



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

**Hillsboro-Deering Federation of Teachers,  
AFT #2348, AFT-NH, AFL-CIO**

v.

**Hillsboro-Deering School Board**

**Case No. E-0045-5  
Decision No. 2013-027**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: February 7, 2013

Appearances: Emmanuel Krasner, Esq., for the Complainant  
Jay Surdukowski, Esq., for the Respondent

Background:

On January 7, 2012 the Union filed an unfair labor practice complaint claiming that the School Board violated RSA 273-A:5, I (e) when, among other things, it failed to take a ratification vote on a tentative agreement reached by the parties. The Union argues that, under the law and the parties' agreed upon negotiation ground rules, all members of the negotiating teams are obligated to "recommend and advocate for adoption of any signed tentative agreements" reached by the teams regardless of their personal feelings/position regarding its terms. The Union requests, among other things, that the PELRB order the School Board, its negotiating team, and/or the School Board Chair (1) to cease and desist from prohibited practices, (2) to publish the PELRB decision on the District's website and post it in conspicuous

places in each school, (3) to pay full cost of mediation, including the Union's share (\$627.90), and (4) to reimburse the Union for costs and reasonable expenses for staff legal time in preparing and processing this charge.

The School Board denies the charge. Although the School Board agrees that the parties reached a tentative agreement, it asserts, among other things, that members of the negotiating team who disagree with the terms of that agreement are not obligated to support it and that the Union was aware prior to entering into a tentative agreement that one School Board member of the District's negotiating team did not agree with certain terms of the tentative agreement. The School Board requests that the PELRB dismiss the charge.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the School Board violated RSA 273-A:5, I (e) as charged by the Union.

#### WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. 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 Union, the School Board 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 Union filed a motion to amend its complaint on February 1, 2013. An objection to this motion, if any, is due no later than **February 12, 2013**. See Pub 203.04 (d).


3. The Union filed a motion in limine requesting that the PELRB exclude from testimony at hearing any allegations as to statements made to and by the mediator during the impasse mediation that resulted in a tentative agreement. The School Board objects to this motion. As discussed at the pre-hearing, the motion in limine shall be addressed at the time of the adjudicatory hearing. In the interim, the parties are strongly encouraged to contact the mediator with the purpose of submitting stipulations to the PELRB that would eliminate the need to call said mediator as a witness or otherwise address the mediator's statements. The parties are reminded that stipulating to a particular fact does not prevent a party from objecting to submission/acceptance into the record of that fact on relevance or other grounds. If a party objects to a particular stipulated fact, it shall state its objection and the grounds for it in the statement of stipulated facts.
4. At the pre-hearing conference, the parties jointly requested a continuance of the adjudicatory hearing currently scheduled for February 21, 2013. The parties' motion is granted. The adjudicatory hearing is rescheduled for **March 20, 2013**. A rescheduling notice shall issue forthwith.
5. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **March 11, 2013**.
6. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. 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 this case will be held on **March 20, 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.

February 8, 2013

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

Distribution:

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