

2008 SYNOPSIS

Association of Portsmouth Teachers/NEA-NH v. Portsmouth School District PELRB Case No. E-0043-1

The union filed an unfair labor practice complaint against the school district. The union alleged that the district violated RSA 273-A:5, I by failing to negotiate a new evaluation system for coaches and by its non-renewal of the varsity soccer coach who was evaluated under the new system. The district responded that the complaint should be dismissed because it was untimely and because the matter was subject to final and binding arbitration under the parties' collective bargaining agreement.

The PELRB found that the complaint was timely since it was filed within 6 months of the date when the athletic director used the new evaluations to review the coach's performance. After applying the three part "bargaining" test, the PELRB determined that the disputed teacher-coach evaluation process was a mandatory subject of bargaining. The PELRB, however, declined to reinstate the coach to his position because it found that the reinstatement was not appropriate remedy for the district's failure to bargain as to the teacher-coach evaluation process and because the district's decision to replace the coach was made in good faith and would likely had been made irrespective of evaluation. However, the PELRB ordered the evaluation to be removed from the coach's personnel file and not to be used or relied upon in the future. The PELRB found that the district committed an unfair labor practice on account of its failure to bargain the components of the teacher-coach evaluation process which affected the terms and conditions of employment. The PELRB ordered the district to cease and desist from its use of any teacher-coach evaluation plan which had not been negotiated with the union.

Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.