



State of New Hampshire
Public Employee Labor Relations Board

AFSCME Council 93

and

Town of Barnstead

Case No. G-0315-1

Decision No. 2023-203

Order

On May 18, 2023, the Town filed an assented to motion to “restructure” requesting to submit the above captioned case on stipulated facts, affidavits, and briefs. In its motion, the Town proposed the following schedule of submission:

- A. Supplemental Affidavits submitted on or before June 14, 2023;
- B. Reply Affidavits submitted on or before June 23, 2023;
- C. Briefs submitted on or before July 14, 2023.

At that point in time, the parties had already submitted Joint Stipulation of Facts and witness and exhibits lists. However, they have not submitted any exhibits. The PELRB granted the Town’s motion to “restructure” and approved the proposed filing schedule. See PELRB Decision No. 2023-098. These deadlines have been extended twice upon the Union’s requests. Per PELRB Decision No. 2023-152, the briefs were due July 31, 2023. Upon submission of briefs, the record was closed for submission of evidence, just as it would be closed at the conclusion of the hearing.¹ The Town did not attach any exhibits to its July 31, 2023 brief. The Union attached several affidavits (already in the record) and Joint Exhibit 1- Personnel Manual to its July 31, 2023 brief.

¹ Admin. Rule Pub 203.06 (a) provides that “[a]fter the conclusion of the hearing, the record shall be closed and no other evidence shall be received into the record, except as allowed by paragraphs (b) and (c) of this section.”

The PELRB returned the Union's attachments for the following reasons: (1) most of the attachments were affidavits that had already been submitted into the record and, therefore, did not need to be resubmitted or duplicated; (2) as to the personnel manual exhibit, the parties did not request (May 18, 2023 Motion to Restructure), and PELRB Decision No. 2023-098 does not provide for, submission of any exhibits. No SOPs or Job Descriptions were attached to the briefs or submitted into the record at any time, contrary to the Town's assertion in its motion for clarification.

Although the parties filed pre-hearing lists of witnesses and exhibits, the Town's reliance on this fact is without merit as the hearing was cancelled upon the Town's assented to request, and the Town's proposed filing schedule for submission of briefs (without exhibits) was approved. Lists of exhibits are filed to provide notice to the board and to the opposing party and the filing of exhibit lists is not equivalent to admission of exhibits into the record. Exhibits, including joint exhibits, are not part of the record until a presiding officer admits them as full exhibits into the record. The Town did not include the submission of exhibits in its filing schedule. Furthermore, the Town did not attach Town Exhibits A-H to any of its filings before the record was closed.

However, to develop a sufficient record for decision, the Town's motion for clarification and admission of exhibits is treated as a request to reopen the record under Admin. Rule Pub 203.07. The Union's objection to this motion is overruled, however, the Union will be given time to respond to the Town's exhibits.

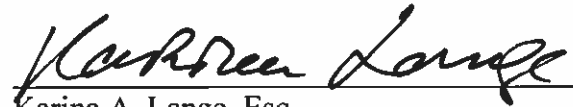
Accordingly, the record is reopened for submission of the following:

1. On or before **August 7, 2023**, the parties shall submit exhibits that were included on their May 18, 2023 exhibit lists. No additional exhibits shall be submitted without prior authorization of the presiding officer.

2. On or before **August 21, 2023**, the parties shall file reply briefs, if any. Any objections to the exhibits shall be included in the reply briefs. Any issue not addressed in the briefs will be considered abandoned (e.g. supervisory or confidential employee allegations). The record will be closed upon submission of reply briefs. See Admin. Rule Pub 203.06.

So ordered.

Date: 08/03/2023



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