



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

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Barrington Education Association/NEA-NH	*	
	*	
	*	
Complainant	*	Case No. E-0046-1
v.	*	
	*	
Barrington School District	*	Decision No. 2007-146
Respondent	*	
	*	

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PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

On September 17, 2007 the Barrington Education Association/NEA-NH ("Association") filed a complaint alleging that the Barrington School District ("District") violated RSA 273-A:5, I (a) and (e) when the District refused to bargain a reduction in force ("RIF") carried out in April, 2007 pursuant to a 1991 policy. The Association claims that a RIF is a mandatory subject of bargaining and that April, 2007 is the first time the RIF has been implemented since the 1991 policy was adopted.

As remedies, the Association requests that the PELRB order the District to 1) offer employment to laid-off employees; 2) post public notices that it violated RSA 273:A; 3) negotiate in good faith over the subject of a reduction in force; and 4) take any and all other action necessary to make the Association whole.

The District filed its answer denying the charges on September 27, 2007. The District contends that its RIF policy is not a mandatory subject of bargaining, that the District has implemented the RIF in the past without objection by or a demand to bargain from the Association, that the complaint is untimely pursuant to RSA 273-A:6, VII, and that the Association has waived its right, if any, to bargain the District RIF policy.

Accordingly, the District requests that the PELRB: 1) dismiss the complaint; and 2) grant such further relief as is appropriate and within the PELRB's jurisdiction.

The undersigned hearing officer conducted a pre-hearing conference at the PELRB in Concord on October 10, 2007.

PARTICIPATING REPRESENTATIVES

For the Association: James F. Allmendinger, Esq.  
Peter Miller, UniServ Director

For the District: Peter C. Phillips, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

- (1) Is the District's RIF policy a mandatory subject of bargaining and did the District violate RSA 273-A:5, I (a) and (e) when it refused to bargain its RIF policy?
- (2) Is the Association's complaint barred by RSA 273-A:6, VII because it was filed more than 6 months after the District adopted and/or implemented the policy?
- (3) Has the Association waived its right, if any, to demand that the District bargain its RIF policy?

WITNESSES

For the Association:

1. Walter Hart, Association President
2. Diane St. Laurent, Association Vice President
3. Peter Miller, UniServ Director

For the District:

1. Michael Morgan, Superintendent
2. Vicki Drouin, Finance Manager
3. C. Pat Bedford, Board Chair
4. Walter Hart, Association President
5. John Freeman, Principal – 1991
6. Michael Clark, Board Chair, 1991
7. Pamela Lenzi, Board Chair, 1991 (Michael Clark's predecessor)

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

For the Association:

1. Employee Lists, 2005-06, 2006-07
2. Documents related to 2007 RIF policy discussions
3. All Districts exhibits and exhibits needed to refute the District's case.

For the District:

1. District RIF Policy- 2/25/91; Board Minutes 2/25/91
2. Association's "request to bargain" 3/29/07
3. "RIF" Notice to Teacher, 4/6/07
4. District response to Association, 4/10/07
5. "RIF" Notice to Teacher, 4/10/06
6. School Board Agenda and Minutes, 11/5/03
7. School Board Agenda and Minutes, 11/19/03
8. Collective Bargaining Agreement, 2004-2009
9. Letter, Richard Carroll, 3/6/91

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 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 20 days prior to the date of the evidentiary hearing.

## DECISION

1. The parties' representatives shall meet, or otherwise confer, on or before October 21, 2007, to attempt to stipulate to the submission of this case in writing or, in the alternative, without the need for formal testimony. The parties shall file forthwith a joint statement setting forth any such agreement and include a proposed schedule for the parties' filings.
2. If the matter is to proceed to a hearing before the Board, counsel shall meet, or otherwise confer, on or before October 21, 2007 in order to agree on joint exhibits

and to compose a mutual statement of agreed facts. The parties' shall file all joint exhibits, factual stipulations, and other exhibits properly marked for identification on or before October 31, 2007. If these materials are submitted electronically the parties do not have to otherwise file the original and five copies.

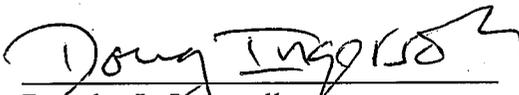
3. Counsel shall file any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, at least 5 days prior to the scheduled hearing date.
4. The parties shall file any additional preliminary, procedural or dispositive motions no later than October 17, 2007, and any responses or objections thereto shall be filed on or before October 26, 2007.
5. The District shall provide the Association with a list of 2006-2007 employees showing employee names and positions on or before October 21, 2007.
6. The Association shall provide the District with copies of the documents which constitute the "documents related to the 2007 RIF policy discussions" as referenced on its exhibit list on or before October 21, 2007.
7. 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:

**November 1, 2007 @ 9:30 a.m.**

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

So ordered.

October 10, 2007.

  
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Douglas L. Ingersoll  
Staff Counsel/Hearing Officer

Distribution:

James F. Allmendinger, Esq.  
Peter Miller, UniServ Director  
Peter C. Phillips, Esq.