



State of New Hampshire
Public Employee Labor Relations Board

Gilford Education Association/NEA-New Hampshire

v.

Gilford School District

Case No. E-0209-2
Decision No. 2018-038

Pre-Hearing Memorandum and Order

Date of Conference:

April 2, 2018

Appearances:

Christopher Long, UniServ Director, for the Complainant

Michael S. Elwell, Esq., for the Respondent

Background:

On February 2, 2018, the Gilford Education Association/NEA-New Hampshire (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Gilford School District (District) has violated RSA 273-A:5, I (a), (b), (c), (e), (g), (h), and (i). The Association alleges, among other things, that, under a long standing past practice, the teachers had been granted 60 minutes of individual preparation time and 60 minutes of teaching team preparation time daily, during which they were not assigned any other duty. The Association claims that the District committed an unfair labor practice when it unilaterally eliminated a 60-minute teaching team preparation period in the Middle School by assigning teachers to monitor study hall. The Association requests, among other things, that the

PELRB find that the District has committed an unfair labor practice and order the District to reinstate the eliminated team preparation time, to comply with the terms and conditions of the collective bargaining agreement (CBA) and the existing past practice, and to cease and desist from requiring the Middle School teachers to monitor study hall.

The District denies the charges and asserts, among other things, that, under the CBA, a teacher is entitled to a total of 45 minutes of preparation time daily, that the Middle School teachers receive significantly more preparation time than the CBA calls for, and that there is no established past practice as claimed by the Association. The District also argues that the complaint fails to state a claim upon which relief may be granted and is barred by the six month statute of limitations set forth in RSA 273-A:6, VII, by the Association's failure to exhaust the grievance procedure, and by the doctrines of waiver, estoppel, laches, and unclean hands. The District requests that the PELRB dismiss the complaint.

Issues for Determination by the Board

1. Whether the PELRB has jurisdiction over the Association's claims.
2. Whether the District violated RSA 273-A:5, I (a), (b), (c), (e), (g), (h), and/or (i).

Witnesses and Exhibits

As outlined in the parties' Pre-Hearing Worksheets. 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 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. On March 30, 2018, the Association filed a motion to amend the complaint. The District does not object to this motion. Accordingly, the Association's motion to amend is granted. See Pub 201.04.
3. As discussed at the pre-hearing conference, any request for specific relief, including motions to dismiss, shall be presented by means of a motion and shall be in written form. See Pub 203.04 (a) and (b) and Pub 201.01 (j).
4. On March 30, 2018, the Association filed a motion to continue the hearing. The District does not object to the continuance. At the pre-hearing, the parties proposed the following alternative hearing dates: May 7, 8, 22, 30, and 31 of 2018. The Association's motion to continue is granted. Accordingly, the hearing scheduled for April 16, 2018 is cancelled. A new hearing date shall be established in a subsequent notice of rescheduled hearing.
5. The parties shall exchange and file a joint statement of stipulated facts and their final witness and exhibit lists no later than 10 days prior to the date of hearing. 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.
6. The requirement that the parties file copies of proposed exhibits prior to the date of 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 copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

So ordered.

Date: 4/3/2018


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

Distribution: Christopher Long, UniServ Director
Michael S. Elwell, Esq.