



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

**State Employees' Association of NH, Inc., SEIU Local 1984**

**v.**

**State of New Hampshire, Department of Health & Human Services**

**Case No. G-0148-2**  
**Decision No. 2014-118**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: May 5, 2014.

Appearances: Glenn R. Milner, Esq., for the Complainant  
Michael K. Brown, Esq., and Rosemary Wiant, Esq., for the Respondent

**Background:**

On April 4, 2014 the State Employees' Association of New Hampshire, Inc., SEIU Local 1984 (SEA) filed an unfair labor practice complaint claiming that the State of New Hampshire, Department of Health & Human Services (State) violated RSA 273-A:5, I (e), (h) and (i) when it unilaterally decided to cease an established past practice of paying Sununu Youth Services Center (SYSC) teachers and principals salary enhancements. The SEA claims that, pursuant to a "Consent Decree," which resolved a case filed in the federal court in 1986, the State instituted 15 to 20% salary enhancements for teaching personnel commencing in 1993 and that teachers and principals were compensated according to enhanced salary scales from 1993 to present time. The SEA asserts that unilateral cessation of the practice of paying employees at the enhanced pay rate

will result in 15-20% cut in pay and cause employees, who reasonably relied upon salary offers made by the State, severe economic hardship. The SEA requests that the PELRB, among other things; order the State to cease all plans to reduce teachers' salaries pending a hearing; adjudicate this case on an expedited schedule; order the State to bargain with the SEA before any salary reduction are effected; and, after the hearing, order the State to cease and desist from committing unfair labor practices.

The State denies the charges and asserts that the federal court, that retained jurisdiction over the "Consent Decree," closed the case in 2002 finding that the State substantially complied with the decree; that the State sought and instituted salary enhancements pursuant to RSA 99:8 and Adm. R. PER 904:01 in order to meet its obligations under the law; and that in review of the current teacher salaries at SYSC, "the educational environment and the current economic conditions led the Department of Health and Human Services to conclude that these salary enhancements are no longer necessary for the purposes of recruitment and retention." The State also claims that the PELRB lacks jurisdiction over this case.

#### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over the SEA's claims.
2. Whether the State violated RSA 273-A:5, I (e), (h), and/or (i) as charged by the SEA.

#### 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.

## DECISION

1. "Parties" means the SEA, the State or their counsel/representative appearing in the case.  
The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. During the pre-hearing conference, the SEA indicated that it seeks an interim cease and desist order pending the hearing; and the State indicated that it intends to move for dismissal of this case on jurisdictional grounds. As discussed at the pre-hearing conference, any request for interim relief under Pub 304.02 or for dismissal of this case shall be presented "by means of a motion." See Pub 203.04.
3. At the pre-hearing conference, the State requested continuance of the adjudicatory hearing scheduled for May 22, 2014. The State did not provide "2 alternative hearing dates that are acceptable to the parties" as required under Pub 201.08. The SEA objected to the State's request. Later on May 5, 2014, the SEA advised the PELRB that "a Motion to Continue the May 22, 2014 Adjudicatory Hearing in this matter will NOT be filed, as the 22nd does work for both parties." (Emphasis in original). Accordingly, the State's request to continue the hearing is denied without prejudice; and the adjudicatory hearing shall be held on May 22, 2014 at 8:30 a.m., as previously scheduled.
4. The parties shall file their final witness and exhibit lists and a joint statement of stipulated facts no later than May 12, 2014.
5. 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.
6. 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.

### HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **May 22, 2014, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 6 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.

May 7, 2014

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

Distribution: Glenn R. Milner, Esq.  
Michael K. Brown, Esq.  
Rosemary Wiant, Esq.