



State of New Hampshire
Public Employee Labor Relations Board

AFSCME Local 3657, Hillsborough County Sheriff's Office

v.

Hillsborough County

Case No. G-0012-22

Decision No. 2020-234

Pre-Hearing Memorandum and Order

Date of Conference: October 13, 2020

Appearances: Sean Cronin, Esq., for the Complainant
Carolyn Kirby, Esq., for the Respondent

Background:

On November 25, 2019, the AFSCME Local 3657, Hillsborough County Sheriff's Office (Union) filed an unfair labor practice complaint against Hillsborough County under the Public Employee Labor Relations Act claiming that the County Sheriff's Office had violated RSA 273-A:5, I (a), (c), (e), (g), (h), and (i) when it unilaterally changed the manner in which it administered outside details/extra work and "standby duty"/mandatory overtime assignments while the parties were in negotiations on a successor collective bargaining agreement (CBA). The County denied the charges. The first pre-hearing was held on January 13, 2020. See PELRB Decision No. 2020-012. The hearing scheduled for February 12, 2020 was continued per the Union's motion. The case was then scheduled for a hearing on April 14, 2020 but this hearing was cancelled because of Covid-19. On July 22, 2020, the PELRB issued a scheduling order

addressing pre-hearing conference and hearing dates. See PELRB Decision No. 2020-158.¹ On September 21, 2020, the parties filed a joint status report informing the PELRB that the parties "have not been able to resolve this case outside litigation" and requesting that the PELRB schedule a hearing.

Issues for Determination by the Board

Whether the County violated RSA 273-A:5, I (a), (c), (e), (g), (h), and (i) as charged by the Union.

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. 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 Union, the County 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, no later than **October 16, 2020** the parties shall provide their availability for a hearing during the two-week period starting December 14, 2020.
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.

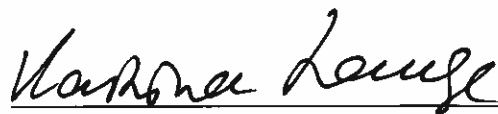
¹ The second pre-hearing was continued twice upon the parties' requests. See PELRB Decision Nos. 2020-159 and 2020-181.

4. The parties shall be prepared to present direct testimony of witnesses through offers of proof. The parties will have the opportunity to cross examine any witness for whom the offer of proof was made. All witnesses shall be available for cross-examination.
5. No one else should be present in the room where a witness is testifying. Witnesses may not consult with anyone during testimony and should not look at or make references to notes or any documents other than pre-marked exhibits except as permitted by the presiding officer. The testimony of all witnesses shall be presented in accordance with the procedures set forth in the Guidelines.
6. All exhibits shall be exchanged, marked, and filed with the PELRB in accordance with the Guideline instructions.
7. A comprehensive statement of stipulated facts shall be filed with the PELRB no later than 3 days prior to the date of hearing.
8. The parties shall ensure that witnesses are familiar with the WebEx platform and have access to technology necessary to participate in a WebEx hearing.

So ordered.

Date:

10/13/2020



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

Distribution: Carolyn Kirby, Esq.
Sean Cronin, 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 witness is testifying by WebEx. Witnesses may not consult with anyone during testimony and should not look at or make references to notes or 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.