



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Madison Employees' Association, NEA

v.

Madison School District

Case No. E-0074-4
Decision No. 2014-038

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: February 10, 2014

Appearances: Peter Miller, UniServ Director, for the Complainant
Matthew H. Upton, Esq., for the Respondent

Background:

On January 6, 2014 the Madison Employees' Association, NEA (Association) filed an unfair labor practice complaint claiming that the Madison School District (District) violated RSA 273-A:5, I (a) and (d)¹ when, after the parties reached impasse in contract negotiations, the District Principal called members of the Association bargaining team into his office to interrogate them about the impasse-related flyer that was printed using the District's equipment. The Association claims that the Principal's actions were intended to intimidate and coerce the Association bargaining team members. The Association requests that the PELRB order the District to cease and desist from violating RSA

¹ The Association's complaint also alleges a violation of RSA 273-A:5, I (c). See Unfair Labor Practice Complaint at 11. At the pre-hearing conference, the Association clarified that reference to RSA 273-A:5, I (c) was made in error and that it only claims violations of RSA 273-A:5, I (a) and (d). See also the parties' Joint Pre-Hearing Work Sheet filed on February 3, 2014.

273-A and to “announce at an all staff meeting and in writing that it made a mistake when it intimidated and interfered with employees exercising their rights under RSA 273-A, and when it discriminated against employees who actively participate in their union.”

The District denies the charges and asserts, inter alia, that although in the past the Association “has made incidental use of the District’s copy machine and associated supplied without complaint from the administration,” there is no agreement that entitles the Association to the unlimited use of the District’s copy machine and association supplies. The District also argues that it acted within its management rights when it inquired about the use of the District’s equipment, whether the pro-union flyer was generated during working hours, and whether it was distributed to students. The District further claims that it did not impose any discipline and did not seek reimbursement in connection with the flyer production.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the District violated RSA 273-A:5, I (a) and (d) as charged by the Association.

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.

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.

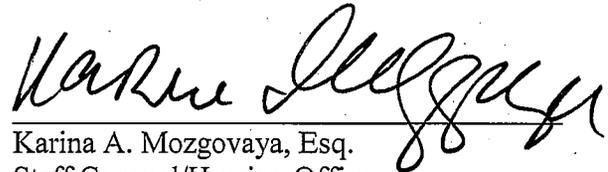
2. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **February 20, 2014**.
3. The parties shall pre-mark each exhibit and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **March 4, 2014 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.

February 10, 2014


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

Distribution:

Peter Miller, UniServ Director
Matthew H. Upton, Esq.