

State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Hinsdale Support Staff Association/NEA-NH	*	
	*	
	*	
Complainant	*	Case No: E-0029-2
v.	*	
	*	Decision No. 2008-029
Hinsdale School District	*	
Respondent	*	
	*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The Hinsdale Support Staff Association/NEA-NH, (the "Association") filed an unfair labor practice complaint on January 15, 2008 alleging that the Hinsdale School District, (the "District") committed unfair labor practices in violation of RSA 273-A:5, I (a), (c), (d), (g), (h) and (i) when it reassigned Rosamond Blouin from a paraprofessional or teaching assistant position in the elementary school to a clerical position in the high school. The Association contends that Ms Blouin was transferred in retaliation for her union related activities. As remedies, the Association requests that the PELRB order the District to: 1) return Ms. Blouin to her position at the Hinsdale Elementary School; 2) cease its discriminatory and unlawful harassment and actions against Ms. Blouin; 3) remove any and all notices, letters, memoranda, or other correspondence related to actions unlawfully taken against Ms. Blouin from any and all personnel records; 4) make Ms. Blouin whole for any and all losses suffered; and 5) follow any board orders in this matter.

The District filed its answer on January 29, 2008. The District contends that Ms. Blouin's reassignment was proper and denies any violation of RSA 273-A:5, I. The District also states that Ms. Blouin's complaint is defective since she failed to make a written objection to her position reassignment pursuant to Article V (B) of the parties' collective bargaining agreement and thereby failed to exhaust her administrative remedies. Accordingly, the District requests that the PELRB: 1) deny the Unfair Labor Practice filed on behalf of the Hinsdale Support Staff Union; 2) deny any request for a cease and desist order against the Hinsdale School District; 3) find that the District appropriately transferred Ms. Blouin to a new position as a high school SPED clerk; and 4) grant such other and further relief as justice may require.

The undersigned Hearing Officer conducted a pre-hearing conference on February 15, 2008 at the PELRB offices in Concord.

PARTICIPATING REPRESENTATIVES

For the Association: James Allmendinger, Esq.,

For the District: Matthew Upton, Esq.

ISSUES PRESENTED FOR BOARD REVIEW

- (1) Did the District retaliate and discriminate against Ms. Blouin on account of her union related activities when Ms. Blouin was reassigned to a new position at the high school in violation of RSA 273-A:15 (a), (c), (d), (g), (h) and (i)?
- (2) Did Ms. Blouin fail to exhaust her administrative remedies by not submitting a written objection to her reassignment under Article V (B) of the parties' collective bargaining agreement?

WITNESSES

For the Association:

1. Mary E. Gaul, UniServ Director
2. Rosamund Blouin
3. Joan Fiske
4. Lynne Olson
5. Nancy Revene

For the District:

1. Dr. David Crisafulli, Assistant Superintendent
2. Jurg Jenzer, principal Hinsdale Elementary School
3. Wayne Temmen
4. Shirley Hildreth
5. Joan Fiske

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. 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

For the Association:

1. Memos and letters between principal, administrators and Association president
2. "Wings" job description and notes regarding physical disability of Blouin
3. Notes from Association representatives regarding harassment and retaliation
4. Transfer letters
5. Collective Bargaining Agreement

For the District:

1. 12/17/07 letter from Rosamond Blouin to Jerg Jenzer.
2. 10/22/07-12/7/07 Rosamond Blouin Time Sheet
3. Proposed Ground Rules for 2008-2011 contract negotiations
4. Memorandum from Ms. Blouin to Support Staff
5. 10/20/06 letter from Matthew Upton, Esq., to Mary E. Gaul, UniServ Director

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

LENGTH OF HEARING

The time set aside for this hearing will be one-half (½) day. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least twenty (20) days prior to the date of the evidentiary hearing.

DECISION

1. On February 11, 2008 the District filed a complaint against the Hinsdale Support Staff, NEA-NH, Case No. E-0029-3 arising from alleged statements of Ms. Blouin concerning ongoing contract negotiations. At this juncture, the parties appear to agree that Case E-0029-3 involves similar witnesses and could be efficiently heard at the same time as Case E-0029-2. However, a final determination on consolidation of these two cases will be deferred until March 14, 2008, when a further pre-hearing conference on both cases will be conducted.

2. As agreed at the pre-hearing conference, the Association shall file its answer in Case E-0029-3 on or before February 28, 2008 and its Amended and Restated Complaint in Case E-0029-2 on or before February 22, 2008.
3. As agreed at the pre-hearing, the District shall file its answer to the Amended and Restated Complaint on or before March 5, 2008.
4. The parties' representatives shall meet, or otherwise confer, on or before March 13, 2008 and attempt to reach a stipulation on presenting the instant case by written submission, or, in the alternative, without the need for formal testimony. In the event that agreement is reached to submit the case by written submission, the parties shall forthwith file a joint statement indicating such agreement and include a proposed schedule for the parties' filings.
5. The parties shall otherwise meet or confer on or before March 13, 2008 to stipulate to facts and shall file such fact stipulations at or before the March 14, 2008 further pre-hearing conference.
6. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, and to the PELRB, at least 5 days prior to the scheduled hearing date. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
7. The parties shall file any additional preliminary, procedural or dispositive motions no later than 20 calendar days prior to the scheduled hearing date.
8. A pre-hearing conference in E-0029-2 and E-0029-3 will be held on:

March 14, 2008 @ 9:00 AM

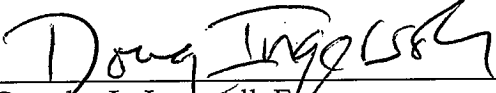
9. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties in Case E-0029-02 will be held on:

March 27, 2008 @ 9:30 AM

at the offices of the Public Employee Labor Relations Board in Concord.

So ordered.

February 19, 2008.



Douglas L. Ingersoll, Esq.
Hearing Officer

Distribution:
James Allmendinger, Esq.
Mary E. Gaul, UniServ Director
Matthew Upton, Esq.