



State of New Hampshire
Public Employee Labor Relations Board

Raymond Education Association, NEA-New Hampshire

v.

Raymond School District

Case No. E-0104-3
Decision No. 2018-142

Pre-Hearing Memorandum and Order

Date of Conference: August 30, 2018

Appearances: Peter Miller, UniServ Director, for the Complainant
Peter C. Phillips, Esq., for the Respondent

Background:

On July 24, 2018, the Raymond Education Association, NEA-New Hampshire (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Raymond School District (District) had violated RSA 273-A:5, I (c) and (d) when it non-renewed a bargaining unit employee in retaliation for her union activity. The Association alleges, among other things, that the subject employee was a union representative; that she met with the Principal on a monthly basis to discuss employment issues; and that, in May, 2017, she disagreed with the Principal when he refused to allow kindergarten students' families inside the school while he permitted parents of another grade level students into the classrooms. The Association asserts that, despite her numerous positive performance reviews, the Principal recommended her for non-renewal, which was approved by the

Superintendent, because she disagreed with him and in retaliation for her union activity. The Association requests that the PELRB order the District to offer a teaching job to the subject teacher.

The District denies the charges and asserts that the subject teacher's involvement in union activity was "modest at best" and did not involve any conflict with the building administration (allegedly, she has never filed a written grievance on behalf of bargaining unit members). The District further asserts that the subject teacher was non-renewed because of her "declining work performance," and not in retaliation for her union activity. The District claims that, as at the time of her nonrenewal, the teacher had not yet completed five consecutive years of teaching for the District, she was not entitled to receive the reasons for her non-renewal or to request a hearing before the School Board under RSA 189:14-a; and that, under Article VIII of the parties' collective bargaining agreement, teacher non-renewals are excluded from the definition of "discipline" and are otherwise governed by RSA 189. The District requests that the PELRB dismiss the complaint and deny all Association's requests for relief.

Issues for Determination by the Board.

Whether the District violated RSA 273-A:5, I (c) and/or (d) as charged by the Association.

Witnesses and Exhibits

As outlined in the Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their lists of witnesses and exhibits in conformity with Pub 203.01.

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. At the pre-hearing conference, the parties indicated that they intend to file an assented to motion to continue the hearing scheduled for October 12, 2018. Any such motion shall be filed as soon as possible and shall satisfy the requirements set forth in Admin. Rule Pub 201.08.
3. 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.
4. 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. The parties shall familiarize themselves with exhibits prior to the hearing.
5. The parties shall file a joint statement of stipulated facts no later than 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.

Hearing

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **October 12, 2018, at 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 10 days prior to the date of hearing.

So ordered.

Date: 8/31/2018



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

Distribution: Peter Miller, UniServ Director
Peter C. Phillips, Esq.