



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Farmington Educational Support Personnel
Association, NEA-New Hampshire

Complainant

v.

Farmington School District

Respondent

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Case No. M-0621-1

Decision No. 2005-141

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The Farmington Educational Support Personnel Association, NEA-NH (hereinafter “the Association”) filed an improper practice charge on July 20, 2005 alleging that the Farmington School District (hereinafter “the District”) violated RSA 273-A:5, I (a) and (e) as a result of its actions relating to a negotiated wage increase. According to the Association, the District presented a final offer, including a percentage raise and a step increase, during a January 4, 2005 negotiation session. The Association indicates that it subsequently accepted the offer after Superintendent Brian Blake e-mailed it to NEA-NH UniServ Director Peter Miller. Thereafter, as set forth in the complaint, a draft copy of the amended collective bargaining agreement was prepared by the Association and e-mailed the superintendent in May. The Association claims that Superintendent Blake then informed the Association that the District was interpreting the wage offer differently and that he expected the school board to reject the draft. The Association alleges that on June 20, 2005 the school board voted against ratifying the agreement. Based upon the foregoing, the Association states that the District has violated RSA 273-A:5 I (a) and (e).

On August 3, 2005 the District filed an “Assented to Motion to Extend Deadline,” in which the District requested, with Association’s assent, an extension until August 18, 2005 for filing its’ Answer and Pre-hearing worksheet in the instant matter. The motion was granted.

The District filed its answers and exceptions to the Association’s charge on August 18, 2005, wherein, among other things, it denied that it has committed an unfair labor practice in

violation of RSA 273-A:5 I (a) and (e). More specifically, the District denies that the final offer included a percentage raise plus a step increase. By way of further answer, the District states that the final offer was a percentage raise, including the step increase. While the District admits that the Association prepared a draft copy of the CBA, submitted it to Superintendent Blake in May 2005, that the superintendent later informed the Association that the information in the draft regarding the salary schedule did not reflect the school districts understanding of the agreement on wages, and that he expected the school board to reject the draft, the District denies that the school board voted against ratifying the agreement. By way of further answer, the District states that after the Association accepted the District's final offer of a 2.7% wage increase including step, the school board voted to ratify the agreement. The District further submits that on June 20, 2005, after receiving the Association's draft of the agreement, the school board voted to reject the draft, as it did not reflect the school board's understanding of the agreement between the parties as to wages.

By way of further answer, the District states, *inter alia*, that there was no meeting of the minds between the parties as to a wage increase of 2.7% plus a step increase, that the school board did not ratify an agreement to give support personnel more than a 2.7% increase in wages, including a step increase, and District voters did not approve cost items associated with giving support personnel more than a 2.7% increase in wages, including a step increase. Accordingly, the District requests that (1) the PELRB dismiss the unfair labor practice charge; and (2) grant such further relief as may be appropriate.

The undersigned-hearing officer conducted a pre-hearing conference at PELRB offices, Concord, New Hampshire on November 2, 2005.

PARTICIPATING REPRESENTATIVES

For the Association: James F. Allmendinger, Esq.

For the District: Abigail J. Sykas, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

- (1) Whether or not the parties agreed to a wage increase.
- (2) If so, has the District violated RSA 273-A:5, I (a) and/or (e) by its actions relative thereto?
- (3) If so, what shall be the remedy?

WITNESSES

For the Association:

1. Peter Miller, UniServ Director
2. Martha Horgan, Member, Assoc. Bargaining Team

3. Patricia Grass Alielouahed, Assoc. President
4. Roberta Ham, Member, Assoc. Bargaining Team
5. Brian Blake, Superintendent

For the District:

1. Brian Blake, Superintendent
2. Steve Yurick, Member, School Board and District's Bargaining Team
3. Todd Lefebvre, Member, School Board and District's Bargaining Team

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 with reasonable notice to the other party.

EXHIBITS

Joint Exhibits:

1. Collective Bargaining Agreement, '02-'05
2. Draft Collective Bargaining Agreement, '05-'07

For the Association:

1. Association Bargaining Notes
2. School Board Proposals

For the District:

1. School District's negotiation notes
2. Warrant Article and School District meeting vote regarding cost items
3. Documents related to Budget Process
4. Correspondence related to final offer

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 with reasonable notice to the other party. Copies of all exhibits are to be submitted in accordance with Pub 203.02. It is understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

LENGTH OF HEARING

The time being set aside for this hearing is three (3) hours. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least twenty (20) days prior to the date of the evidentiary hearing.

DECISION

1. The parties' representatives, shall meet, or otherwise confer, on or before **December 1, 2005** in order to compose a mutual statement of agreed facts and exhibits. The parties' representatives shall memorialize those facts upon which they can so stipulate and file that document with the PELRB no later than **December 6, 2005**.
2. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative and to the PELRB, at least five (5) days prior to the scheduled hearing date. The party representatives shall meet, or otherwise arrange, to pre-mark any 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. The parties shall file any additional preliminary, procedural or dispositive motions no later than twenty (20) calendar days prior to the scheduled hearing date.
4. Unless otherwise ordered as a result of the filing of any subsequent motion, or for other good cause shown, an adjudicative hearing between the parties will be held on:

December 15, 2005 @ 9:30 AM

at the offices of the Public Employee Labor Relations Board, Concord, New Hampshire.

So ordered.

Signed this 7th day of November, 2005.



Peter C. Phillips, Esq.
Hearing Officer

Distribution:
James F. Allmendinger, Esquire
Abigail J. Sykas, Esq.