



State of New Hampshire
Public Employee Labor Relations Board

Prospect Mountain High School Teachers' Association, NEA-NH

v.

Prospect Mountain High School Board

Case No. E-0114-6
Decision No. 2021-165

Pre-Hearing Memorandum and Order

Date of Conference: September 21, 2021

Appearances: Christopher Long, UniServ Director, for the Complainant
Matthew H. Upton, Esq., for the Respondent

Background:

On August 17, 2021, Prospect Mountain High School Teachers' Association, NEA-NH (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the Prospect Mountain High School Board (School Board or District) had violated RSA 273-A:5, I (a), (b), (c), (g), (h), and (i) when it removed Union President Peter Long from his department leader position. The Association alleges, among other things, as follows: (1) a department leader position is a paid stipend position that does not appear in the parties' collective bargaining agreement (CBA) and the school has eight such positions; (2) Peter Long has been a department leader for 13 years, reappointed annually; (3) he has been the Association President since 2018 and was a lead negotiator on a recent Memorandum of Agreement between the parties (MOA); (4) at the recent staff and faculty meeting, held on the last day of the 2020-21 school year,

the principal stated that he disagreed with the content of the MOA; (5) on August 16, 2021, "the high school principal removed Peter Long ... from his position as the World Language, Health, Industrial Arts, and Physical Education Department Leader" in retaliation for Long's actions as the Association President, which constitutes a unilateral change in working conditions and a violation of the parties CBA and the established past practice; and (6) only one of the eight department leader positions was eliminated. The Association requests, among other things, that the PELRB find that the School Board committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (c), (g), (h), and (i); and order the School Board (1) to make Peter Long whole, (2) to reinstate him in the World Language, Health, Industrial Arts, and Physical Education Department Leader position and reimburse him for lost wages, and (3) to cease and desist from further violations.

The School Board denies the charges and asserts, among other things, that (1) the elimination of the subject department leader position was a result of a reorganization and realignment of department leader positions, which was necessitated, in part, by a drop in student enrollment; and (2) the School Board¹ acted within its management rights and not in retaliation against the Association President.

Issues for Determination by the Board

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

Decision

1. "Parties" means the Association, the School Board, and/or their counsel/representatives

¹ It appears from the Association's complaint that the removal of Peter Long from the department leader position was effected by the high school principal. However, the answer appears to indicate that the removal was effected by the School Board. It is, therefore, unclear, at this stage of the proceedings, who removed Peter Long from his position. This question will be addressed at the hearing or clarified through parties' stipulations.

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 Association stated that it intends to file a motion to amend the complaint. Any motion to amend the complaint shall be filed on or before **September 27, 2021**. Any amended complaint shall comply with the requirements of Admin. R. Pub 201.02 and shall contain a "clear and concise statement of the facts giving rise to the complaint, including the date, time and place of the occurrence, and the names of all persons involved in or witnessing the occurrence, characterizing each particular act in terms of the specific provisions of RSA 273-A:5 or RSA 273-A:6 alleged to have been violated." See Admin. R. Pub 201.02 (b)(4). An amended answer, if any, shall be filed on or before **October 4, 2021**.
3. The parties shall exchange and file with the PELRB final lists of witnesses and exhibits no later than **October 7, 2021**. All non-joint exhibits on the lists shall be pre-marked as either "ID" (if objected to) or "Full by Agreement." 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.
4. As discussed at the pre-hearing conference, on or before **October 7, 2021**, the parties shall file a detailed statement of stipulated facts, containing all relevant non-disputed facts, including among others, background information, any relevant employment/union experience of witnesses, supervisory authority of the high school principal, explanation/description of "block schedule," and description of duties and responsibilities of a department leader position.

5. The requirement that the parties file copies of proposed exhibits prior to the date of hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit and bring an original and five copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

Hearing

Unless otherwise ordered, the hearing in this case will be held on **October 14, 2021, at 8:30 a.m.** at the offices of the PELRB in Concord. 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 shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

Date: 9/21/2021



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

Distribution: Christopher Long, UniServ Director
Matthew H. Upton, Esq.