



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

**Farmington Education Support Professionals United, NEA-NH**

**v.**

**Farmington School District**

**Case No. E-0047-6**

**Decision No. 2013-192**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: October 7, 2013

Appearances: James F. Allmendinger, Esq. for the Complainant

Peter C. Phillips, Esq. for the Respondent

On September 9, 2013 the Farmington Education Support Professionals United, NEA-NH (Association) filed an unfair labor practice complaint claiming that the Farmington School District (District) violated RSA 273-A:5, I (a), (e), (g), and (h) when it failed to negotiate with the Association its decision to subcontract food service operations, previously performed by bargaining unit employees, to a private company and to terminate food service workers' employment. The Association alleges that although the private company offered employment to all food service bargaining unit employees, the employees' terms and conditions of employment have been unilaterally changed. The Association requests that the PELRB order the District to reinstate food service workers as employees of the District and to post the charges and the PELRB order in all District schools and to electronically post the same notices via the school's email system. The Association also requests that the Superintendent be ordered to read the PELRB order to the paraprofessionals in the meeting at the school.

The District denies the charges and asserts, among other things, that it acted in accordance with its management rights as set forth in the parties' CBA and RSA 273-A:1. The District also asserts that the Association has not responded to the District's offer to bargain over the impact on the bargaining unit of its decision to subcontract. The District requests that the PELRB dismiss the complaint and deny all claims for relief.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the District violated RSA 273-A:5, I (a), (e), (g), and (h) as charged by the Association.

#### 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 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. During the pre-hearing conference, the parties jointly moved to continue the adjudicatory hearing currently scheduled for October 24, 2013. The parties' motion is granted. The adjudicatory hearing is rescheduled for **November 25, 2013 at 8:30 a.m.**

3. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **November 15, 2013**. As discussed at the pre-hearing conference, the parties shall exchange exhibits no later than **November 20, 2013**.

**HEARING**

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **November 25, 2013 at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 4 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

October 7, 2013

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

Distribution:  
James F. Allmendinger, Esq.  
Peter Phillips, Esq.