



State of New Hampshire
Public Employee Labor Relations Board

Tamworth Educational Support Personnel Association, NEA-NH

v.

Tamworth School District

Case No. E-0025-3
Decision No. 2019-008

Pre-Hearing Memorandum and Order

Date of Conference: January 9, 2019

Appearances: Peter Miller, UniServ Director, for the Complainant
Matthew H. Upton, Esq., for the Respondent

Background:

On December 3, 2018, the Tamworth Educational Support Personnel Association, NEA-NH (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Tamworth School District (District) had violated RSA 273-A:5, I (a), (b), (c), (e), (g), and (h) when it refused to recognize a newly-hired Food Service Supervisor as a bargaining unit employee. The Association alleges, among other things, that the subject bargaining unit includes the position of Head Cook; that this position has been vacant from 2010 to 2018; that in 2018 the District hired an employee with the title of "Food Service Supervisor"; that the duties of the Food Service Supervisor are nearly identical to the duties of the Head Cook; and that the District refused to treat the Food Service Supervisor as a bargaining unit employee. The Association asserts that the District's refusal to treat the Food Service Supervisor as a bargaining unit employee constitutes an unfair labor practice and requests, among other things,

that the PELRB order the District to recognize the Food Service Supervisor as a member of the bargaining unit and order the District to negotiate in good faith with the Association over the terms and conditions of the Food Service Supervisor's employment.

The District denies the charges and asserts that the Food Service Supervisor is a new position that provides a graded range of services than those provided by the Head Cook. The District also argues that the proper way to resolve the dispute over the new position is through the bargaining unit modification process. The District requests that the PELRB deny the Association's requested remedies and require the Association to reimburse the District for its attorney's fees for responding to this charge.

Issues for Determination by the Board.

Whether the District violated RSA 273-A:5, I (a), (b), (c), (e), (g), and (h) 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. The parties shall exchange final lists of witnesses and exhibits no later than 10 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.

3. The parties shall file with the PELRB final lists of witnesses and exhibits no later than 7 days prior to the date of hearing. All non-joint exhibits on the lists shall be pre-marked as either "ID" (if objected to) or "Full by Agreement."
4. The parties shall file a final statement of stipulated facts no later than 7 days prior to the date of hearing.
5. 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.

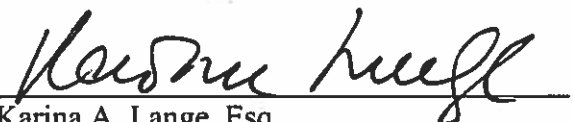
Hearing

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **January 23, 2019, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 2.5 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:

1/10/2019


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

Distribution: Peter Miller, UniServ Director
Matthew H. Upton, Esq.