



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-0114-5
Decision No. 2017-124

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 that the Prospect Mountain High School Board (School Board) violated RSA 273-A:5, I (a), (b), (c), (d), (e), (g), (h), and (i)¹ when it required the teachers to remain at school until 3 p.m. during the exam week. The Association claims, among other things, that the School Board actions violated the established past practice of allowing teachers to leave school each day after the end of the last exam during the mid-term and end-of-year exam weeks. The Association requests, among other things, that

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; (e) To refuse to negotiate in good faith with the exclusive representative of a bargaining unit, including the failure to submit to the legislative body any cost item agreed upon in negotiations; (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."

the PELRB find that the School Board has committed an unfair labor practice and order the School Board to make the Association and its members whole and to comply with the RSA 273-A, the terms and conditions of employment established in the parties' collective bargaining agreement (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) any ruling by the PELRB that would deprive the School Board of its authority to direct employees within the work day as defined by the CBA would violate a strong and dominant public policy; (3) the PELRB lacks jurisdiction over the Association's claims because the Association failed to grieve, and therefore waived its right to grieve, the School Board's interpretation of the school day during the exam week under the terms of the CBA Article 8.2.2. The School Board requests that the PELRB dismiss the Association's complaint and 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), (e), (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. As discussed at the pre-hearing conference, the adjudicatory hearing in this case is rescheduled for **July 25, 2017**, to commence immediately after the conclusion of the hearing in Case No. E-0114-4. If additional time is necessary, the hearing in the above captioned case shall continue on **July 27, 2017, at 8:30 a.m.**
3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **July 17, 2017**.
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 copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

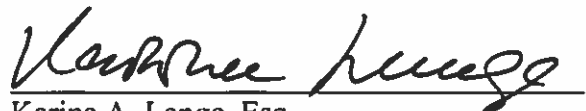
Hearing

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., immediately after the conclusion of the hearing in Case No. No. E-0114-4**, 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:

7/13/2017



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

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