



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

National Correctional Employees Union

and

County of Merrimack

and

State Employees Association of New Hampshire, Inc., SEIU Local 1984

Case No. G-0149-1

Decision No. 2010-208

ORDER

On October 19, 2010 the National Correctional Employees Union (NCEU) filed a challenge petition for certification requesting an election to determine an exclusive representative of an existing bargaining unit currently represented by the State Employees Association of New Hampshire, Inc., SEIU Local 1984 (SEA). The subject bargaining unit consists of certain employees of the Merrimack County Department of Corrections (County). See PELRB Certification of Representative and Order to Negotiate (April 26, 1990). The petition is supported by the requisite number of authorization cards. See PELRB Report re Confidential Inspection of Authorization Cards (October 28, 2010).

The SEA, as the incumbent exclusive representative, objects to the petition claiming that it is barred by the provisions of RSA 273-A:11, I (b). The SEA argues that, although the collective bargaining agreement (CBA) between the parties has the expiration date of December 31, 2009, the CBA has an extension clause¹ sufficient to establish a "contract bar" under RSA 273-A:11, I (b). The County makes the same objection. The SEA concedes that the PELRB

¹ "This CBA took effect on July 1, 2007 and expires December 31, 2009, 'or until it is replaced by a successor agreement, whichever is later.'" SEA's Exceptions to Petition, paragraph 3.

rejected the very same argument made by the SEA in *NEPBA, Inc., Local 270 et al and State of New Hampshire, Department of Corrections and State Employees Association of NH, Inc., SEIU Local 1984*, PELRB Decision No. 2009-216, now on appeal, Supreme Court Case No. 2010-0103. The extension clause language in this case is substantially similar to the extension clause language at issue in *NEPBA, Inc., Local 270*, supra, PELRB Decision No. 2009-216.² Accordingly, the objections based on RSA 273-A:11, I (b) are overruled for the reasons set forth in PELRB Decision No. 2009-216.

The County also asserts that the bargaining unit lacks a community of interest and includes professional and supervisory employees. These objections might be relevant if this were a petition proposing to certify a new bargaining unit or a petition to modify an existing bargaining unit. This petition is neither. Instead, it is a challenge petition in which the NCEU seeks a secret ballot election to resolve a question of representation of the existing bargaining unit. See PELRB Decision No. 2010-197. Accordingly, the County's objections based on bargaining unit composition are not relevant and are overruled.

Based on the foregoing, there are no issues of material and relevant fact in dispute which would require a hearing. See Pub 201.06 (a). Accordingly, the NCEU's request for a secret ballot election to resolve the question of representation is granted. An Order for Election shall issue and a pre-election conference shall be scheduled forthwith.

So ordered.

November 17, 2010


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² Finding of Fact # 3 of PELRB Decision No. 2009-216 provides in relevant part: "The most recent CBA 'is effective July 1, 2007 and shall remain in full force and effect through June 30, 2009 or until such time as a new agreement is executed.'"