



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

**Rochester Association of Licensed Professionals**

**and**

**Rochester School District**

**and**

**Rochester Federation of Teachers, AFT #3607, AFT-NH, AFL-CIO**

**Case No. E-0034-3**

**Decision No. 2022-009**

**Order**

On December 20, 2021, the Rochester Association of Licensed Professionals (RALP) filed a Modification Petition pursuant to Admin. R. Pub 302.05 seeking to remove the positions of Occupational Therapist, Physical Therapist, Speech-Language Pathologist, and Psychologist from a larger bargaining unit currently represented by the Rochester Federation of Teachers, AFT #3607, AFT-NH, AFL-CIO (RFT) in order to form a separate bargaining unit. See PELRB Decision No. 2019-166 (July 11, 2019). The RALP simultaneously filed a Petition for Certification – Challenge to Existing Representative seeking to represent a bargaining unit containing these positions and the Speech Assistant position. See PELRB Decision No. 2022-006. The RFT and the Rochester School District (District) object to the modification petition on several grounds including timeliness of the petition, and request that the PELRB deny the petition.

Bargaining unit modifications are governed by Admin. R. Pub 302.05 which provides in relevant part as follows:

(d) An employee organization, other than the exclusive representative, may file a

*petition for modification only during time periods or under conditions when it would be entitled by statute or these rules to petition for an election to be certified as the exclusive representative. At other times, only the employer or exclusive representative may file a petition for modification of a bargaining unit.*

(Emphasis added). The time periods during which an employee organization other than the exclusive representative (here, the RALP) may file a petition are set forth in Admin. R. Pub 301.01 (a), which implements RSA 273-A:11 (b) and provides in relevant part as follows:


A petition for certification as the exclusive representative of a bargaining unit for which a collective bargaining agreement constituting a bar to election under RSA 273-A:11, I (b) presently exists shall be filed no more than 240 days and no less than 180 days prior to the budget submission date of the affected public employer in the year that agreement expires, notwithstanding any provisions in the agreement for extension or renewal.

In this case, the RFT and the District are parties to a collective bargaining agreement effective from August 26, 2019 to August 26, 2022, which constitutes a "bar to election" under RSA 273-A:11 (b) and triggers the Pub 301.01 filing deadlines. The modification petition and the accompanying challenge certification petition were filed on December 20, 2021. The RALP's challenge petition was dismissed on the ground that it was untimely under Admin. R. Pub 303.01 for the reasons set forth in PELRB Decision No. 2022-006 (incorporated in full by reference into this order). As the same deadlines apply to this modification petition, this petition is likewise untimely.

For the foregoing reasons, the RALP's Modification Petition is dismissed. Because the petition is dismissed pursuant to Admin. R. Pub 301.01 and 302.05, it is unnecessary to address the other objections raised by the RFT and the District.

So ordered.

Date: 1/18/2022

  
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