



State of New Hampshire  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

---

Hollis/Brookline Cooperative School Board	*	
	*	
	*	
Complainant	*	Case No: E-0037-1
v.	*	
	*	Decision No. 2007-101
Hollis Education Association/NEA-NH	*	
Respondent	*	
	*	

---

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Hollis/Brookline Cooperative School Board ("School Board") filed an unfair labor practice complaint on May 14, 2007 alleging that the Hollis Education Association/NEA-NH ("Association") improperly demanded arbitration in violation of RSA 273-A:5 (f). The School Board contends the Association is precluded from proceeding to arbitration by virtue of the disposition of a prior grievance concerning the same subject, namely Mr. Boggis' placement on the school district's salary schedule.

As remedies, the School Board requests that the PELRB issue: 1) an injunction prohibiting the Association from continuing to demand and/or pursue arbitration in this matter; and (2) an award to the School Board of the costs it has incurred in having to seek this relief.

The Association filed its answer denying the School Board's charge on June 11, 2007. The Association contends that the School Board has mischaracterized the number of prior grievances and that in the circumstances of this case the Association is not precluded from seeking arbitration concerning Mr. Boggis' placement on the school district's salary schedule. The Association contends that the improper placement of Mr. Boggis on the district salary track is a continuing violation. At the pre-hearing, the Association also identified differences between the pending arbitration and the previously scheduled and withdrawn arbitration: The Association asserts that at the earlier arbitration the Association intended to argue that at the time of his hire Mr. Boggis' had the necessary credits to justify his placement on the "BA30" salary track. The Association contends that in the current arbitration it is making a different argument, namely that the school district made a commitment to Mr. Boggis at the time of hire which mandates the Association's currently requested placement of Mr. Boggis on the salary schedule.

Accordingly, the Association requests that the PELRB deny the School Board's requests for relief.

The undersigned Hearing Officer conducted a pre-hearing conference on June 28, 2007 at the PELRB offices, Concord, New Hampshire.

PARTICIPATING REPRESENTATIVES

For the School Board: Daniel P. Schwarz, Esq.

For the Association: Philip G. Pratt, UniServ Director  
James F. Allmendinger, Esq.

ISSUE PRESENTED FOR BOARD REVIEW

- (1) Whether the Association is barred from arbitration pursuant to Article VI, Section 4.4 of the parties' collective bargaining agreement on account of previously filed and withdrawn grievance(s), including a grievance that had been scheduled for arbitration.

WITNESSES

For the School Board:

1. Donald Boggis
2. Richard Pike
3. James Murphy
4. Ken DeBenedictis

For the Association:

1. Richard Pike
2. James Murphy
3. Donald Boggis
4. Kenneth DeBenedictis
5. Rosemary Mezzocchi
6. David Olszewski

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

### Joint Exhibits:

1. 2003-2005, Collective Bargaining Agreement
2. 2006-2009, Collective Bargaining Agreement
3. Fall 2004 Grievance Package
4. 11/5/2004 Letter from Union
5. Spring 2006 Grievance Package
6. Winter 2006 Grievance Package
7. February 13, 2007 Demand for Arbitration

### For the School Board:

7. 2003-2005, Collective Bargaining Agreement
8. 2006-2009, Collective Bargaining Agreement
9. Fall 2004 Grievance Package
10. 11/5/2004 Letter from Union
11. Spring 2006 Grievance Package
12. Winter 2006 Grievance Package
13. February 13, 2007 Demand for Arbitration

### For the Association:

1. Same as District's
2. Any additional grievance related documents as needed

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 set aside for this hearing will be one-half (½) day. 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 July 25, 2007, and 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, the parties' representatives shall meet, or otherwise confer, on or before July 25, 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 at the time written submissions are filed, or least five (5) days prior to the date of the hearing, as the case may be.

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 forward those exhibits electronically to the PELRB on or before August 8, 2007 or alternatively 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 twenty (20) 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:

**August 9, 2007 @ 9:30 AM**

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

So ordered.

July 3, 2007.

  
\_\_\_\_\_  
Douglas L. Ingersoll, Esq.  
Hearing Officer

Distribution:

Thomas M. Closson, Esq.  
Daniel P. Schwarz, Esq.  
Philip G. Pratt, UniServ Director.  
James F. Allmendinger, Esq.