

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

**Winnisquam Regional School District**

v.

**Winnisquam Regional Teachers Association, NEA-NH**

**Case No. E-0122-1**  
**Decision No. 2011-290**

PRE-HEARING MEMORANDUM AND ORDER  
(Corrected)

Date of Conference: November 21, 2011<sup>1</sup>

Appearances:

James A. O'Shaughnessy, Esq. for the Complainant

Steve Sacks, Esq. for the Respondent

Background:

The District filed an unfair labor practice complaint on October 21, 2011 claiming that the Association violated RSA 273-A:5, II (f) when it filed a demand to arbitrate a grievance concerning a new evaluation plan. The District argues, among other things, that, under the parties' CBA, the School Board's decision to approve a new evaluation plan is final and, therefore, non-arbitrable. The District requests that the PELRB find that the grievance is not arbitrable and that the Association breached the parties' CBA; issue a cease and desist order prohibiting the Association from demanding arbitration of its grievance; award the District all costs and fees associated with the administration of this dispute, including administrative fees paid to the AAA and attorney's fees and costs incurred by the District.

---

<sup>1</sup> The parties filed a Joint Pre-Hearing Worksheet on November 18, 2011.

The Association denies the charge and asserts that the evaluation plan was developed in accordance with the CBA, requires the approval by both the School Board and the Association, and is subject to the contractual grievance procedure. The Association requests that the PELRB find that the grievance is arbitrable and order the parties to proceed to arbitration; and deny the District's claim and request to be awarded all costs and fees.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the Association violated RSA 273-A:5, II (f) when it demanded arbitration of a grievance concerning a new evaluation plan.

#### 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 203.03. 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 District, the Association, 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 file their final witness and exhibit lists and a statement of stipulated facts no later than January 16, 2012.

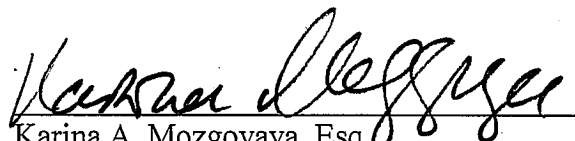
3. The parties shall pre-mark exhibits by placing identifying markers in the upper right corner of each exhibit, if possible. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

#### 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 **January 26, 2012 at 9 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.

November 23, 2011

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

Distribution:

James A. O'Shaughnessy, Esq.  
Steven R. Sacks, Esq.  
John F. Teague, Esq.