

Wakefield Paraprofessionals' Union/NEA-NH v. Wakefield School District, Decision No. 2022-083 (Case No. E-0062-6)

Background: The Union claimed that the District committed an unfair labor practice when it unilaterally created a Behavioral Interventionist position with same duties as bargaining unit positions and appointed a bargaining unit employee to this position without posting the position; unilaterally assigned a wage rate to this position outside the wage schedule set forth in the collective bargaining agreement (CBA); and by its actions, breached the CBA, which required it to notify the Union and post a notice of a vacancy for a bargaining unit position. The Union claimed that the District's action violated RSA 273-A:5, I (h) and (e). The Union also argued that subcontracting bargaining unit work to a non-bargaining unit position was a violation of RSA 273-A, I (a), (e), and (g). The District denied the charges and asserted that the Behavioral Interventionist position was a newly-created non-unit position with duties that differed significantly from those of bargaining unit employees; and that the District had no obligation to follow the requirements of CBA or otherwise notify or involve the Union in the hiring of an employee into a non-unit position.

Decision: The Hearing Officer found that the Behavioral Interventionist was not a bargaining unit position and the District was not required to notify the Union of its decision to create this position or to bargain over this position's terms and conditions of employment. In addition, the evidence was insufficient to show that the creation of this position had an adverse impact on terms and conditions of employment of the bargaining unit employees. The Union's complaint was dismissed.

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.