



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

**State Employees' Association of New Hampshire, SEIU Local 1984**

**and**

**Community College System of New Hampshire**

**Case No. E-0165-1**  
**(Certification)**

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**State Employees' Association of New Hampshire, SEIU Local 1984**

**and**

**Community College System of New Hampshire**

**Case No. E-0076-6**  
**(Modification)**

**(Consolidated Cases)**

**Decision No. 2014-219**

Order

These proceedings involve an effort by the SEA to establish a new bargaining unit consisting of CCSNH faculty. Because CCSNH faculty is covered by an existing CCSNH bargaining unit certification (along with professionals and operating staff) the SEA filed a modification petition to remove the faculty positions from the existing unit. The SEA also simultaneously filed a certification petition, proposing a new faculty bargaining unit, and requesting a representation election to determine the exclusive representative of the new bargaining unit, if any.

The CCSNH objected to the modification petition, stating that modification of the existing unit was "unnecessary," and the "single unified bargaining unit" has proven to be a

“successful labor-relations approach.” According to the CCSNH, the needs of the faculty are adequately addressed and met through the current collective bargaining arrangement, and in particular the existing combination of faculty, professionals, and operating staff in a single bargaining unit does not hamper the creation of an “integrated agreement that addresses the needs of all CCSNH employees.” The CCSNH maintains that faculty, professionals and staff are all “appropriately represented within a single bargaining unit.” The CCSNH did not file a separate or additional answer or objection in the certification case, but instead relies on the response it filed in the modification case.

The PELRB scheduled an adjudicatory hearing on the CCSNH objections for September 3, 2014. The day before the hearing the parties notified the PELRB that a hearing was no longer required, and the PELRB instructed the parties to file their unit composition agreement. The parties then filed a September 2, 2014 Statement of Stipulated Facts and Agreement (stipulation) which recounted some bargaining unit history and stated that the parties had agreed to exclude position S1R00001 (Administrative Assistant to the Chancellor/Secretary to BOT). The stipulation states that the case can proceed “directly to an election regarding whether the faculty shall remain in the current bargaining unit structure, a separate bargaining unit, any bargaining unit, and/or be represented by the State Employees’ Association of New Hampshire. The hearing previously scheduled for September 3, 2014 is unnecessary.”

The PELRB cancelled the September 3, 2014 hearing and issued Decision No. 2014-207 (September 4, 2014) granting the modification petition and approving the agreed upon composition of the new bargaining unit, and Decision No. 2014-208 (September 4, 2014)(Order of Election). Decision No. 2014-207 states:

The PELRB will conduct a secret ballot election pursuant to RSA 273-A:10 to determine the exclusive representative of the approved unit, if any. The SEA and “No

Representative” will appear as choices on the ballot. An Order for Election shall issue forthwith and a pre-election conference shall be scheduled pursuant to Pub 303.02.

The Order of Election repeats and describes the same ballot options.

At the pre-election conference the CCSNH cited the stipulation and requested that the PELRB alter the ballot to include an option allowing employees to also vote on whether to remain in the existing bargaining unit, which is the equivalent of allowing employees to vote on whether the modification petition should be granted. The SEA objected. The stipulation mischaracterizes the ballot choices available in a PELRB election. The CCSNH request at the pre-election conference to alter the ballot was denied consistent with the PELRB’s September 4, 2014 orders and applicable laws and rules.<sup>1</sup> Under these authorities, and consistent with the manner in which the PELRB has applied the rules and law, the PELRB determines unit composition issues, including questions of unit modification, and employees vote, by secret ballot, on representation questions.

As reflected in the PELRB Pre-Election Conference Report (September 9, 2014), the CCSNH then requested that given the PELRB denial of it’s request at the pre-election conference to alter the ballot it should be allowed to withdraw from the stipulation and proceed to hearing on its objection to the modification petition. The SEA objected to that request as well. Deadlines were set for the filing of pleadings on the CCSNH request, and on September 12, 2014 the CCSNH filed an Objection of Employer and Motion to Withdraw from Stipulation (motion) to which the SEA has objected.

In its motion the CCSNH relies on the stipulation and emphasizes the need to provide employees with a chance to vote on issues including modification, stating that:

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<sup>1</sup> Relevant statutory and administrative rules applicable to the processing of these two cases include RSA 273-A:8 and A:10; Pub 301(a), (f), (g), (h), and (r); Pub 302.05; and Pub 303.06.

[T]he CCSNH strong desire was (and remains) that its faculty members be given the opportunity to decide, through a secret ballot, whether to remain in the current bargaining unit structure or to be in a separate unit. If the Board concludes that this option of election is unavailable to the faculty, the premise and reason for the CCSNH to enter the stipulation (and to forego its right to a hearing on its objection to the unit modification petition) is eviscerated, and CCSNH should be permitted to withdraw from the stipulation and proceed to a hearing on its objections before any election is ordered by the Board.

September 12, 2014 Objection of Employer and Motion to Withdraw from Stipulation  
(footnote omitted).

As to the September 3, 2014 hearing and the stipulation's references to an employee vote on modification, the parties voluntarily and on their own agreed to cancel and waive hearing and proceed directly to election. This decision and action means the parties have submitted themselves to the cited law and rules governing the election process. They did not appear at the PELRB on September 3, 2014, and before waiving hearing they did not ask the PELRB for any advance explanation of the election process. Further, both parties had sufficient notice of the applicable law and rules, as well as additional information maintained on the PELRB website about the election process, which includes a description of ballot choices, see <http://www.nh.gov/pelrb/procedure/represent.htm#2-g>. The only information the PELRB requested when the parties advised that the September 3, 2014 hearing was no longer necessary was the new unit composition agreement, information needed to prepare and issue the September 4, 2014 orders on the modification and certification petitions and begin the election process. This information was provided in the stipulation. The stipulation itself cannot otherwise encumber or interfere with the election proceeding, which is under the control and direction of the PELRB and subject to the cited law and rules.

In conclusion, the CCSNH argument that the PELRB's use of a ballot which contains the choices "State Employees Association of New Hampshire, SEIU Local 1984" and "No

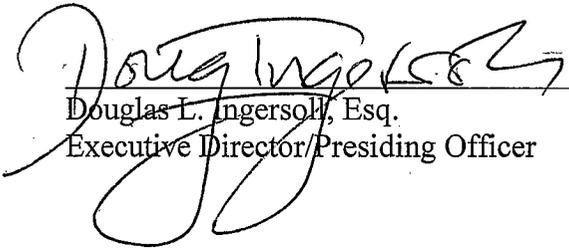
Representative” means that a hearing on the modification petition must be held is not persuasive. Nothing in the provisions of RSA 273-A or N.H. Admin. Rules, Pub 100-300 requires such a result in the circumstances of this case. In this regard it should be noted that the CCSNH objection to the modification was designed to maintain the CCSNH bargaining unit status quo, block the requested removal of the faculty positions, and prevent any election from taking place. The CCSNH did not propose an employee vote on the modification petition.

In any event, the CCSNH current interest in providing employees with an opportunity to vote will generally be served by the conduct of the currently scheduled secret ballot election. The election shall proceed, and ballots will be mailed to eligible voters on September 18, 2014 and tallied on October 2, 2014 at the PELRB office in Concord. The CCSNH motion is denied.

So ordered.

Date:

9/18/2014

  
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Douglas L. Ingersoll, Esq.  
Executive Director/Presiding Officer

Distribution: John S. Krupksi, Esq.  
Joseph P. McConnell, Esq.