



State of New Hampshire
Public Employee Labor Relations Board

Farmington Education Support Professionals United, NEA-NH

and

Farmington School District

Case No. E-0047-7
Decision No. 2020-167

Pre-Hearing Memorandum and Order

Date of Conference: August 6, 2020

Appearances (WebEx): Peter Miller, UniServ Director, for the Petitioner
Michael Elwell, Esq., for the Respondent

Background:

On July 6, 2020, the Farmington Education Support Professionals United, NEA-NH (Association) filed a modification petition pursuant to N.H. Admin. Rule Pub 302.05 seeking to add the position of administrative assistant to the existing bargaining unit set forth in PELRB Decision No. 2012-108 (May 24, 2012). See also PELRB Certification of Representative and Order to Negotiate, Case No. M-0621 (February 5, 1990).

The District objects to the modification petition for the following reasons: (1) administrative assistants are confidential employees within the meaning of RSA 273-A:1, IX (c); (2) two of the eight administrative assistants are employees of the SAU #61 and not the District; (3) there have been no changes in circumstances since the parties negotiated their current (2018-21) collective bargaining agreement and the unit is not incorrect to the degree warranting

modification; (4) administrative assistants lack a community of interest with other employees in the existing bargaining unit (paraprofessionals); and (5) adding administrative assistants to the same unit with paraprofessionals will adversely affect the efficiency of the District's operations and will create a potential for a division of loyalties.

Issues for Determination by the Board

Whether the position of administrative assistant should be added to the existing bargaining unit set forth in PELRB Decision No. 2012-108.

Witnesses and Exhibits

As outlined in the Joint Pre-Hearing Worksheet and in accordance with the PELRB Guidelines for WebEx Video Hearings. 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.

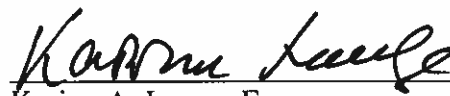
Decision

1. "Parties" means the 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. At the pre-hearing conference, the Association indicated that it intends to amend its modification petition and the parties jointly requested a continuance of the August 19, 2020 hearing to allow them time to submit an amended petition, an amended answer, and additional exhibits. The parties' request to continue is granted. The August 19, 2020 hearing is cancelled. A new hearing date will be established in a subsequent notice. On or before **August 7, 2020**, the parties shall provide to the PELRB at least 3 alternative hearing dates that are acceptable to both parties.

3. The hearing in this case 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 Guidelines.
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.
8. 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: 8/6/2020



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

Distribution: Peter Miller, UniServ Director
Michael Elwell, 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.