



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Classified Employee Petitioners of the
New Hampshire Insurance Department

and

State Employees' Association of NH, Inc.,
SEIU Local 1984

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Case No. S-0415-1

Decision 2006-166

DENIAL OF MOTION TO OBTAIN INFORMATION

An informal pre-election conference, pursuant to Admin. R. Pub 303.02 (a), was conducted on September 27, 2006 at which counsel of record who has made the instant motion was not present. At that conference Ms. Lorri Hayes, a Maryland attorney unlicensed in this state represented SEA/SEIU.

During discussion among the parties and in which Sara Willingham also was present and utilized by the parties as a resource person, it became apparent that of the several employee lists being used by the parties to mutually agree to such employees as would become eligible voters in the pending election differed. Among those lists, that in the possession of the representative for the petitioners, Ms. Deborah O'Loughlin, appeared to also contain mailing addresses for the employees under discussion at that time. Ms. Hayes questioned the petitioner's right to possession or custody of that list and requested that the SEA/SEIU also be presented with a copy of such a list containing home addresses of employees, both union members and non-members, appearing on Ms. O'Loughlin's list.

Upon that information, the PELRB presiding official duly put Ms. O'Loughlin under oath and in a series of questions determined that she had made a request of the human resource office within the Department of Insurance for a list of employees and was provided with the version in her possession at the pre-election conference. She was unaware of its significance as to the inclusion of home addresses. She responded under oath that she had not duplicated the list, had not contacted any of the persons named on that list, and averred that she would not do so. She offered to return it immediately. The presiding official instructed Ms. Willingham to address the matter of the release of such a list and determined that Ms. O'Loughlin's possession of the list constituted harmless error and presented no prejudice to any party. A later instructive memorandum was distributed by Ms. Willingham and a copy of that memorandum is attached hereto.

The instant motion also alleges that since it was an agent of the state that provided such information to the Petitioners, that "confidentiality was waived by the State". The State has not been made a party to these proceedings, nor is it contemplated to be one under the provisions of RSA 273-A and relevant administrative rules. Further, the Respondent counsel's conception of confidentiality is misapplied in this instance as any right to confidentiality of one's home address lays with the individual, not with the state. It cannot be said that by providing a home mailing address to its employer, a public employee is waiving any right he or she may have to its confidentiality much less repeated production of what was obviously an initial, and harmless, error made by some human resource staff person.

The PELRB has previously expressed its "valid concerns for privacy" in SEA/SEIU v. State of New Hampshire, Decision No. S-0330-5. While that matter did not relate directly to elections, it did involve the release of home addresses of employees. That matter was the result of a formal hearing on an unfair labor practice complaint of this union against the State of New Hampshire. This proceeding is an informal pre-election conference between the incumbent union and certain employees that seek to decertify the SEA/SEIU as their exclusive representative. While it may be argued that the written motion of the SEA/SEIU is not a proper action as it duplicates an oral request already denied with supporting rationale provided by the undersigned presiding official at the pre-election conference action, I nonetheless take this opportunity to espouse the PELRB's strong belief that an employee's privacy interest in their home address is an interest that may be breached, if at all, only after sufficient proof is offered of the blanket inability of any union to otherwise reasonably communicate with employees. If, in the instant proceeding, the SEA/SEIU is prevented from distributing or communicating with employees through an orderly process at the workplace or from their own sources of information, then sworn affidavits of SEA/SEIU representatives detailing the act or failure to act such as to prejudice the scheduled election shall be immediately submitted to the PELRB for evaluation.

It is so ordered.

Signed this 2nd day of October, 2006.



Donald E. Mitchell, Esq.
Executive Director

Distribution:

Lorri Hayes, Esq., SEA/SEIU Local 1984

Sara Willingham, Manager of Employee Relations, State of NH

John S. Krupski, Esq., SEA/SEIU Local 1984

Deborah O'Loughlin, Petitioner representative

Attachment - Willingham e-mail dated September 27, 2006; 1:21 PM

From: Willingham, Sara J.
Sent: Wednesday, September 27, 2006 1:20 PM
To: 'melissa.millione@nhvh.nh.gov'; 'Knowlton, Rhonda'; Robinson, Mary J.; 'Sawyer, Sara'; 'Currier, Lisa'; 'sadams@dred.state.nh.us'; 'Cochrane, Brenda'; 'Manion, Pat'; 'Hutchins, Karen'; 'Taft, Evie'; 'Ouellette, Claude'; 'Buczynski, Fran'; 'Goodwyne, Kathy'; 'Sweatt, Bonnie'; 'Wheeler, Kathy'; 'Logan, Kelly'; 'Yeaton, Sylvia'; 'Luckoor, Anu'; 'Heisler, Cindy'; 'KSTANICK@LIBRARY.STATE.NH.US'; Lyford, Joan - OIT; 'pvalliere@lottery.state.nh.us'; 'peter.hanson@wildlife.state.nh.us'; 'Sopczyk, Pamela C'; 'Goss, Linda';
'Milender, Stephanie'
Cc: Levchuk, Karen
Subject: Confidential Information

At a pre-election conference at the Public Employee Labor Relations Board this morning, it came to my attention that an agency human resources/business office had released a listing of employee home addresses to the employee petitioners. This is a friendly reminder that employee home addresses are confidential and may not be released without consent, other than as specified in CBA Article 3.2.

If you have any questions about what information should be considered confidential, please feel free to contact me.

Sara J. Willingham, Manager of Employee Relations

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