



**STATE OF NEW HAMPSHIRE**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

**MATTHEW KENNEDY and the HINSDALE  
FEDERATION OF TEACHERS**

**COMPLAINANTS**

**v.**

**CASE NO. E-0029-4**

**DECISION NO. 2009-235**

**HINSDALE SCHOOL DISTRICT**

**RESPONDENT**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: October 27, 2009

Appearances: Complainant - James F. Allmendinger, Esq.  
Respondent - Mark A. Paige, Esq.

Background:

Matthew Kennedy and the Hinsdale Federation of Teachers filed an unfair labor practice complaint against the Hinsdale School District (District) on September 15, 2009. The complaint was amended on September 21, 2009. The Complainants claim that the District violated RSA 273-A:5, I (a), (c), (e), and (h) by non-renewing Mr. Kennedy as a music program teacher in retaliation for his union activity and by outsourcing the high school music program. The Complainants request the PELRB to reverse the non-renewal decision and to order the District to reinstate Mr. Kennedy with no loss of pay or benefits.

The District filed the answer to the complaint on September 28, 2009. The District denies the charge of unfair labor practice.

On October 27, 2009 the representatives of the Complainants and the District attended a pre-hearing conference at the PEIRB offices in Concord. At the pre-hearing conference, the District's representative indicated that the District intends to file a motion to dismiss by November 19, 2009.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the District violated RSA 273-A:5, I (a), (c), (e), and (h) when it: (a) non-renewed Mr. Kennedy's contract; and (b) when it contracted with the Brattleboro Union High School to provide certain music programs for Hinsdale students.

#### WITNESSES

For the Complainants:

1. Matthew Kennedy
2. Mary Gaul

For the District:

1. Dr. David Crisafulli
2. John Sullivan, Principal
3. Wayne Temmen, School Board Chair

Both parties reserve the right to amend their Lists of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective lists will be available at the hearing.

## EXHIBITS

Joint and Agreed:

1. Letter of non-renewal
2. Transcript and exhibits of May 13, 2009 non-renewal hearing
3. Hinsdale School District's decision to affirm non-renewal
4. Applicable Collective Bargaining Agreement
5. Decision of Hearing Officer in M.K. non-renewal, dated October 6, 2009

For the Complainants:

1. Exhibits from the July 24, 2009 State Board non-renewal hearing

For the District:

1. Letter of July 21, 2009 from Edward Murdough (NH DOE) to Dr. Crisafulli and others.

Both parties reserve the right to amend their Lists 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. 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.

## DECISION


1. "Parties" means the named complainant and respondent or the counsel/representative appearing in the case.
2. The parties shall file a Statement of Stipulated Facts no later than **November 20, 2009**.
3. The parties shall amend, exchange, and file their Witness and Exhibit lists no later than **November 20, 2009**.
4. The parties shall pre-mark any exhibits prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.03.

## HEARING

Unless otherwise ordered as a result of the filing of a motion to continue or other motion, the adjudicatory hearing between the parties will be held on **December 1, 2009 at 9:00 AM** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 4 hours. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PEI.RB at least 5 days prior to the date of hearing.

So ordered.

October 27, 2009

  
Karina A. Mozgovaya, Esq.  
Staff Counsel/Hearing Officer

Distribution:

James F. Allmendinger, Esq.

Mark A. Paige, Esq.