



State of New Hampshire
Public Employee Labor Relations Board

**Jaffrey Rindge Education Association,
Affiliated with NEA-NH**

v.

Jaffrey Rindge School District

**Case No. E-0151-3
Decision No. 2019-069**

Pre-Hearing Memorandum and Order

Date of Conference: March 28, 2019

Appearances: Rachel Hawkinson, UniServ Director, for the Complainant
Michael S. Elwell, Esq., for the Respondent

Background:

On February 25, 2019, the Jaffrey Rindge Education Association, affiliated with NEA-NH (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Jaffrey Rindge School District (District) had violated RSA 273-A:5, I (a), (b), (e), (g), and (h) when it unilaterally changed the bargaining unit employees' daily schedule by adding an "advisory" period.¹ The Association alleges, among other things, (1) that on August 29, 2018, the employees were notified that the District added an "advisory" period to

¹According to the parties, an "advisory" is a 20-minute class during which a non-academic program, such as team-building or time management, is taught to a group of students.

their schedule; (2) that in September of 2018,² the Association objected to this change; and (3) that despite several representations that it would work with the Association on creating a mutually agreed-upon schedule for 2018-2019 school year, the District eventually refused to negotiate. The Association requests, among other things, that the PELRB order the District (1) to cease and desist from interfering with the administration of the Association and the employees' statutory rights; (2) to eliminate the advisory period and revert to the 2017-2018 class schedule; and (3) to make the bargaining unit employees whole.

The District denies the charge and asserts, among other things, that the Association President was a member of the joint committee that recommended the "advisories;" that the changes to the class schedule, including the "advisories," were presented to the faculty on May 14, 2018; and that the Association President actively advocated for the "advisories." The District also argues that the addition of the "advisories" is within the education policy within the District's managerial prerogative and is in accordance with the terms of the parties' collective bargaining agreement (CBA). According to the District, it was willing to negotiate the impact of the change in schedule with the Association but the Association has never requested to bargain the impact. The District also asserts that (1) the complaint is barred by the RSA 273-A:6, VII six-month limitation period because the Association was notified of the schedule change in May of 2018; (2) the complaint is barred by waiver, estoppel, laches, and unclean hands because the District was entitled to rely upon the then-Association President's support for the schedule change and because changing the schedule in the middle of the 2018-2019 school year is prejudicial to the District; (3) the complaint fails to state a claim upon which relief may be

²Although the Association stated in its complaint that it notified the District of its objection in October, 2018, at the pre-hearing conference, the parties indicated that the Association actually objected to the change in September, 2018. See also March 22, 2019 Joint Pre-Hearing Worksheet, page 5, at 9.

granted; and (4) the complaint is barred by the Association's failure to exhaust the CBA grievance procedure. The District requests that the PELRB dismiss the complaint.

Issues for Determination by the Board

1. Whether the complaint was timely under RSA 273-A:6, VII and Admin. R. Pub 201.02 (a).
2. Whether the District violated RSA 273-A:5, I (a), (b), (e), (g), and/or (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. As discussed at the pre-hearing conference, the April 16, 2019 hearing is continued due to the scheduling conflict. The new hearing date will be established in the subsequent hearing notice. On or before April 4, 2019, the parties shall file with the PELRB six proposed hearing dates, for the period starting May 13, 2019, which are acceptable to both parties.
3. The parties shall exchange and file with the PELRB final lists of witnesses and exhibits and a statement of stipulated facts no later 10 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." 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 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.
5. 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: 3/28/2019



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

Distribution: Rachel Hawkinson, UniServ Director
Michael S. Elwell, Esq.