



Case No: E-0140-11  
Filed: 8/3/2021

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

**Unfair Labor Practice Complaint**

1. **Charging Party:** Manchester Education Association  
Esther Kane Dickinson  
 Representative: Ignacio Sanchez Title: NEA-NH Staff Attorney/UniServ Director  
 Address: 9 South Spring Street, Concord, NH 03301  
 E-Mail Address: edickinson@nhnea.org/ isanchez@nhnea.org Telephone 603-224-7751
  
2. **Respondent:** Manchester School District  
Dr. John Goldhardt Title: Superintendent  
 Representative: 20 Hecker Street, Manchester, NH 03102  
 Address: 20 Hecker Street, Manchester, NH 03102  
 E-Mail Address: jgoldhardt@mansd.org Telephone 603-931-2061
  
3. **Public Employer:** Manchester School District  
Dr. John Goldhardt Title: Superintendent  
 Representative: 20 Hecker Street, Manchester, NH 03102  
 Address: 20 Hecker Street, Manchester, NH 03102  
 E-Mail Address: jgoldhardt@mansd.org Telephone 603-931-2061

4. **Details of the Charge:** In separately numbered paragraphs in the space below, or in an attachment, specify in detail the specific provisions of RSA 273-A:5 allegedly violated and provide a complete statement of supporting facts, such as names, dates, times, places, and other information required under Pub 201.02 (b).

SEE ATTACHED STATEMENT

5. **Remedy Requested:** SEE ATTACHED STATEMENT

6. **Collective Bargaining Agreement:** The charging party is required to file an electronic copy of the current and other applicable collective bargaining agreement or a statement that such agreement(s) are already on file with the PELRB. Pub 201.02 (d)(1) and (2).
7. **Answer to Complaint:** The respondent shall file its answer at [pelrb@nh.gov](mailto:pelrb@nh.gov) within fifteen days of the date the complaint was filed at the PELRB electronically. In accordance with Pub 201.03 the respondent shall clearly and concisely answer the allegations in the complaint, paragraph by paragraph, and shall specifically deny or admit each allegation in the complaint and explain each allegation about which the respondent has knowledge.
8. **Posting of Complaint:** The public employer shall post and display copies of any complaint filed by it or against it or delivered to it at locations where such employees who might be directly affected by the board's disposition of the complaint work not later than the date on which it files its answer or on which it receives the answer of the charged party, or not later than 15 days after the receipt of the complaint if no answer to the complaint is to be filed.

## Execution of Complaint:

State of New Hampshire  
County of Hillsborough

Ignacio Sanchez, first being duly sworn, does depose and say that I am the complaining party and the allegations in this complaint are true to the best of my knowledge, information and belief.

Date: August 3, 2021

  
(Complaining Party Signature)

Ignacio Sanchez  
(Print or type name)

Subscribed and sworn to before me this 3<sup>rd</sup> day of August, 2021.

Karen M. Heavener  
(Notary Public/Justice of the Peace) Karen M. Heavener  
My Commission Expires: August 8, 2023

## Certificate of Service

I hereby certify that on August 3, 2021 (date) a copy of this complaint was

provided by electronic mail if available and by regular mail or hand delivery to:

Dr. John Goldhardt

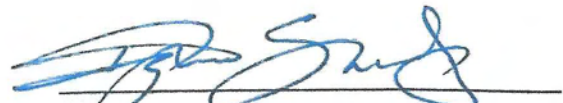
(Name of Representative for Respondent)

And

Dr. John Goldhardt

(Name of Representative for Public Employer)

Date: 8/3/2021

  
Signature  
Ignacio Sanchez  
Print or type name

**STATE OF NEW HAMPSHIRE**  
**Before the Public Employee Labor Relations Board**  
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**Manchester Education Association,  
NEA-NH**

**v.**

**Manchester School District**  
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**SPECIFICATION OF UNFAIR LABOR PRACTICE CHARGE**

1. The Manchester Education Association (“MEA”) charges that the Manchester School District (“District”) egregiously violated RSA 273-A:5, I(a), (b), (c), (d) and (g) when, among other acts, Principal Brendan McCafferty authored and communicated a strategy to MEA members of how to attack and weaken the MEA. This is particularly outrageous because he did so in retaliation for the MEA filing a good faith complaint on behalf of a number of members alleging harmful and harassing conduct by the same Principal.

**Background**

1. In January of 2018, the MEA filed a complaint with Human Resources on behalf of a number of members who alleged numerous District policy violations in the form of abusive, harassing, and retaliatory conduct by Principal McCafferty, the Principal at Hillside Middle School. The complaint went unaddressed until July 2018 when the District hired a retired Superintendent to conduct interviews with Staff about these allegations. In November 2018, the District’s attorney issued a response to MEA stating blandly “any allegations of misconduct raised by the Association were unfounded” but that the “report [did] note, however, that there are communication issues amongst staff members, and between staff members and building administration” and suggested “staff members and administrators address their concerns in a

constructive way so all parties may move forward.” The District administration provided no further assistance on the matter or concrete advice as to how to “move forward” constructively.

