



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Amherst School District

Petitioner

v.

Amherst Education Association NEA-NH

Respondent

*
*
*
*
*
*
*
*
*
*

CASE No. T-0299-10

DECISION No. 2002-109

PRE-HEARING MEMORANDUM and ORDER

BACKGROUND

On August 12, 2002, the Amherst School District, (hereinafter referred to as the "District") filed an improper labor practice charge pursuant to RSA 273-A:5 I (a), (d) and (f), alleging that representatives of the Amherst Education Association, NEA-NH, (hereinafter referred to as the "Union") have undertaken actions that attempt to compel arbitration of an action not covered by the parties' collective bargaining agreement ("CBA"), that have interfered with public employees, that have constituted a lack of good faith in bargaining and that have constituted a breach of the parties' CBA.

The District seeks relief in the form of a finding that the Union has committed an unfair labor practice in attempting to arbitrate and a cease and desist order from the PELRB preventing all attempts to arbitrate the parties' present dispute. The District also seeks an award of legal fees and costs necessary to bring this complaint before the PELRB.

The Union filed its answer with the PELRB on August 27, 2002. The Union generally agreed with most of the chronological facts stated in the District's Complaint and agreed with the statements represented in the Complaint to be provisions of the parties' CBA. However, the Union disagrees that all such provisions are related in fair context and, more critically, disagrees with the assertion by the District that the Teacher Evaluation and Assistance Program (TEAP) is not part of the parties' agreement. It is on

Evaluation and Assistance Program (TEAP) is not part of the parties' agreement. It is on this difference in position between the parties as to whether or not the TEAP is included in their CBA that this matter turns. The Union requests that the PELRB find that an underlying grievance over the District's alleged violation of the TEAP is arbitrable.

On September 10, 2002 the District filed a "Motion for Interim Cease and Desist Order Pending Hearing" seeking to have the PELRB issue an order to cause the Union to cease and desist from its efforts to arbitrate the instant grievance until the PELRB has ruled on the arbitrability of that grievance. At the time of the conduct of the Pre-Hearing Conference, the Union still had leave until September 25, 2002 to file their response to this request.

The parties agreed that the issue, as stated below, may be determined by the PELRB on their respective pleadings, memoranda of law and supported by oral argument alone, without presentation of evidence.

DECISION

1. The parties shall file their respective legal memoranda no later than October 11, 2002.
2. Each party shall be allotted fifteen (15) minutes for oral argument and rebuttal in support of their respective position.
3. A hearing is scheduled for conduct at the offices of the PELRB on October 16, 2002 beginning at 9:30 AM.

So Ordered.

Signed this 19th day of September, 2002.



Donald E. Mitchell, Esq.
Hearing Officer

Distribution:

Daniel Schwarz, Esquire (for Thomas J. Flygare, Esq.)
Steven Sacks, Esquire