



**STATE OF NEW HAMPSHIRE**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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State Employees Association of NH,		*
SEIU, Local 1984		*
	Complainant	*
	v.	*
State of NH Technical College System		*
	Respondent	*
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Case No. S-0423-1  
Decision No. 2007-081

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The SEA, SEIU Local 1984 (the "Union") filed an unfair labor practice complaint on March 30, 2007, alleging that the State of New Hampshire, Technical College System (the "State") committed an unfair labor practice in violation of RSA 273-A:5 I (e), (g) and (h). The Union asserts the State improperly failed to apply agency fee provisions to probationary employees in the New Hampshire Technical College System once it attained the status of having 50% or more membership in the SEA, contrary to the parties' collective bargaining agreement, a May 2006 Settlement Agreement, and past practice.

As remedies, the Union requests that the PELRB: 1) Find that the Respondent violated RSA 273-A:5 I (e), (g) and (h); 2) Order the Respondent to comply with Article 5.8.1 of the Parties' Collective Bargaining Agreement, settlement agreement and past practice; 3) Order the Respondent to reimburse the SEA for agency fees that were not collected as a result of the State's refusal to implement Article 5.8.1 of the Collective Bargaining Agreement; 4) Award the SEA its attorney's fees and costs; and 5) Grant such other and further relief as may be deemed just.

On April 17, 2007, the State filed its answer denying the Association's charges of unfair labor practice. The State says it informed the SEA that the settlement agreement would be applied to new employees hired prospectively, and would not be applied to employees already hired.

The undersigned Hearing Officer conducted a pre-hearing conference on May 31, 2007 at the PELRB offices, Concord, New Hampshire.

PARTICIPATING REPRESENTATIVES

For the Union: John S. Krupski, Esq.

For the State: Michael K. Brown, Esq.

ISSUE FOR DETERMINATION BY THE BOARD

Has the State committed an unfair Labor Practice in violation of RSA 273-A:5 I (e), (g) and (h) by refusing to apply the agency fee provision to probationary employees as claimed by the Union?

If so, what shall be the remedy?

WITNESSES

For the Union:

1. Michael K. Brown, Esq.
2. Kris Spath, Esq.
3. Sara Willingham, Manager Employee Relations
4. Jay Ward, SEIU Representative
5. Kathy Desjardin, Business Administrator
6. Michelle McCord

For the State:

1. M. Kristin Spath, Esq.
2. Sara Willingham, Manager Employee Relations
3. John S. Krupski, Esq.
4. Sarah Sawyer
5. Lorri Hayes, Esq.

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. 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

For the Union:

1. Settlement Agreement
2. Collective Bargaining Agreement for 2005-2007
3. 12/4/06 letter from Michelle McCord

For the State:

1. Settlement Agreement

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 to the presiding officer 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 one-half day.

DECISION

1. The parties' representatives shall meet, or otherwise confer, on or before June 11, 2007, in attempt to reach a stipulation on presenting the instant case by written submission, or, in the alternative, without the need for formal testimony. In the event that agreement is reached to submit the case by written submission, the parties shall forthwith file a joint statement indicating such agreement and include a proposed schedule for the parties' filings.

2. If the matter is to proceed to a hearing before the Board, the parties' representatives shall meet, or otherwise confer, on or before June 11, 2007 in order to compose a mutual statement of agreed facts. The parties' representatives shall memorialize those facts upon which they can so stipulate and file that document with the PELRB no later than June 12, 2007.

3. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, 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.

4. The parties shall file any additional preliminary, procedural or dispositive motions no later than five calendar days prior to the scheduled hearing date.

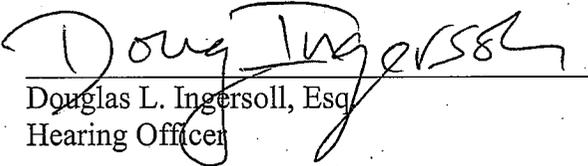
5. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on:

**June 12, 2007 @ 9:30 AM**

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

So ordered.

June 1, 2007.

  
Douglas L. Ingersoll, Esq.  
Hearing Officer

Distribution:

John S. Krupski, Esq.

Michael K. Brown, Esq.