



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Hillsboro-Deering Federation of Teachers, AFT
Local #2348, AFT-NH, AFL-CIO

Complainant

v.

Hillsboro-Deering School Board

Respondent

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Case No. E-0045-3

Decision No. 2008-130

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Hillsboro-Deering Federation of Teachers, AFT, Local #2348, AFT-NH, AFL-CIO (the "union") filed an unfair labor practice complaint on April 28, 2008 alleging that the Hillsboro-Deering School Board (the "school board") committed an unfair labor practice in violation of RSA 273-A:5 (g) and (h). The union contends the school board is enforcing an arbitrator's award that the union contends is not binding pursuant to section 13.3.4 of the parties' collective bargaining agreement because the award is contrary to provisions of the parties' contract.

The union requests that the board: 1) find that the arbitrator exceeded his authority under the CBA in violation of RSA 273-A:5 (g) and (h) and vacate the decision of the arbitrator; 2) order the school district to reinstate the affected teacher with back pay and benefits and follow the Professional Evaluation Plan; 3) order the district to administer the Professional Evaluation Plan in accordance with the CBA; 4) order the arbitrator to reimburse the union for its share of the arbitration costs in this case; 5) in the alternative, order that the case be submitted to arbitration with a newly appointed arbitrator for a new hearing; and 6) grant such other and further relief as may be just and necessary.

The school board filed its answer and a motion to dismiss on May 13, 2008 denying the charge. The school board contends the arbitrator properly decided the specific questions submitted to him and that there is no basis for disturbing his award under section 13.3.4 of the parties' collective bargaining agreement or otherwise. The school board requests that the board dismiss this matter, award the school board its costs and fees in connection with this matter; and grant such other and further relief as may be just and appropriate

The undersigned Hearing Officer conducted a pre-hearing conference on June 19, 2008 at the offices of the Public Employee Labor Relations Board in Concord.

PARTICIPATING REPRESENTATIVES

For the Union: Teresa D. Donovan, Esq.
For the School Board: Edward M. Kaplan, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the arbitrator's award is not binding for the reasons claimed by the union?

DECISION

1. At the pre-hearing the union reviewed the basis for its claim that the arbitrator's award is not binding. Essentially the union claims that the arbitrator's finding that the disputed termination was proper even though the Professional Assistance Program had not been completed was contrary to provision(s) of the parties' contract. The union also complains about the arbitrator's finding that "there is no evidence in the record that shows any explanation by Rounds (the teacher) for his non-compliance" with a directive to meet with the middle school principal by June 15 concerning his self-assessment and goals.
2. The parties agreed at the pre-hearing that this matter can be decided on the basis of the parties stipulated facts, filed on June 19, 2008, exhibits, and briefs. The district is not submitting any exhibits. The union has submitted 32 exhibits. The district has no objections to union exhibits 2-4, but objects to all remaining exhibits.
3. The parties agreed to the following schedule:
 - a. Briefs shall be filed on or before July 22, 2008. The parties shall address in their briefs the relevancy of the disputed union exhibits.

Accordingly, the evidentiary hearing currently scheduled for **July 22, 2008 at 9:30 a.m.** is cancelled. The record will close on July 23, 2008.

So ordered.

June 19, 2008.



Douglas I. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Distribution:

Teresa D. Donovan, Esq.

Edward M. Kaplan, Esq.