



## State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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IBPO LOCAL 481

Complainant

v.

LACONIA POLICE COMMISSION

Respondent

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CASE NO. P-0760:4

DECISION NO. 94-79

### APPEARANCES

#### Representing I.B.P.O.:

Peter C. Phillips, Esq.

#### Representing Laconia Police Commission:

Mark T. Broth, Esq.

#### Also appearing:

Robert D'Amore, Laconia Police Department, Local 481  
Steven Clarke, Laconia Police Department, Local 481  
Richard Nash, Laconia Police Department, Local 481  
Douglas E. Jameson, Laconia Police Department, Local 481  
Richard W. Bray, Laconia Police Department, Local 481  
Daniel L. Sullivan, Laconia Police Commission  
Robert J. Brabineau, Laconia Police Department  
William R. Wardwell, Labor Negotiator  
Jack D. Buckley, I.B.P.O. Representative

### BACKGROUND

International Brotherhood of Police Officers, Local 481 filed unfair labor practice charges alleging violation of RSA 273-A:5 I (a) and (e) on May 23, 1994. The City of Laconia Police Commission filed its response on May 24, 1994. The matter was heard before the PELRB on August 9, 1994. At the conclusion of opening statements, the City's motion to dismiss was granted and the following order was issued.

The facts of this case upon which the PELRB depends were not in dispute.

FINDINGS OF FACT

1. The City of Laconia (City) is a public employer of police officers within the meaning of RSA 273-A:1 X.
2. The International Brotherhood of Police Officers Local 481 (Union) became certified as the bargaining agent for certain police officers within the Laconia Police Department on May 28, 1993. No contract has yet been reached.
3. The bargaining unit is described as consisting of all sergeants, detective sergeants, corporals, detective corporals, patrol officers and detectives.
4. On April 29, 1994, the Laconia Police Commission posted a notice announcing a reorganization of its command structure which had been approved at its meeting of March 10, 1994.
5. Among other changes, were changes to the position of sergeant. The notice stated that the present position of sergeant would be eliminated and the position of uniformed sergeant would be added and "Subject to PELRB approval, the Uniformed Sergeants will be non-represented supervisory positions." PELRB approval would be sought through the filing of a modification petition and no such petition has been filed.
6. Tests for the redesigned sergeant position will be held on August 11, 1994. The job description titled Uniformed Sergeant accompanied the notice of April 29, 1994.
7. The City refers to the Winkler Report as the basis for the reorganization. The Union states that the City has not been faithful to the Winkler Report's recommendations.

DECISION AND ORDER

RSA 273-A:1 XI distinguishes wages, terms and conditions of employment which must be bargained from matters which are managerial policy and so are not the subject to bargaining but are management's exclusive prerogative. Managerial policy includes ". . . the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions." Broad rights are extended to management as they embark on reorganization. At the same time, the City is cautioned to avoid violations of bargaining unit members' rights protected by RSA 273-A:5 I. Remedy for such violations lies with this agency.

1. The Union's request for an order to Cease and Desist proceeding with the testing for the position of sergeant is DENIED.
2. The City of Laconia has the right to dictate its organizational structure pursuant to RSA 273-A:1 XI.
3. Any changes in the bargaining unit structure must be by petition for modification pursuant to rule Pub. 302.05.
4. The parties shall proceed to bargain the impact of the proposed reorganization as has been mutually agreed.

So ordered.

Signed this 17th day of August, 1994.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.  
Members Seymour Osman and E. Vincent Hall present and voting.