



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

Winchester School District

v.

Winchester Teachers' Association

Case No. E-0193-1
Decision No. 2016-019

Pre-Hearing Memorandum and Order

Date of Conference: February 16, 2016

Appearances: William J. Phillips, Esq., for the Complainant
Steven R. Sacks, Esq., for the Respondent

Background:

On January 15, 2016, the Winchester School District (District) filed an unfair labor practice complaint alleging that the Winchester Teachers' Association (Association) violated RSA 273-A:5, II (f) and (g) and RSA 273-A:4 when it grieved a non-renewal of a bargaining unit employee and, later, demanded arbitration of this grievance. The District argues that the Association's grievance is untimely because the District notified the employee of the non-renewal on April 14, 2015; and the Association did not grieve the non-renewal until July 24, 2015. The District also argues that the demand for arbitration is not appropriate under RSA 189:14-b and RSA 273-A:4 because parties were in a "status quo" period when the District issued the April 14, 2015 non-renewal notice. The District further argues that, under RSA 273-

A:4, non-renewal determinations are only subject to arbitration if the CBA provides for “binding” resolution; and that the parties’ 2011-14 and 2015-17 CBAs only provide for advisory, i.e. “non-binding,” arbitration. The District requests, among other things, that the PELRB find that the Association committed an unfair labor practice and order the Association to cease and desist from violating RSA 273-A.

The Association denies the charges and asserts that its grievance is timely under the CBA and appropriate under RSA 273-A:4. The Association argues that the harm to the employee occurred on July 9, 2015, the date of the School Board’s non-renewal decision, after an RSA 189:14-a hearing, and during the term of the 2015-17 CBA, which allows for arbitration of non-renewals. The Association also argues that, under RSA 273-A:4, advisory nature of the contractual arbitration provision does not preclude the Association from demanding arbitration. The Association requests that the PELRB find that the Association did not commit an unfair labor practice and order that the arbitration proceed as scheduled.

Issues for Determination by the Board

Whether the Association violated RSA 273-A:5, II (f) and (g) and/or RSA 273-A:4 as charged by the District.

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. At the pre-hearing conference, the parties jointly requested leave to submit this case for decision on stipulated facts, joint exhibits, and briefs and that the adjudicatory hearing in the case be cancelled. The parties agree that there are no “issues of material and relevant

fact in dispute.” See Pub 201.06. The parties also proposed a filing schedule. The parties’ request is granted. See Pub 203.05. The adjudicatory hearing currently scheduled for March 1, 2016 is cancelled. The parties’ proposed filing schedule is approved. Accordingly, the parties shall file a comprehensive statement of stipulated facts, joint exhibits, and opening briefs no later than **March 17, 2016**. The reply briefs, if any, are due no later than **March 29, 2016**.

So ordered.

Date: 2/16/16



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

Distribution: William J. Phillips, Esq.
Steven R. Sacks, Esq.