



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

**Farmington School District**

v.

**Farmington Teachers Association/NEA-NH**

**Case No. E-0049-4**  
**Decision No. 2013-070**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: May 16, 2013

Appearances: Peter Phillips, Esq. for the Complainant

James F. Allmendinger, Esq. for the Respondent

**Background:**

On April 18, 2013 the District filed an unfair labor practice complaint claiming that the Association violated RSA 273-A:5, II (d), (f), and (g) when it requested arbitration of the District's decision to remove an employee from her teaching position and place her on paid administrative leave. The District alleges that the subject employee was removed because she did not have an appropriate teaching certificate for her position and was recently returned to work in a teaching assignment consistent with her certification. The District argues that the Association's grievance is non-arbitrable because, under RSA 189:31, the District has a right to place a teacher on removal status and because the teacher continued to receive full salary and benefits while on removal status and has not been disciplined. The District requests, among other things, that the PELRB order the Association to cease and desist from attempting to arbitrate the grievance.

The Association denies the charges and asserts, among other things, that the grievance is arbitrable because the teacher was suspended without "just cause" in violation of the parties' collective bargaining agreement. The Association requests that the PELRB dismiss the complaint and order the District to proceed to arbitration.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the Association violated RSA 273-A:5, II (d), (f), and (g) as charged by the District.

#### 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 Pub 203.01. 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. 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.

#### 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 District filed a motion to stay arbitration on April 26, 2013. At the pre-hearing conference, the parties informed the undersigned hearing officer that, following a discussion with the parties, the arbitrator postponed the arbitration hearing pending the

resolution of this matter by the PELRB. Accordingly, the District's motion to stay arbitration is denied as moot.

3. At the pre-hearing conference, the District requested the continuance of proceedings in this case. The Association does not object to the request. The District's assented to request is granted. Accordingly, the adjudicatory hearing currently scheduled for June 4, 2013 is cancelled. There shall be no further activity in this case unless a party files a request for a hearing or other appropriate relief on or before **July 15, 2013** at which time the request and any responsive filings will be reviewed and a further order will be issued as appropriate and necessary. In the absence of such filing this case shall be dismissed after **July 15, 2013**. The parties shall promptly inform the PELRB of any resolution of this matter in the interim.

So ordered.

May 16, 2013

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

Distribution:

James F. Allmendinger, Esq.

Peter Phillips, Esq.