



**State of New Hampshire**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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New Hampshire Insurance Department	*	
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	*	
Petitioner	*	Case No. S-0415-1
v.	*	
	*	
SEA/SEIU Local 1984, AFL-CIO	*	Decision No. 2006-147
	*	
Respondent	*	

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**ORDER ON REQUEST OF RESPONDENT TO REVIEW  
HEARING OFFICER DECISION**

The Public Employee Labor Relations Board (“PELRB”) has considered the State Employees’ Association of New Hampshire, SEIU Local 1984, (hereinafter the “SEA”) “Appeal of Decision of Hearing Officer Denying Motion to Continue” and took the following action:

1. The Board reviewed the pleading entitled “Appeal to Full Board” filed by the SEA which the board interpreted to be a request, pursuant to RSA 541 and N.H. Admin R. Pub 205.01, to review the decision of the PELRB’s Hearing Officer, dated September 1, 2006.
2. It examined the previous actions of the agency in this matter, specifically PELRB Decision No. 2006-137.
3. It reviewed the previous filings of the parties in this matter.
4. The Board finds from a review of these documents, that the Hearing Officer conducted this Pre-Hearing Conference, as is done in many other matters coming before the Board, in which proceedings may be facilitated thereby and also finds that the Hearing Officer appropriately applied the provisions of law and administrative rules in furtherance of the purposes of the pre-hearing conference as provided in Pub 202.01(d) (2) to identify and resolve issues; (3) attempting to obtain stipulations of fact; (5) providing for the parties to exchange and pre-identify documentary evidence;

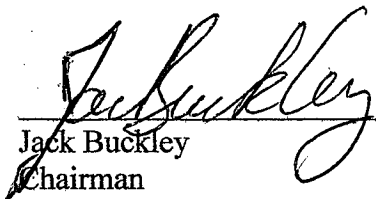
and (6) resolving any questions or any matters that will aid in the disposition of the pending matter.

5. Such effort does not constitute the exercise of "equitable powers" as those powers are regularly understood in the pursuance of jurisprudence, but rather the good faith application of administrative law in furtherance of the purposes for which the PELRB was created.
6. Similarly, given the long tradition in New Hampshire to avoid the frustration of substantive purpose by a compulsive adherence to fastidious form, persons presiding over procedural forums throughout the broad range of judicial and quasi-judicial forums frequently suggest methods and manner parties might consider to narrow issues truly in conflict.
7. The Board does not take lightly the Respondent's accusations that there is any question as to the impartiality of the Hearing Officer. It has specifically examined the basis that the Respondent's counsel cites, that being PUB 201.09(g). Counsel has provided no evidence that the Hearing Officer has a "direct interest in the outcome of the hearing or knowledge of a party or subject matter of the hearing that could improperly influence his or her judgment." Upon review of the decisions rendered in this matter and other pleadings in this matter that the Board does not see any basis to question, in good faith, the impartiality of the Hearing Officer and his ability to go forward in these proceedings.
8. The Board would further note that the Respondent's counsel has certain obligations under the New Hampshire Supreme Court's Rules of Professional Conduct with respect to his advocacy.
9. It is our collective hope that Respondent's counsel has not advanced this claim for the purpose of further delay, and consequent denial and frustration of the good faith purposes of the General Court in enacting RSA 273-A or of this agency in implementing those good faith purposes. Further allegations, without sufficient proof, in this regard will be gravely weighed.

The Respondent's request to review/reconsider the Hearing Officer's Order of September 1, 2006, a/k/a "Appeal to Full Board", has been considered, the Hearing Officer's decision stands. The PELRB believes that one of the important purposes of RSA 273-A, and an overriding objective in general in administrative law, is to provide affected parties with a process that is more efficient and timely than would be true were such cases processed through the regular state trial courts, and the PELRB is mindful of this objective in making this ruling.

It is so ordered.

Signed this 14th day of September, 2006.

  
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Jack Buckley  
Chairman

By unanimous decision. Chair Jack Buckley, Member E. Vincent Hall and Alternate Member Carol M. Granfield also voting.

**Distribution:**

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