



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

Winchester Support Staff Association, NEA-NH

v.

Winchester School District

Case No. E-0098-2
Decision No. 2015-244

Pre-Hearing Memorandum and Order

Date of Conference: November 10, 2015

Appearances: Rachel Hawkinson, UniServ Director, for the Complainant
William J. Phillips, Esq., for the Respondent

Background:

On September 22, 2015, the Winchester Support Staff Association, NEA-NH (Association) filed an unfair labor practice complaint alleging that the Winchester School District (District) violated RSA 273-A:5, I (b), (e), (h), and (g) when, among other things, it refused to recognize certain positions, including the position of Library/Media Assistant, as bargaining unit positions represented by the Association. The Association requests, among other things that the PELRB order the District to immediately recognize the Library/Media Assistant position as a bargaining unit position, to negotiate in good faith with the Association regarding wages, hours, and working conditions for all bargaining unit positions, including Library/Media Assistant, and to immediately provide the Association with information reasonably necessary for negotiations, including information relevant to the Library/Media Assistant position.

The District denies the charges and asserts, among other things, that the position of Library/Media Assistant is a new position that did not exist when the Association was certified

as the bargaining unit's exclusive representative, and therefore, this position is not in the bargaining unit. The District also argues that the Association's charges should be dismissed because (1) they are untimely under RSA 273-A:6, VII; (2) the charge that the District violated RSA 273-A:5, I (b) is unsupported by specific allegations as required under Pub 201.02 (b) (4); and (3) charges are barred by the Association's conduct and by the doctrines of unclean hands, waiver, and estoppel. The District requests that the PELRB dismiss the complaint.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the District violated RSA 273-A:5, I (b), (e), (h), and/or (g) 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.

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. On November 9, 2015, the Association filed a motion to amend the complaint seeking to remove all references to the position of Tutor from the complaint on the ground that, after discussions between the parties regarding the position and responsibilities of Title I Tutors, the Association decided to withdraw its demand to bargain with the District over the wages, hours, and working conditions of the Title I Tutors. According to the Association, the status of the Library/Media Assistant as a bargaining unit position remains in dispute. The District assented to the Association's motion to amend. The

Association's motion to amend the complaint is hereby granted. An answer to the amended complaint, if any, shall be filed no later than **November 27, 2015**.


3. Per Pub 203.04 (a) and (b), all requests for specific relief, including a request to dismiss the complaint in its entirety or in part, shall be presented by means of a motion and shall be in written form. In this case, a motion to dismiss, if any, shall be filed no later than **November 20, 2015**. Any objection to the motion to dismiss shall be filed no later than **December 1, 2015**.
4. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than 10 days prior to the date of hearing.
5. The requirement that the parties file copies of proposed exhibits prior to the date of 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 **December 3, 2015, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 3 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.

Date: 11/10/15



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

Distribution: Rachel Hawkinson, UniServ Director
William J. Phillips, Esq.