

**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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IBPO Local 314	*	
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	*	
Complainant	*	
	*	Case No. P-0705-13
	*	
v.	*	
	*	Decision No. 2002-123
	*	
City of Somersworth	*	
	*	
Respondent	*	
	*	

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PRE-HEARING ORDER

The International Brotherhood of Police Officers (IBPO) Local 314, ("Union") filed an unfair labor practice complaint on August 27, 2002 based upon alleged actions of the City of Somersworth, ("City") involving the transfer of a bargaining unit member from Police Prosecutor to School Resource Officer and transfer of a non-bargaining unit employee into the Police Prosecutor position. The union alleges that such actions constitute unilateral actions by the City regarding matters that are a mandatory subject of bargaining and as such violate RSA 273-A:5, I (a), (e), (g), and (h).

The Union requests relief in the form of a Board finding that the City committed an unfair labor practice and it requests that the Board issue a cease and desist order, order the City to return to the *status quo* existing prior to the alleged actions and thereafter negotiate any such transfers. Further, the Union requests that the cease and desist order be posted within the workplace.

The City of Somersworth filed its answer on September 10, 2002. In its answer the City essentially agrees that it undertook the actions alleged by the Union, however, it asserts that it is not obligated to collectively negotiate with the Union over such actions. As relief, the City requests that the Board deny the Union's complaint.

At the Pre-Hearing Conference, both counsel represented that they were unaware of any issues involving contracts for federal funds in connection with the position of

School Resource Officer and therefore no proposed exhibits were offered relevant to the same.

PARTICIPATING REPRESENTATIVES

For the Complainant: Peter C. Phillips, Esquire, IBPO Counsel

For the Respondent: Elizabeth A. Bailey, Esquire

ISSUES FOR DETERMINATION BY THE BOARD

1. Did the City's act of transferring an employee from the position of Police Prosecutor to that of School Resource Officer or act of transferring work previously performed by a bargaining unit member to be performed by non-bargaining unit personnel without collectively bargaining with the Union over the impact of said acts constitute an unfair labor practice?

WITNESSES

For the Complainant:

1. Michael Lemoi, Officer and Local President

For the Respondent:

1. Dean Crombie, Chief
2. David Kretschmar, Captain
3. William Lemoi, Officer and Local President
4. Detective Kelly

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

Joint Exhibits:

1. Parties' Collective Bargaining Agreement, 2000-2003
2. Memorandum of Grievance Lemoi to Crombie, dated 3/6/02
3. Letter response from Kretschmar to Lemoi, dated 3/7/02

4. Union's response to City's response

For the Complainant Union:

Presently, none other than those to be entered as Joint Exhibits.

For the Respondent City:

Presently, none other than those to be entered as Joint Exhibits.

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

LENGTH OF HEARING

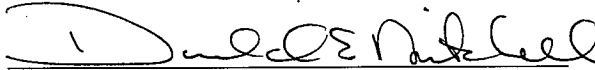
The time being set aside for this hearing is one day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB within fourteen (14) days of the date of this order.

DECISION

1. The parties shall exchange any outstanding documents not already exchanged and reasonably requested by the opposing representative no later than fourteen (14) days prior to the scheduled evidentiary hearing. In the event that either party has a good faith belief that he or she has not received any such document, the requesting representative shall immediately inform the PELRB, in writing, identifying the document requested, the date of the request, and the purpose for which the document is sought. A copy of that notice shall also be provided to the opposing representative who shall, upon receipt, provide the document or inform the PELRB in writing for his reasons for not providing the document to the requesting party.
2. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.

3. Any additional preliminary, procedural or dispositive motions shall be filed by the parties within fourteen (14) days of the date of this order.
4. The party representatives shall also confer to discuss all exhibits planned for introduction at hearing, and to arrange to pre-mark any exhibits, for identification, prior to the time of hearing and arrange to have sufficient copies of all exhibits available for distribution at the hearing as required by Pub 203.02. It is understood that exhibits that are to be used solely for purposes of impeachment may not be marked prior to the hearing.
5. Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on December 5, 2002 beginning at 9:30 A.M.

Signed this 10<sup>th</sup> day of October, 2002.



Donald E. Mitchell, Esq.  
Hearings Officer

Distribution:

Peter C. Phillips, Esquire, IBPO Counsel  
Elizabeth A. Bailey, Esquire