



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

Keene State College Administrative Staff Association, NEA-NH et. al.

v.

Keene State College

Case Nos. E-0189-2, E-0190-2, E-0191-2
Decision No. 2017-035

Pre-Hearing Memorandum and Order

Date of Conference: March 7, 2017

Appearances: James F. Allmendinger, Esq., for the Complainants
Damien M. DiGiovanni, Esq., for the Respondent

Background:

On February 6, 2017, the Keene State College Administrative Staff Association, NEA-NH, Keene State College Staff Association, NEA-NH, and Keene State College Directors and Supervisors Association, NEA-NH (Associations) filed an unfair labor practice complaint alleging that the Keene State College (College) violated RSA 273-A:5, I (a), (c), and (g)¹ when it unilaterally restricted participation in the System Personnel Policy Council (SPPC) and the

¹ RSA 273-A:5, I provides in relevant part:

It shall be a prohibited practice for any public employer:

- (a) To restrain, coerce or otherwise interfere with its employees in the exercise of the rights conferred by this chapter...
- (c) To discriminate in the hiring or tenure, or the terms and conditions of employment of its employees for the purpose of encouraging or discouraging membership in any employee organization...
- (g) To fail to comply with this chapter or any rule adopted under this chapter ...

System Human Resources Council (SHRC) to employees who are not represented by a union. The Associations request that the PELRB find that the College violated RSA 273-A:5, I (a), (c), and (g) and order the College to cease and desist from such violations.

The College denies the charge and asserts, among other things, that the SPPC and SHRC voted to exclude unionized employees from its meetings, at which terms and conditions of employment are routinely discussed, in part, to avoid "illegal direct dealing with unionized employees." The College also claims that the Associations' complaint is untimely under RSA 273-A:6, VII. The College requests that the PELRB dismiss the complaint.

Issues for Determination by the Board

1. Whether the complaint is untimely under RSA 273-A:6, VII.
2. Whether the College violated RSA 273-A:5, I (a), (c), and/or (g) as claimed by the Associations.

Decision

1. "Parties" means the Associations, the College 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, any motion to dismiss shall be presented "in a separately filed motion" as required under Pub 201.01 (j) and Pub 203.04 (a).
3. The College requested continuance of the adjudicatory hearing scheduled for March 21, 2017 on the ground that the College's counsel has a scheduling conflict. As discussed at the pre-hearing conference, before the request for continuance can be processed, the College must provide the following information required under RSA 201.08 (a) (2) & (5) and (c) (1) c.: (1) The case or docket number of the conflicting case/trial and (2) at least 2 alternative hearing dates that are acceptable to both parties.

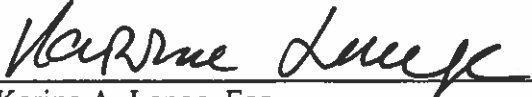
4. The parties shall file a joint statement of stipulated facts and their witness and exhibit lists no later than 10 days prior to the date of hearing.
5. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, 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 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 **March 21, 2017, 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 ten days prior to the date of hearing.

So ordered.

Date: 3/7/2017


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

Distribution: James F. Allmendinger, Esq.
Damien M. DiGiovanni, Esq.
Ronald F. Rodgers, Esq.