



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

Strafford Education Association/NEA-NH

v.

Strafford School District

Case No. E-0194-1

&

Strafford School District

v.

Strafford Education Association/NEA-NH

Case No. E-0194-2

Decision No. 2016-042
(Consolidated Cases)

Pre-Hearing Memorandum and Order

Date of Conference: March 3, 2016

Appearances: Peter Miller, UniServ Director., for the Strafford Education Association/NEA-NH

Peter C. Phillips, Esq., for the Strafford School District

At the pre-hearing conference the parties agreed to consolidate Case No. E-0194-1 and Case No. E-0194-2. Based upon the pleadings filed, the legal issues raised, and the discussion during the pre-hearing conference, these cases are consolidated for all purposes pursuant to Pub 201.11. See Decision section below.

Background:

In Case No. E-0194-1, the Strafford Education Association/NEA-NH (Association) alleges in its January 20, 2016 complaint that the Strafford School District (District) violated

RSA 273-A:5, I (a), (e), (g), and (h) when the School Board unilaterally changed the ground rules for negotiations and refused to meet at mutually agreeable times. The Association requests that the PELRB find that the District committed an unfair labor practice and order the District to cease and desist from bargaining in bad faith, to follow the ground rules, and to schedule future meetings at mutually agreeable times, including work hours if requested by the Association.

The District denies the charges and asserts that the negotiation ground rules are not exhaustive of all agreements between the parties; and that the School Board acted in accordance with a verbal agreement and practice. The District also asserts that it declared impasse before the events alleged by the Association occurred and, therefore, the District bargaining team “reserved the right not to meet with the Association until the parties were in the presence of the mediator.” Further, the District “does not dispute its statutory obligation to give a reasonable number of employees who act as representatives of the bargaining unit a reasonable opportunity to meet with representative of the District during working hours ... in accordance with RSA 273-A:11, II.” The District requests that the PELRB dismiss the unfair labor practice charge and deny all requests for relief.

In Case No. E-0194-2, the District alleges in its February 3, 2016 complaint that the Association violated RSA 273-A:5, II (b), (d), (f), and (g) when, among other things, it refused to negotiate in good faith over a mandatory subject of bargaining and when it published certain comments regarding negotiations on its Facebook page, thereby allegedly illegally bypassing the School Board’s negotiating team and interfering “with the public employer’s selection of its agents” to represent it in negotiations. The District requests that the PELRB sustain the District’s complaint and issue a cease and desist order against the Association under RSA 273-A:6, III.

The Association denies the charges and asserts, among other things, that it negotiated over the medical insurance issue by proposing to “maintain current contract language”; and that

the Association is not obligated under the law to accept the District's bargaining proposals. The Association also asserts that, by publishing certain comments on its Facebook page, it did not intend to interfere with the bargaining process, but "wanted community members to communicate to the School Board ideas that the Board, as a representative body, could incorporate into bargaining proposals ..." The Association claims that its actions were not intended to "obligate the Board to put forth as bargaining proposals anything offered by community members." The Association requests that the PELRB dismiss the District's complaint and deny all requests for relief.

Issues for Determination by the PELRB

1. Whether the District violated RSA 273-A:5, I (a), (e), (g), and/or (h) as charged by the Association.
2. Whether the Association violated RSA 273-A:5, II (b), (d), (f), and/or (g) as charged by the District.

Witnesses and Exhibits

As outlined in the parties' Joint Pre-Hearing Worksheets. 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 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. As discussed at the pre-hearing conference, Case No. E-0194-1 and Case No. E-0194-2 are consolidated for all purposes pursuant to Pub 201.11.

3. Any requests for interim relief, including a cease and desist order under RSA 273-A:6, III, shall be presented by means of a motion. See Pub 203.04 (a).
4. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **March 28, 2016**.
5. 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 **April 7, 2016, at 8:30**, 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.

Date: 3/3/16


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

Distribution: Peter Miller, UniServ Director
Peter C. Phillips, Esq.