



**State of New Hampshire**  
Public Employee Labor Relations Board

**Dover Teachers' Union, NEA-NH**

v.

**Dover School District**

and

**Dover Paraprofessional Association, NEA-NH**

v.

**Dover School District**

**Case No. E-0067-3**

**Case No. E-0224-1**

**Decision No. 2018-113**  
**(Consolidated)**

Pre-Hearing Memorandum and Order

Date of Conference: July 25, 2018

Appearances: Peter Miller, UniServ Director, for the Complainant

Meghan S. Glynn, Esq., and James O'Shaughnessy, Esq., for the Respondent

Background:

On June 13, 2018, the Dover Teachers' Union, NEA-NH and the Dover Paraprofessional Association, NEA-NH (Unions) filed unfair labor practice complaints under the Public Employee Labor Relations Act asserting that the Dover School District (District) had violated RSA 273-A:5, I (e)(to refuse to negotiate in good faith with the exclusive representative of a bargaining unit...), (g)(to fail to comply with this chapter or any rule adopted under this chapter), and (h)(to breach a collective bargaining agreement). The Unions claim that the District violated

an established past practice and unilaterally changed conditions of employment when it allowed a relative of a student to be present in the classroom for the full day from June 4, 2018 to June 22, 2018. The Unions allege that the relative/volunteer did not have appropriate credentials and that the District did not require the relative to abide by the District's policies or rules. The Unions claim that allowing a relative/volunteer to be present in the classroom inhibited employees' ability to protect student confidentiality, distracted employees from their work duties, and altered employees' work duties by requiring them to monitor and supervise the relative. The Unions also claim that the relative was performing functions normally performed by bargaining unit employees. The Unions request that the PELRB order the District to cease and desist from permitting volunteers to monitor students on school grounds for extended time periods.

The District denies the charges and claims, among other things, that the volunteer did not perform bargaining unit work and that the decision to utilize a volunteer is a matter of managerial policy under RSA 273-A:1, IX and the parties' CBA. The District also argues that the complaints are insufficient as a matter of law; that the Unions failed to identify a single provision in either CBA that the District has allegedly violated; and that the complaints fail to state a claim upon which relief can be granted. The District also claims that the complaints are moot because the presence of a relative in the classroom was on a temporary and emergency basis. The District requests that the PELRB find that the District has not committed an unfair labor practice and deny the remedies requested by the Unions.

Issues for Determination by the Board.

Whether the District violated RSA 273-A:5, I (e), (g) and/or (h) as charged by the Unions.

### Decision

1. "Parties" means the Unions, 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. At the pre-hearing conference, the parties addressed a consolidation of two above captioned cases. The parties did not object to the consolidation. Accordingly, Case No. E-0224-1 and Case No. E-0067-3 are consolidated for purposes of hearing and decision.
3. At the pre-hearing conference, the District submitted a motion to seal the proceedings and all associated documentation in this case. The Unions agreed to file an answer to the District's motion, if any, on or before **August 6, 2018**.
4. At the pre-hearing conference, the Unions indicated that they intend to amend their request for relief. Any motion to amend shall be filed on or before **August 15, 2018**. See Admin. Rule Pub 201.04. See also Admin. Rule Pub 203.04 (a).
5. The District indicated that it inserted a request for subpoenas in its motion to seal. As discussed at the pre-hearing conference, any request for a subpoena shall be submitted by a separate motion and shall comply with the requirements of Admin. Rule Pub 203.01 (d).
6. The parties shall exchange final lists of witnesses and exhibits no later than 15 days prior to the date of hearing. 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.
7. The parties shall file with the PELRB final lists of witnesses and exhibits no later than 10 days prior to the date of hearing. As discussed at the pre-hearing conference, all non-joint

exhibits on the lists shall be pre-marked as either ID (if objected to) or Full by Agreement.

8. The parties shall file a joint statement of stipulated facts no later than 10 days prior to the date of hearing.
9. 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

The hearing date will be established by a subsequent notice. 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: 7/26/2018

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

Distribution: Peter Miller, UniServ Director  
Meghan Glynn, Esq.