



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Berlin School District v. AFSCME Council 93, Local 1444

and

AFSCME Council 93, Local 1444 v. Berlin School District

Case No. E-0020-1
Case No. E-0020-2
(Consolidated Cases)
Decision No. 2012-036

Order on Motion for Review of Hearing Officer Decision

The District filed a Motion for Review of Hearing Officer Decision 2011-282 pursuant to Pub 205.01, which provides in part as follows:

(a) Any party to a hearing or intervenor with an interest affected by the hearing officer's decision may file with the board a request for review of the decision of the hearing officer within 30 days of the issuance of that decision and review shall be granted. The request shall set out a clear and concise statement of the grounds for review and shall include citation to the specific statutory provision, rule, or other authority allegedly misapplied by the hearing officer or specific findings of fact allegedly unsupported by the record.

(b) The board shall review whether the hearing officer has misapplied the applicable law or rule or made findings of material fact that are unsupported by the record and the board's review shall result in approval, denial, or modification of the decision of the hearing officer. The board's review shall be made administratively based upon the hearing officer's findings of fact and decision and the filings in the case and without a hearing or a hearing de novo unless the board finds that the party requesting review has demonstrated a substantial likelihood that the hearing officer decision is based upon erroneous findings of material fact or error of law or rule and a hearing is necessary in order for the board to determine whether it shall approve, deny, or modify the hearing officer decision or a de novo hearing is necessary because the board concludes that it cannot adequately address the request for review with an order of approval, denial, or modification of the hearing officer decision. All findings of fact contained in hearing officer decisions shall be presumptively reasonable and lawful, and the board shall not consider requests for review based upon objections to hearing officer findings of fact unless such requests for review are supported by a complete transcript of the proceedings conducted by the hearing officer prepared by a duly-certified stenographic reporter.

We have reviewed the hearing officer decision in accordance with the provisions of Pub 205.01 and unanimously approve the hearing officer's decision and deny the District's motion.

So ordered.

Date: FEB 14, 2012



Charles S. Temple, Esq., Chair

By vote of Chair Charles S. Temple, Esq. and Board Members Richard J. Laughton, Jr. and Carol M. Granfield.

Distribution:

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