



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Bedford Education Association/NEA-NH

v.

Bedford School District

Case No. E-0099-1

Decision No. 2010-186

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: October 13, 2010

Appearances: James Allmendinger, Esq. for the Bedford Education Association/NEA-NH

Kathleen Peahl, Esq. for the Bedford School District

Background:

The Bedford Education Association/NEA-NH filed (Association) filed an unfair labor practice complaint against the Bedford School District (District) on August 11, 2010. The Association claims that the District committed an unfair labor practice in violation of RSA 273-A:5, I (a), (e), (g), and (h) and violated RSA 273-A:3, I when it failed to fund the step increases for teachers for the 2010-2011 school year. The Association asserts that the District is obligated to pay step increases under RSA 273-A:12, VII, the so called "evergreen" statute, despite the rejection by voters of the cost items for school year 2010-2011 during March 2010 annual meeting. The Association argues that the "evergreen" statute applies because the parties' CBA,

while containing salary schedules for school years 2008-2009, 2009-2010 and 2010-2011, constitutes, in effect, three one-year agreements because the cost items for each year of the CBA must be submitted to voters for approval on an annual basis.

The District denies the charges and claims that the “evergreen” statute does not apply because the parties’ 2008-2010 CBA was negotiated prior to the effective date of the statute. The District also filed a motion to dismiss claiming that the Association’s complaint is untimely.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Association filed its complaint within six months of the alleged violation.
2. Whether the District committed an unfair labor practice in violation of RSA 273-A:5, I (a), (e), (g), or (h) when it failed to fund the step increases for teachers for the 2010-2011 school year.

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 no later than 10 days prior to the date of adjudicatory hearing.
3. The parties shall exchange and file their final witness and exhibit lists no later than 10 days prior to the date of adjudicatory hearing.
4. The parties shall pre-mark exhibits by placing identifying markers in the upper right corner of each exhibit, if possible. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

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 on **November 9, 2010 at 9:30 a.m.** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 4 hours.

So ordered.

October 13, 2010


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

Distribution:

James Allmendinger, Esq.
Philip Pratt, UniServ Director
Kathleen Peahl, Esq.