



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

**New Hampshire Troopers Association**

v.

**State of New Hampshire, Department of Safety**

&

**New Hampshire State Police Command Staff, New Hampshire Troopers Association**

v.

**State of New Hampshire, Department of Safety, Division of State Police**

**Case No. G-0097-25**

**Case No. G-0222-8**

**(Consolidated Cases)**

**Decision No. 2020-145**

Pre-Hearing Memorandum and Order

Date of Conference: July 10, 2020

Appearances (WebEx): John Krupski, Esq. for the Complainant

Marta Modigliani, Esq. for the Respondent

Background:

On May 29, 2020, the New Hampshire Troopers Association and New Hampshire State Police Command Staff, New Hampshire Troopers Association, filed unfair labor practice complaints against the State of New Hampshire, Department of Safety (DOS) under the Public Employee Labor Relations Act claiming that the DOS had violated RSA 273-A:5, I (a), (e), and (g) when it refused to negotiate the impact of a unilateral change in employees' job duties. Specifically, the complainants allege that: (1) in February of 2020, the DOS ordered the bargaining

unit employees to process and respond to requests for information from the public under RSA 91-A (Right to Know Act); (2) prior to February, 2020, "the processing of RSA 91-A requests was completed by attorneys in the Legal Department of the [DOS] due to the important and technical nature of the application of RSA 91-A"; (3) the Associations requested that the DOS bargain the impact of the change to the employees' workload; and (4) the DOS refused to meet with the Associations to negotiate the impact, thereby breaching its duty to negotiate in good faith, among other things. The complainants request that the PELRB find that the DOS committed an unfair labor practice and order the DOS to cease and desist from any further violations and to make any adversely affected employees whole.

The DOS denies the charges and asserts, among other things, that: (1) the complainants failed to state a claim upon which relief may be granted; (2) the DOS' actions fall within its managerial prerogative under RSA 273-A:1, XI and the parties' CBAs; and (3) by sending their correspondence regarding impact bargaining to the Colonel, instead of the Manager of Employee Relations, the Associations "failed to recognize the exclusive representative status of the State by failing to communicate with the Manager of Employee Relations" as required under RSA 273-A:9. The DOS requests that the PELRB dismiss the complaints or declare that the DOS did not commit an unfair labor practice.

#### Issues for Determination by the Board

Whether the DOS violated RSA 273-A:5, I (a), (e), and/or (g) as charged by the Associations.

#### Witnesses and Exhibits

As outlined in the Joint Pre-Hearing Worksheets. 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.

### Decision

1. "Parties" means the Associations, the DOS or their counsel/representative appearing in the cases. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The above captioned cases have been consolidated for purposes of hearing and decision. See PELRB Decision Nos. 2020-142 and 2020-143. Accordingly, the hearing previously scheduled for July 24, 2020 is cancelled and the hearing on the consolidated cases will be held on **July 28, 2020, at 9:00 a.m.** See Hearing section below. A Hearing Notice shall issue forthwith.
3. The hearing in these consolidated cases shall be conducted via WebEx video. The PELRB Guidelines for WebEx Video Hearings ("Guidelines") are attached to this pre-hearing order and incorporated by reference.
4. The testimony of all witnesses shall be presented in accordance with the procedures set forth in the Guidelines.
5. All exhibits shall be exchanged, marked, and filed with the PELRB in accordance with the Guideline instructions.
6. A comprehensive statement of stipulated facts shall be filed with the PELRB no later than 3 days prior to the date of hearing.
7. The parties shall ensure that witnesses are familiar with the WebEx platform and have access to technology necessary to participate in a WebEx hearing.

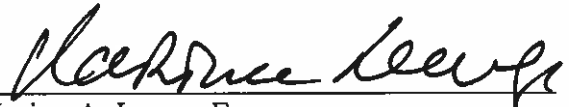
### Hearing

Unless otherwise ordered, the hearing in these consolidated cases will be conducted virtually by WebEx on **July 28, 2020, at 9:00 a.m.** The PELRB will issue the WebEx hearing invitation at least five business days prior to the hearing, and 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, together with a detailed explanation of the basis for the request, shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

Date: 7/13/2020

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

Distribution: John S. Krupski, Esq.  
Marta Modigliani, Esq.



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

Guidelines for WebEx Video Hearings

Introduction: These are general guidelines applicable to PELRB WebEx video hearings which are subject to revision, and which may be altered, amended, or supplemented in a pre-hearing order.

**1. Record:** The PELRB shall make and maintain the official audio recording of WebEx video hearings using the PELRB's existing digital recording equipment. The presiding officer will indicate when the proceedings are being recorded by stating "on the record," "off the record," or similar phrases. The PELRB record shall be used by the parties for all purposes in the case.

**2. Exhibits:** All hearing exhibits shall be exchanged, marked, and filed with the PELRB as follows:

a. At least 7 days prior to hearing the parties shall exchange exhibit lists and exhibits. The parties shall determine whether each exhibit will be marked for identification only, as one party's full exhibit by agreement, or as a joint exhibit.

b. An exhibit marked for identification only shall be marked "Union Ex. 1 id" or "City Ex. A id," depending on which party is offering the exhibit.

c. An exhibit marked as one party's full exhibit by agreement shall be marked "Union Ex. 1" or "City Ex. A," depending on which party is offering the exhibit.

d. A joint exhibit shall be marked "Joint Ex. 1."

e. Each party's final exhibit list shall indicate which exhibits are only marked for identification.

f. A separate joint exhibit list shall be prepared if applicable.

g. All final exhibit lists and exhibits must be emailed to the PELRB at least 3 business days prior to hearing. Any exhibit that cannot be emailed must be delivered to the PELRB at least 3 business days prior to hearing. The Admin. Rule Pub 203.03 (c) 100 page limit on electronic submissions is suspended until further notice.

**3. Witnesses:**

- a. The parties are responsible for ensuring witnesses are familiar with WebEx and have access to technology and connections necessary to participate in a WebEx proceeding.
- b. The parties are responsible for ensuring witnesses are available for examination at all times throughout a WebEx proceeding unless excused from the proceeding by the presiding officer.
- c. No one else shall be present in the room where a witnesses is testifying by WebEx, and witnesses may not consult with anyone during testimony and should not look at or make references to notes or any other documents other than pre-marked exhibits except as permitted by the presiding officer.
- d. The parties are responsible for ensuring that witnesses have access to any exhibits about which they are questioned.
- e. Witnesses shall only respond to questions asked by party representatives, the presiding officer, or PELRB members. In the event of an objection, witnesses shall refrain from answering the pending question until the presiding officer has ruled.
- f. Any witness whose testimony cannot be presented in accordance with these instructions shall be directed to appear at the PELRB on the hearing date, where they will be provided with WebEx access in the PELRB hearing room. The parties shall notify the PELRB of all such witnesses at least three business days prior to the hearing date.

**4. Party Representatives:**

- a. Only representatives who have filed a case or have filed an appearance on behalf of a party may address the PELRB on behalf of a party. Others may address the PELRB only with the presiding officer's permission.
- b. In the event multiple representatives attempt to speak at once, the party whom the presiding officer recognizes shall speak first.
- c. Representatives should raise any anticipated technical issues or difficulties with a scheduled WebEx hearing prior to any pre-hearing conference or, in the absence of a pre-hearing or status conference, at least 14 days prior to the hearing date.