



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

**Contoocook Valley Education Association, NEA-NH**

v.

**Contoocook Valley School Board**

**Case No. E-0048-6**  
**Decision No. 2013-125**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: July 24, 2013

Appearances:

James F. Allmendinger, Esq. for the Complainant

Kathleen C. Peahl, Esq. for the Respondent

Background:

Based on an unfair labor practice complaint, joint pre-hearing worksheet, and the Association's representations at the pre-hearing conference, the Association claims that the District breached the parties' collective bargaining agreement (CBA) when it refused to hear a grievance concerning an occupational therapist on the ground that occupational therapists are not members of the bargaining unit and not covered by the CBA. The Association requests that the PELRB order the District to address the grievance in accordance with the contractual grievance procedure.

The District denies that it refused to process the subject grievance and asserts, among other things, that occupational therapists are not in the bargaining unit and, therefore, the Association has no standing to file a grievance on behalf of an occupational therapist. The

District requests that the PELRB dismiss the complaint and issue a determination that professional employees are not included in the bargaining unit.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the District refused to process a grievance concerning an occupational therapist and, if so, whether the District's conduct constitutes an unfair labor practice.

#### WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their lists of witnesses and exhibits in conformity with Pub 203.01. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

#### DECISION

1. "Parties" means the Association, the District or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The Association failed to specify in its allegations which section of RSA 273-A has been violated. In accordance with Pub 201.02 (b), the Association shall file no later than **July 30, 2013** a specification identifying specific provision(s) of RSA 273-A alleged to have been violated.

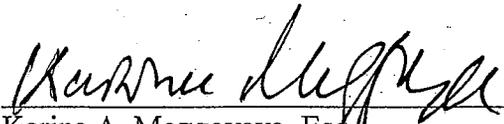
3. At the pre-hearing conference, the Association moved to continue the adjudicatory hearing currently scheduled for August 8, 2013. The District does not object to the continuance. The Association's motion to continue is granted. Accordingly, the adjudicatory hearing is rescheduled for **September 19, 2013 at 8:30 a.m.** A rescheduling notice shall issue forthwith.
4. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than 10 days prior to the date of hearing.

### HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **September 19, 2013 at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 3 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

July 24, 2013

  
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Karina A. Mozgovaya, Esq.  
Staff Counsel/Hearing Officer

Distribution:  
James F. Allmendinger, Esq.  
Kathleen C. Peahl, Esq.