



State of New Hampshire
Public Employee Labor Relations Board

AFSCME Council 93

and

Town of Barrington

Case No. G-0321-1

Decision No. 2023-201

Order

On July 25, 2023, the Town filed with the PELRB a copy of the memo it issued to the members of the approved bargaining unit concerning the August 1, 2023 representation election which incorporated excerpts from the election posting material issued by the PELRB pursuant to Admin. Rule Pub 303.04. In response, the PELRB Executive Director, among other things, expressed concern that “the Memo reproduce[d]/incorporate[d] some of the official election information the PELRB previously provided for posting” and advised that “the Town should refrain from excerpting information from the election posting documents, and instead refer employees to the official election posting documents the PELRB has provided.” On July 26, 2023, the AFSCME Council 93 (Union) communicated to the PELRB, via email message, its concern that the Town’s memo was intended “to persuade and influence the outcome of the pending election.” The PELRB responded that that the Union should “submit the contents of your current email in a pleading format for the case file” and also referred the Union to the Admin. Rule Pub 303.11 for information about the filing of Objections to the Conduct of an Election and to Conduct Affecting the Outcome of an Election; Hearing on Challenges and Objections. Thereafter, the Union filed a pleading to “reserve its rights” regarding the Town’s memo requesting that the

PELRB “grant the Union’s request to reserve any and all of its rights to assert an action against the Town pursuant to the above plead facts and prayers for relief, including, but not limited to, its ability to bring objections to the election scheduled for August 1, 2023 pursuant to PELRB Pub. Rule 303.11.”

On July 28, 2023, the Town filed a Complaint of Pre-Election Misconduct alleging that the sole purpose of the Union’s “Reservation of Rights” pleading was to “interfere in the election process for its benefit by misrepresenting to the affected employees the nature and content of the Town’s memorandum, as well as the law as it applies to union elections.” The Town claims that the Union’s filing of its pleading violates RSA 273-A:5, II (b). The Town requests that the PELRB schedule “an immediate hearing on the Town’s Complaint prior to the election” and “[f]ollowing said hearing, issue an order requiring AFSCME to withdraw its filings alleging misconduct on the part of the Town and to advise the bargaining unit employees of the PELRB’s Order prior to the election.”

Based upon the parties’ pleadings, each party claims that the other party has engaged in conduct intended to influence the outcome of August 1, 2023 election. Under Admin. Rule Pub 303.11, all objections to the “conduct affecting the outcome of an election not occurring at the polling area shall be filed with the board within 5 days *after the report of election is filed under Pub 303.10.*” (Emphasis added.) As the outcome of the election might resolve some of the issues in this case and pursuant to Admin. Rule Pub 303.11, the Town’s request to schedule an immediate hearing prior to the election is denied. The election shall take place on **August 1, 2023** as previously scheduled. The parties’ rights under Admin. Rule Pub 303.11 and RSA 273-A are reserved. The Town shall immediately notify all employees on the list of eligible voters that the election shall be conducted as previously scheduled and refer employees to the official election

posting documents the PELRB has provided. The parties are cautioned that an interference with the PELRB's conduct of the August 1, 2023 election might constitute a violation of RSA 273-A.

So ordered.

Date: 07/31/2023



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

Distribution: Robert Jones, Staff Representative
Stephen M. Bennett, Esq.
Evan A. Berwald, Esq.