



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Farmington Education Support Professionals United, NEA-NH

v.

Farmington School District

Case No. E-0047-6

Decision No. 2014-141

Order on Request for Review of a Decision of Hearing Officer

On April 25, 2014 the District submitted a filing titled Request for Rehearing seeking “to schedule a rehearing on the Presiding Officer’s March 28, 2014 decision,” Decision No. 2014-080. On April 25, 2014 the PELRB advised the parties that it was treating this filing as a Request for Review of a Decision of Hearing Officer under Pub 205.01.¹

Pub 205.01 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

¹ Motions for rehearing are governed by Pub 205.02, which allows a party to move for a rehearing after the Board, and not the Hearing Officer, has rendered its decision. See Pub 205.02 (a) (“Any party to a proceeding *before the board* may move for rehearing with respect to any matter determined in that proceeding or included in that decision and order within 30 days *after the board has rendered its decision ...*”) (emphasis added). In this case, Decision No. 2014-080 was rendered by the Hearing Officer, and not by the Board. See *Appeal of State Employees’ Ass’n of N.H., Inc.*, 156 N.H. 426, 428 (2007) (“[A]n administrative agency must follow its own rules and regulations...”).

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.*

(Emphasis added).

Because the District's request was not supported by a duly prepared transcript of the proceedings, under Pub 205.01 (b), the hearing officer's findings of fact are not subject to review. We have reviewed the hearing officer's decision in accordance with the provisions of Pub 205.01 and unanimously approve it.

So ordered.

Date: June 4, 2014


Michele E. Kenney, Esq., Chair

By vote of Chair Michele E. Kenney, Esq., Board Member James M. O'Mara, Jr., and Board Member Richard J. Laughton, Jr.

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