



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

State Employees' Association of NH, SEIU Local 1984

v.

State of New Hampshire
(Department of Health & Human Services)

Case No. G-0148-4
Decision No. 2015-158

Pre-Hearing Memorandum and Order

Date of Conference: July 9, 2015

Appearances: Lauren Snow Chadwick, Esq., for the Complainant

Nancy J. Smith, Esq. and Mary Beth L. Misluk, Esq. for the
Respondent

Background:

On June 10, 2015, the State Employees' Association of NH, SEIU Local 1984 (Union) filed an unfair labor practice complaint alleging that the State of New Hampshire violated RSA 273-A:5, I (e), (h), and (i) when it indicated its intent to unilaterally reduce the salaries of the Sununu Youth Services Center (SYSC) teachers effective July 1, 2015. The Union asserts that the State's actions violate PELRB Decision No. 2014-184 (July 31, 2014) in which the Board found that the State's unilateral reduction of SYSC employees' wages was a violation of its obligation to negotiate wages, a mandatory subject of bargaining, and ordered the State, among other things, "to restore the salary enhancements ... and to negotiate any changes to the existing salary enhanced wages for the SYSC employees." See PELRB Decision No. 2014-184. The Union requests, among other things, that the PELRB order the State to cease all plans to reduce

the SYSC teaching employees' salary enhancements pending a hearing, to restore the salary enhancements, to bargain with the Union to effectuate any change to wages, and to cease and desist from committing unfair labor practices.

The State denies the charges and asserts, among other things, that the past practice of paying salary enhancements and PELRB Decision No. 2014-184 do not apply to employees hired after the effective date of a successor collective bargaining agreement (CBA) and that, at the time the State informed the employees of the change, it believed that the successor CBA would become effective on July 1, 2015.¹ The State asserts that the past practice at issue was terminated with regards to new employees because, following the issuance of the PELRB Decision No. 2014-184, the parties negotiated regarding salary enhancements and later signed a tentative agreement that did not include or address the salary enhancements.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the State violated RSA 273-A:5, I (e), (h), and/or (i) 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 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.

DECISION

1. "Parties" means the Union, the State or their counsel/representative appearing in the case.

The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.

¹ Both parties acknowledge that the cost items of the successor CBA (tentative effective date July 1, 2015) were not approved by the legislature. Under RSA 273-A:3, II (c), "[i]f a legislative body rejects any part of the submission, or while accepting the submission takes any action which would result in a modification of the terms of the cost item submitted to it, either party may reopen negotiations on all or part of the entire agreement."

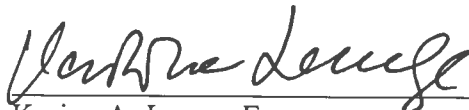
2. In its unfair labor practice complaint, the Union appears to be seeking an interim cease and desist order under RSA 273-A:6, III and Pub 304.02. The Union's request, if any, cannot be processed as filed because under Pub 203.04 (a), "[a]ll requests for specific relief in a pending case shall be presented by means of a motion." No motion for interim relief has been filed in this case.
3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **August 7, 2015**.
4. 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 **August 17, 2015, 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.

July 10, 2015.


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

Distribution: Lauren Snow Chadwick, Esq.
 Glenn R. Milner, Esq.
 Mary Beth L. Misluk, Esq.
 Nancy J. Smith, Esq.