



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

**Hollis Education Association, NEA-NH**

**v.**

**Hollis School District / Hollis-Brookline Cooperative School District**

**Case No. E-0037-5**  
**Decision No. 2019-194**

**Order**

This is an order on the Association's motion for a cease and desist order. The case arises out of a new middle school schedule which the District developed during the course of the 2018-19 school year and which the school board approved on June 19, 2019. According to the Association, the new schedule changes some terms of Article 10 (titled "Working Conditions") of the July 1, 2018 to June 30, 2021 collective bargaining agreement (CBA), as recited in more detail in the Association's filings. For example, the Association claims that CBA Article 10.6.2, providing that full time staff "shall be assigned the equivalent of 5 teaching periods per day" (225 minutes each day), has been changed in the new schedule to 258 teaching minutes on one day each week and to less than 225 teaching minutes on another day each week.

On July 22, 2019 the Association filed a Level B grievance charging violations of CBA Articles 1.1, 10.6, and 15.2. A Level C grievance is now pending before the school board. The last step of the CBA grievance procedure is binding arbitration. On August 15, 2019 the Association filed an unfair labor practice complaint, a motion for a cease and desist order, and a supporting memorandum of law. In the complaint the Association charges that the District has violated RSA 273-A:5, I (a)(to restrain, coerce or otherwise interfere with its employees in the exercise of the rights conferred by this chapter); (b)(to dominate or to interfere in the formation

or administration of any employee organization); (e)(to refuse to negotiate in good faith with the exclusive representative of a bargaining unit, including the failure to submit to the legislative body any cost item agreed upon in negotiations); (g)(to fail to comply with this chapter or any rule adopted under this chapter); and (h)(to breach a collective bargaining agreement).

On August 22, 2019 the District filed an objection to the motion for a cease and desist order together with a supporting memorandum of law. According to the District, it has not violated Article 10, and it has the right to make the disputed schedule changes unilaterally as part of its managerial prerogative. The District also argues the PELRB lacks jurisdiction given the pending grievance which is subject to binding arbitration.

The PELRB's authority to issue a cease and desist order pending a hearing on an unfair labor practice charge is set forth by statute and administrative rule, relevant portions of which are as follows:

**RSA 273-A:6 Violations.**

I. The board shall have primary jurisdiction of all violations of RSA 273-A:5...

III. The board may issue a cease and desist order if it deems one necessary in the public interest, pending the hearing.

**Pub 304.02 Interim Orders.**

(a) When the board considers it to be in the public interest, it shall issue a cease and desist order under RSA 273-A:6, III pending a hearing under Pub 201.05.

(b) The board shall issue such an order for reasons to include, but not limited to:

- (1) Protection of the public safety;
- (2) To avoid prejudice to one party or another; or
- (3) To avoid irreparable harm.

We find that the Association has not met its burden of showing that it is entitled to a cease and desist order pending a hearing, and accordingly the motion is denied. In reaching this conclusion we have considered the changes caused by the new schedule which, according to the

Association's version of events, appear to reconfigure the middle school teacher's work week in several areas. We have also factored in the potential disruption to students that might result in the issuance of a cease and desist order at the start of the new school year and before a hearing has been held to develop a more complete record for decision. We believe the appropriate course of action here is to deny the motion and allow both parties to present their cases, either in a hearing on the merits before this board, or in an arbitration proceeding (in the event the grievance advances to arbitration), and have the relief to which the Association may be entitled determined thereafter.

Our decision is limited to the question of whether we should exercise our discretion under RSA 273-A:6, III to grant the pending motion, which we have declined to do. The parties should not construe our denial of the Association's motion as a preliminary finding that the District's conduct did not violate any sub-sections of RSA 273-A:5, I as charged, or on any other issue.

August 30, 2019

/s/ Peter G. Callaghan

Peter G. Callaghan, Esq.,  
Chair/Presiding Officer

So ordered.

Alternate Chair Peter C. Callaghan, Esq., Board Member Richard J. Laughton, Jr., and Board Member James M. O'Mara, Jr.

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