

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

**AFSCME Council 93, Local 534, AFL-CIO**

**and**

**Town of Moultonborough**

**Case No. G-0270-1**  
**Decision No. 2018-206**

Order

On October 19, 2018, the AFSCME Council 93, Local 534, AFL-CIO (Union) filed a Status Report and Request to Hold Election in the above captioned case. The Union requests that the PELRB hold a representation election despite the fact that the bargaining unit currently contains only eight employees. See Pre-Election Conference Report. The Town of Moultonborough (Town) objects to the request on the ground that RSA 273-A:8 prohibits the PELRB from certifying a bargaining unit of fewer than 10 employees.

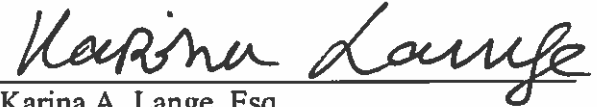
RSA 273-A:8, I provides that “[i]n no case shall the board certify a bargaining unit of fewer than 10 employees with the same community of interest.” In addition, the Supreme Court stated in *Appeal of Town of Deerfield*, 162 N.H. 601, 604 (2011), that “the governing statute plainly states that the PELRB may not certify a bargaining unit that contains fewer than ten employees [and] [t]he PELRB may not modify this requirement.” Based on the foregoing, the Union’s request to hold an election is denied without prejudice.

As the Town indicated during the pre-election conference and in its objection that it

expects to fill the two vacant bargaining unit positions, the parties shall submit a status report concerning whether the vacancies have been filled on or before **January 18, 2019**, at which time a further order shall be issued as appropriate and necessary.

So ordered.

Date: 11/20/2018

  
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