



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

**Milford Teachers Association, NEA-New Hampshire**

v.

**Milford School District**

**Case No. E-0156-5**

**Decision No. 2020-059**

Pre-Hearing Memorandum and Order

Date of Conference: March 13, 2020

Appearances: Lorri Hayes, UniServ Director, for the Complainant

James A. O'Shaughnessy, Esq., for the Respondent

Background:

On February 11, 2020, the Milford Teachers Association, NEA-New Hampshire (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Milford School District (District) had violated RSA 273-A:5, I (a), (b), (c), (e), (g), (h), and (i) when it unilaterally, and without notice, revoked a long standing past practice and violated the grievance provisions of the parties' collective bargaining agreement (CBA). The Association alleges, among other things, that: (1) since 2007, there had been a long standing past practice of providing part time teachers twelve sick leave days with every new school year; (2) during the negotiations on 2019-2023 CBA, as during previous contract negotiations, the Association proposed that part time employees receive leave, health, dental, and other benefits on pro rata basis; (3) as during previous contract negotiations, the District rejected

this proposal and the Association subsequently withdrew it; (4) like prior CBAs, the 2019-2023 CBA does not address part time employees' leave benefits; (5) on September 5, 2019, the District informed a bargaining unit employee that it will no longer provide sick leave benefits to part time teachers; (6) on September 9, 2019, the Association filed a grievance concerning this change and eventually requested arbitration under the CBA grievance procedure; (7) the District refused to advance the grievance to arbitration; and (8) the District's actions constitute an unfair labor practice. The Association requests that the PELRB order the District to comply with the grievance procedure and proceed to arbitration. In the alternative, the Association requests, among other things, that the PELRB find that the District violated RSA 273-A:5, I (a), (b), (c), (e), (g), (h), and (i) and order the District to cease and desist from further violations.

The District denies the charge and asserts, among other things, that: (1) the "unambiguous" terms of the 2019-2023 CBA limit sick leave benefits to full time teachers; (2) under *Appeal of State Employees' Assoc. of N.H., Inc., SEIU, Local 1984*, 171 N.H. 391 (2018), the Association's withdrawal of its bargaining proposal that had been rejected by the District, and subsequent signing of the CBA, ended the past practice of providing sick leave to part time employees; (3) the District's rejection of the proposal provided sufficient notice to the Association that the District intended to discontinue the past practice; and (4) the Association's grievance concerning part time employees' sick leave benefits is not substantively or procedurally arbitrable as the CBA does not address part time employees' sick leave. The District also argues that the Association has failed to state a claim upon which relief can be granted and that the PELRB lacks jurisdiction over the Association's claim because the Association failed to exhaust the contractual grievance procedure. However, the District agrees that the PELRB has jurisdiction to determine whether the Association's grievance is substantively arbitrable. The

District requests that the PELRB find that the District did not commit an unfair labor practice and deny the Association's requested relief.

Issues for Determination by the Board


Whether the District violated RSA 273-A:5, I (a), (b), (c), (e), (g), (h), and/or (i) as charged by the Association.

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. During the pre-hearing conference, the parties jointly requested to submit this case for decision on stipulated facts, joint exhibits, and briefs and proposed a filing schedule. The parties' request is granted and the proposed filing schedule is approved. Accordingly, the March 30, 2020 hearing is cancelled. The parties shall file a statement of stipulated facts and joint exhibits on or before **April 13, 2020**. The opening briefs shall be filed no later than **May 13, 2020** and the reply briefs, if any, shall be filed no later than **May 28, 2020**.

So ordered.

Date: 3/16/2020

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

Distribution: Lorri Hayes, UniServ Director  
James A. O'Shaughnessy, Esq.