



**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-0148-5**  
**Decision No. 2016-072**

Pre-Hearing Memorandum and Order

Date of Conference: March 31, 2016

Appearances: Glenn Milner, Esq., for the Complainant  
Nancy Smith, Esq., and MaryBeth Misluk, Esq., for the Respondent

Background:

On March 1, 2016, the State Employees' Association of NH, SEIU Local 1984 (Union) filed an unfair labor practice complaint alleging that the State of New Hampshire, Department of Health & Human Services (State) violated RSA 273-A:5, I (e), (h), and (i) when it posted Sununu Youth Services Center (SYSC) teaching positions without salary enhancements thereby violating PELRB Decision No. 2014-184 (July 31, 2014)<sup>1</sup>. The Union asserts, among other things, that pursuant to PELRB Decision No. 2014-184, salary enhancements are mandatory subjects of bargaining; and that the State acted in bad faith by unilaterally eliminating the salary

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<sup>1</sup> *State Employees' Association of NH, SEIU Local 1984 v. State of New Hampshire, Department of Health & Human Services*, Case No. G-0148-2.

enhancements “in the manner that has already been deemed an unfair labor practice” by the PELRB. The Union requests, among other things, that the PELRB find that the State committed an unfair labor practice and order the State to cease all plans to reduce the SYSC teaching personnel salary enhancements, to restore the salary enhancements, and to bargain with the Union to effectuate any change to wages.

The State denies that the postings without salary enhancements violated PELRB Decision No. 2014-184. The State asserts that salary enhancements evolved from the James O. consent decree; that the State reached full compliance with that decree in 2002, at which time the consent decree expired; and that RSA 99:8 controls salary enhancements for prospective SYSC teaching personnel. The State also filed a motion to dismiss the Union’s complaint on the ground that the alleged violation of RSA 273-A:5 occurred more than six month prior to the filing of the complaint. The State requests that the PELRB summarily dismiss the complaint in accordance with RSA 273-A:6, VII.

Issues for Determination by the Board

1. Whether the PELRB has jurisdiction over the Union’s complaint.
2. Whether the State violated RSA 273-A:5, I (e), (h), and/or (i) as charged by the Union.

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.
2. The parties failed to file a Joint Pre-Hearing Worksheet which was due on or before March 28, 2016. The parties shall file a Joint Pre-Hearing Worksheet no later than **April 1, 2016**.


3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **April 7, 2016**. 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.
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 **April 12, 2016, at 8:30**, 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 7 days prior to the date of hearing.

So ordered.

Date: 3/31/16

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

Distribution: Glenn Milner, Esq.  
Nancy Smith, Esq.  
MaryBeth Misluk, Esq.

