



State of New Hampshire
Public Employee Labor Relations Board

NEPBA, NH State Law Enforcement Supervisors' Union

v.

State of New Hampshire
(Department of Safety & Liquor Commission)

Case No. G-0295-2
Decision No. 2021-157

Pre-Hearing Memorandum and Order

Date of Conference: September 9, 2021

Appearances: Peter J. Perroni, Esq., for the Complainant
Jessica A. King, Esq., for the Respondent

Background:

On August 9, 2021, the NEPBA, NH State Law Enforcement Supervisors' Union (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the State of New Hampshire (State) had violated RSA 273-A:5, I (a), (c), (e), and (g) when it refused to produce documentation requested by the Union related to termination of a bargaining unit employee. The Union alleges as follows: (1) a bargaining unit employee was terminated in July of 2021; (2) in the notice of termination, the Commissioner indicated that her termination was based on her statements made during three separate internal affairs (IA) investigations (an investigation in which the employee was a complainant, an investigation in which she was a witness, and an investigation in which she was the subject); (3) the Union requested the State to produce any documents related to the three investigations, as well as the employee's personnel file

and the relevant department rules and regulations; (4) the State refused to provide documentation related to the investigations; and (5) the State's actions constitute an unfair labor practice. The Union argues that it needs, and has a statutory right to, the requested information in order to fulfill its duty to represent the bargaining unit employee and because it needs to determine whether there are grounds for filing an IA investigation-related unfair labor practice complaint and/or a contractual grievance. The Union requests that the PELRB order the State to cease and desist from its "unlawful activity," produce the requested materials immediately, and pay for all costs associated with the bringing of this complaint.

The State denies the charges and asserts that the Union failed to allege sufficient facts to support its claims and that it failed to state a claim upon which a relief may be granted in this forum. The State claims that the Union also filed a complaint with the Personnel Appeals Board, a body that has jurisdiction over discipline and termination related cases; and that the PELRB does not have jurisdiction over the complaint because the complaint is based on discipline, which is not covered by the parties' collective bargaining agreement.

Issues for Determination by the Board

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

Decision

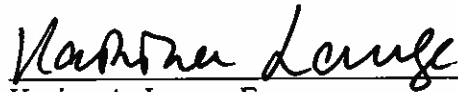
1. "Parties" means the Union, the State or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. At the pre-hearing conference, the parties indicted that they resolved the dispute regarding documentation related to the IA investigation of the terminated employee and that the only documents at issue in this case are those related to two IA investigations (an investigation in which the employee was a complainant and an investigation in which she was a witness).

3. At the pre-hearing conference, the parties requested that this case be submitted on stipulated facts, exhibits, and briefs and provided a proposed filing schedule. Based on the parties' pleadings and the discussion at the pre-hearing conference, it appears that there are no issues of relevant and material fact in dispute in this case and the parties agree that the hearing is unnecessary. See Admin Rules Pub 201.06 (a) and Pub 203.05 (b). The parties' request to submit this case on stipulated facts, exhibits, and briefs is granted and the proposed briefing schedule is approved. Accordingly, the September 28, 2021 hearing is cancelled.
4. The parties shall file a joint statement of stipulated facts and exhibits no later than **October 5, 2021**. The parties shall file opening briefs on or before **October 19, 2021** and reply briefs, if any, on or before **November 2, 2021**.

So ordered.

Date:

9/10/2021



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

Distribution: Peter J. Perroni, Esq.
Jessica A. King, Esq.