



State of New Hampshire
Public Employee Labor Relations Board

Keene School District

v.

Association of Keene Tutors, NEA-New Hampshire

Case No. E-0222-1
Decision No. 2018-067

Pre-Hearing Memorandum and Order

Date of Conference:

May 16, 2018

Appearances:

Brooke Lovett Shilo, Esq. and Lauren S. Irwin, Esq. for the
Complainant

Lauren Snow Chadwick, Esq. for the Respondent

Background:

On April 13, 2018, the Keene School District (District) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Association of Keene Tutors, NEA-New Hampshire (Association) has violated RSA 273-A:5, II (d) (to refuse to negotiate in good faith with the public employer) when it presented false and misleading information to the public in its "Go Fund Me" post during the pendency of a grievance, thereby engaging in coercive behavior. The District requests that the PELRB find that the Association refused to negotiate in good with the District in violation of RSA 273-A:5, II (d) and order the Association to post a correction that accurately sets forth the facts, apologize to the District and the public for the misleading information, and remove any other reference to the "Go Fund Me"

post in any social media or other Association's publication. The District also requests that the PELRB award the District all costs and fees associated with the administration of this dispute, including administrative fees paid to the PELRB, as well as attorneys' fees and costs incurred by the necessity of filing this ULP charge.

The Association denies the charge and asserts, among other things, that the District failed to state a claim upon which relief may be granted because, at the time the "Go Fund Me" page was posted, the parties were not engaged in any negotiations and the grievance was no longer pending because the Association had already withdrawn it. The Association also claims that the statements in its "Go Fund Me" post were factually true, did not materially harm the District, and were within the Association's right to engage in concerted activity. The Association requests that the PELRB dismiss the complaint.

Issues for Determination by the Board.

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

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 District, the Association or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.

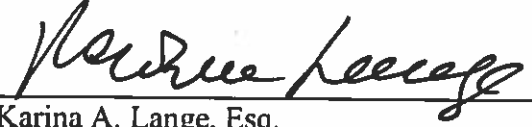
2. The parties shall exchange and file a joint statement of stipulated facts and their final witness and exhibit lists no later than **June 11, 2018**.
3. The requirement that the parties file copies of proposed exhibits prior to the date of hearing is suspended. The parties shall not file, either electronically 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.

Hearing

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **June 19, 2018 @ 8:30 a.m.**, at the offices of the PELRB in Concord. The time set aside for this hearing is 4 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 ten days prior to the date of hearing.

So ordered.

Date: 5/17/2018



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

Distribution: Lauren S. Irwin, Esq.
Lauren Snow Chadwick, Esq.
Brooke Lovett Shilo, Esq.