



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

Prospect Mountain High School Teachers' Association, NEA-NH

v.

Prospect Mountain High School Board

Case No. E-0114-4
Decision No. 2017-123

Pre-Hearing Memorandum and Order

Date of Conference: July 12, 2017

Appearances: Christopher Long, UniServ Director, for the Complainant
Matthew H. Upton, Esq., for the Respondent

Background:

On June 2, 2017, the Prospect Mountain High School Teachers' Association, NEA-NH (Association) filed an unfair labor practice complaint alleging, among other things, that the Prospect Mountain High School Board (School Board) violated RSA 273-A:5, I (a), (b), (c), (d), (g), (h), and (i)¹ when it removed the Association President Sweezy from the stipend Science Department Curriculum, Instruction, and Assessment Leader position (stipend Leader position) in retaliation for her union activity. The Association requests, among other things, that the

¹RSA 273-A:5, I provides in relevant part that "[i]t 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; (b) To dominate or to interfere in the formation or administration of any employee organization; (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; (d) To discharge or otherwise discriminate against any employee because he has filed a complaint, affidavit or petition, or given information or testimony under this chapter;... (g) To fail to comply with this chapter or any rule adopted under this chapter; (h) To breach a collective bargaining agreement; (i) To make any law or regulation, or to adopt any rule relative to the terms and conditions of employment that would invalidate any portion of an agreement entered into by the public employer."

PELRB find that the School Board has committed an unfair labor practice and order the School Board to make the Association, its President, and members whole, to reinstate the President Sweezy to the stipend position through the end of the 2016-2017 school year, and to comply with the RSA 273-A, the terms and conditions of employment established in the parties' CBA and by the existing past practice.

The School Board denies the charges and asserts, among other things, that (1) the Association failed to state a claim upon which relief may be granted; (2) the removal of Ms. Sweezy from the stipend Leader position was motivated by her negative interaction with other Leaders and was not in retaliation for her union activity; (3) the School Board paid Ms. Sweezy the entire stipend for the 2016-2017 school year notwithstanding her removal; and (4) the appointments to, and removal from, Leader positions are within the discretion of the School Board. The School Board requests that the PELRB deny all of the remedies requested by the Association.

Issues for Determination by the Board

Whether the School Board violated RSA 273-A:5, I (a), (b), (c), (d), (g), (h), and/or (i) 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 School Board 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 shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **July 17, 2017**.
3. 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 **July 25, 2017, at 8:30 a.m.**, 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 ten days prior to the date of hearing.

So ordered.

Date:

7/12/2017


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

Distribution: Christopher Long, UniServ Director
Matthew H. Upton, Esq.