of receiving oral argument is requested.

Unless otherwise ordered as a result of the filing of any subsequent request for a hearing, this matter shall be considered by the Board upon the parties' pleadings, stipulated facts, joint exhibits and legal memoranda. Following the submission of these documents the record shall be closed and a decision rendered by the Board.

Signed this 23rd day of April, 2003.



Donald E. Mitchell, Esq.
Hearing Officer

Distribution:

Lorri Hayes, Esq., Contract and Field Operations Administrator

SEIU, SEA-NH

Laura E. B. Lombardi, Esq., Assistant Attorney General