

Professional Firefighters of Newington, IAFF Local 4104 and Town of Newington, Fire Department, Decision No. 2014-069 (Case No. G-0213-1).

Background: The Union filed a petition seeking certification as an exclusive representative of a bargaining unit comprised of certain employees of the Town Fire Department. The petition listed the Town Board of Fire Engineers (BFE) as the public employer. The BFE agreed to the unit composition and signed the petition. The Town Board of Selectmen (BOS) filed a petition to intervene pursuant to N.H. Admin. Rule 301.01 (p). The BOS maintained that, pursuant to RSA 273-A:1, II, the BOS, and not the BFE, was the board of the public employer of the proposed bargaining unit for purposes of the representation proceedings. The BOS argued that on this basis the PELRB should 1) grant the petition to intervene; 2) disregard the purported agreement of the “public employer” to the proposed bargaining unit set forth in the certification petition; and 3) hold a hearing on the BOS objections to the proposed bargaining unit.

Decision: The Hearing Officer found that, based upon the provisions of RSA 154 and the Town Ordinance, the BFE was a board which functions independently of the BOS and that BFE members, like members of the BOS, were elected by town meeting. The BFE, assisted by the Fire Chief, had broad oversight and control over fire department operations, inclusive of matters like daily department operations, hiring and oversight of personnel, and budget preparation. The wages of fire department employees were set by the Chief, and not the BOS. The BFE was required to submit its budget directly to the budget committee; and the budget was subject to approval by town meeting. Also, the BOS claim based on a BFE member’s potential conflict of interest was beyond the PELRB’s jurisdiction because the PELRB does not have general “equitable powers.” The BOS petition to intervene was denied as the BFE was found to be the board of the public employer for purposes of the Union’s certification petition and collective bargaining under RSA 273-A.

Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.