



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Education Association of Pembroke

v.

Pembroke School District

Case No. E-0088-02

Decision No. 2010-117

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: June 18, 2010.

Appearances: Lorri Hayes, NEA-NH for Education Assoc. of Pembroke

Kathleen Peahl, Esq., for Pembroke School District

Background:

The Association filed an unfair labor practice complaint against the District on March 4, 2010. In general the Association complains about the District's conduct during collective bargaining and claims that the District violated RSA 273-A:5, I (a), (e) and (g) on account of 1) its contract proposals that certain aspects of compensation be characterized as cost of living adjustments and not a pay plan subject to continuation under RSA 273-A:12; 2) the manner in which the District communicated such proposals and its attitude about such proposals; and 3) the District's proposals concerning a change in health plans including a proposal to change to a plan

available through the Local Government Center given one school member's status as a board member of the Local Government Center. The Association asks the board to find that the District has violated RSA 273-A and order the District to cease and desist from its unlawful course of conduct, its refusal to negotiate in good faith, and its failure to comply with RSA 273-A.

The District denies that it has violated any provision of RSA 273-A and contends that its conduct during collective bargaining has been proper and that its cost of living bargaining proposals are legitimate efforts to address the impact of RSA 273-A:12 through the collective bargaining process in order to avoid a situation where voters will be obligated to fund salary increases indefinitely without the opportunity to approve the related costs.

After the Association filed the complaint it requested and obtained a delay in further proceedings in order to allow the parties additional time to resolve matters by agreement. The PELRB subsequently scheduled the case for hearing on June 28, 2010, but at the Association's request the hearing has been continued and rescheduled. The hearing is currently scheduled for August 24, 2010.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the District's bargaining proposals seeking to characterize certain aspects of the compensation schedule as cost of living increases in order to avoid having wage increases characterized as a "pay plan" within the meaning of RSA 273-A:12 VII is illegal under RSA 273-A?

2. Whether the District violated its obligation to bargain in good faith on account of the statements and conduct of a bargaining team member, particularly with respect to the District's cost of living proposals and its bargaining position on that subject.

3. Whether the District violated its obligation to bargain in good faith, made improper proposals, and made proposals that had been unlawfully influenced concerning a change to a Local Government Center health plan given the fact that a member of the District's bargaining team is also a board member of the Local Government Center?

WITNESSES and EXHIBITS:

As outlined in the parties Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their List of Witnesses and 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 witnesses appearing on their respective list will be available at the hearing. ~~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.

DECISION

1. "Parties" means the Association, the District, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The parties shall prepare and file a final statement of stipulated facts on or before **July 30, 2010**.
3. The parties shall file any amendments to, or deletions from, their Witness and Exhibit lists on or before **July 30, 2010**.
4. As discussed at the pre-hearing conference, the District and Association shall promptly notify the PELRB of their availability for hearing on August 17, 18 and 24, 2010. At this

time the record reflects that the Association is available to proceed on August 18 or 24, 2010, and the hearing remains scheduled for August 24, 2010.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, the adjudicatory hearing between the parties will be held beginning at **9:00 a.m.** on **August 24, 2010** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 3 hours.

So ordered.

June 18, 2010


Douglas L. Ingersoll, Esq.
Presiding Officer/Executive Director

Distribution:

Lorri Hayes, NEA-NH
Kathleen Pehl, Esq.