



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Manchester Education Association/NEA-New Hampshire

v.

Manchester School District

Case No. E-0140-1

Case No. E-0140-2

(Consolidated Cases)

Decision No. 2013-008

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: January 4, 2013

Appearances: Richard E. Molan, Esq. for the Complainant

Rosemary Wiant, Esq. for the Respondent

Background:

In Case No. E-0140-1, the Association filed an unfair labor practice complaint on December 7, 2012 claiming that the District violated RSA 273-A:5, I (a), (e), (h), and (i) when it unilaterally changed job description of Reading Supervisors and eliminated an agreed upon "promotional position" stipend that was paid to Reading Supervisors under the terms of the collective bargaining agreement (CBA). The Association claims that, as a result of the District's actions, employees whose positions were "reclassified" continue to perform the work of "Reading Supervisors" but are no longer compensated for it. In Case No. E-0140-2, the Association claims that the District violated RSA 273-A:5, I (a), (e), (h), and (i) when it unilaterally removed Building Level Instructional Leaders (BLIL) from a "promotional position"

stipend, provided for in the parties' CBA, and assigned BLIL work to non-bargaining unit employees and to bargaining unit employees without additional compensation. In both cases, the Association requests that the PELRB order the District to cease and desist from acting unilaterally with regard to the terms and conditions of employment, to rescind any actions that breach the District's duty to bargain in good faith, to make employees whole for any loss of wages, hours, or benefits, and to post the PELRB order.

In both cases, the District admits that it did not negotiate the changes with the Association but denies that it violated RSA 273-A:5, I. The District moved to dismiss both cases on the ground that the PELRB lacks jurisdiction over the Association's claims because they fall within the terms of the parties' CBA which provides for binding arbitration and the Association has not exhausted the contractual grievance procedure.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over these cases.
2. Whether the District violated RSA 273-A:5, I (a), (e), (h), and (i) as charged by the Association.

WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheets. Both parties reserve the right to amend their lists 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 and exhibits appearing on their respective lists 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. As discussed at the pre-hearing conference, Case No. E-0140-1 and Case No. E-0140-2 are consolidated pursuant to Pub. 201.11.
3. At the pre-hearing conference, the parties jointly requested continuance of the hearing in these consolidated cases to allow the parties additional time to resolve the disputes. The parties' request is granted. The hearings currently scheduled for January 24, 2013 are cancelled. The hearing on the above captioned consolidated cases is rescheduled for **March 7, 2013**. A rescheduling notice shall issue forthwith.
4. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **February 25, 2013**.
5. 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, the adjudicatory hearing in these consolidated cases will be held on **March 7, 2013 at 9:00 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 4 hours.

So ordered.

January 7, 2013



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

Distribution:
Michelle Couture, UniServ Director
James A. O'Shaughnessy, Esq.