2. Following that response, in December 2018, MEA sent out a “Culture and Climate” survey to the union members at Hillside Middle School to ascertain if, from their perspective, things had improved at Hillside since the original complaint was filed. The results were mixed. The MEA called a meeting for January 30, 2019 to discuss the outcome of the survey with MEA members at Hillside. Since the requested complaint had come from members, and some were very upset that administration had not found any misconduct, the union leadership thought it best to have an open discussion with members about the findings and what, if any, next steps were appropriate.

3. During the meeting on January 30, it became clear that a number of attendees had strategized to overtake the meeting and divert the agenda for the purposes of airing grievances about the MEA and its leadership; to admonish MEA for pursuing the HR complaint about Principal McCafferty; to demand MEA stop any further investigation into his conduct; and to cease any advocacy against his abusive behavior.

4. MEA leadership did not know then, but learned in April of 2021, that this strategy was designed by Principal McCafferty. He called his effort “operation tsunami” and “#scorchedearth.”

#### The Unfair Labor Practices

5. As set forth below, Principal McCafferty restrained, coerced and interfered with MEA and bargaining unit members in the exercise of the rights conferred to them by RSA 273-A in violation of RSA 273-A:5, I(a). He also dominated and interfered with administration of the MEA in violation of RSA 273-A:5, I(b). He discriminated in the terms and conditions of employment of employees for the purpose of discouraging membership in MEA in violation of

RSA 273-A:5, I(c). He discriminated against employees because they filed a complaint and gave information under this chapter in violation of RSA 273-A:5, I(d). And, he violated RSA 273-A:5 and the spirit and intent of the law in violation of RSA 273-A:5, I(g).

6. The Principal authored a number of emails outlining a strategy and providing a step-by-step guide of how to interfere with and dominate the MEA and its membership. These emails were sent to his subordinate employees with directions to carry out his proposed plan and to “surge forward” and provide MEA leadership “no more chances.” Principal McCafferty also met with members to discuss the same strategy and to organize opposition to MEA leadership and initiatives, particularly those that involved his behavior as a supervisor.

7. Principal McCafferty unmistakably incited members to undermine the MEA organization by giving specific instructions on how to conduct themselves during Association meetings and authoring talking points for the meeting. The talking points were all critiques of the MEA including that the union is “undermining Hillside, [conducting a] witch hunt, no communication re grievances, harassment of principal, targeting of principal, no contract” and others. He directs the employees to “work the crowd into a fury” at an association meeting. And he notes that participation in the criticism of MEA must be “relentless.” He directs the employees that NH UniServ Director Michelle Couture “must not be allowed to finish a sentence.”

8. Principal McCafferty attempted to influence attendance at union meetings by assigning employees to call other employees to recruit them to attend the union meeting on January 30, 2019 and to engage in planning discussions prior to the meeting. He noted that Vice President of MEA Maxine Mosley “must not be allowed to attend [the union meeting] due to a conflict.” He directed the members that President Sue Hannan “must be pushed by all to attend.” He actively organized members to attend a meeting to confront and oppose their union leadership.

9. Principal McCafferty continued to interfere with the MEA and its members’ rights

by outlining “next steps” for his strategy which included “action” at a district-wide MEA meeting. He advocated “getting the word out” to members at other schools about the meeting at Hillside in order to foment discontent within the membership throughout the District. He suggested that the staff meeting at Hillside he would host on February 11, 2019 would also be a time for action. In fact, at the meeting, he attacked MEA claiming they were divisive and that he would “not allow MEA to run Hillside.” At the February 11 meeting he criticized Vice President Maxine Mosley, who does not work at Hillside, specifically in her role as an MEA leader. His “next steps” noted that the disgruntled MEA members need to “see this through” and “remain committed and involved in these efforts through the end of the school year.”

10. He dominated and interfered with the administration of the MEA and individual members’ rights to be free of employer coercion in union matters when he encouraged dropping MEA membership stating the employees should encourage a “movement of temporarily quitting the MEA.” A number of these members did in fact drop membership and are no longer union members.

11. In his email he directed members to tell MEA “don’t include us in the ‘union’ in the future for these types of attacks.” Specifically, of course, he meant “attacks” on him. Principal McCafferty’s use of “us” is telling in that it demonstrates he is assuming to speak for union members and demonstrates his illegal efforts in organizing them as if he is their peer.

12. He further interfered with the administration of MEA, and the rights of members, when he attempted to influence the selection of union leaders by proposing a strategy to recruit new MEA building representatives for Hillside from the group critical of MEA in order to “balance the MEA voice and focus at Hillside.” He noted that current MEA leadership “are likely not gonna [sic] get it, that your group cannot wait to determine otherwise, and that you must plan to move forward while you have this incredible momentum and unity.” He pushed the idea of a

vote of no confidence in union leadership.

13. Principal McCafferty's actions are plainly in violation of RSA 273-A. Moreover, it is obvious Principal McCafferty's efforts were motivated by his resentment at the MEA, and certain members of the union, for filing a complaint about his workplace conduct. In a blatant demonstration of self-serving interference with internal union affairs, he sought to disparage and unseat current leadership of MEA including President Sue Hannan, Vice President Maxine Mosley, and the Hillside building representatives in an effort to "balance the MEA voice" at Hillside, meaning, replace leadership with those favorable to him. He sought to "neutralize several anti-Hillside efforts" suggesting the members leak information about the union meeting to the media, district administration, and the Mayor. By his own admission he wanted to cause a "tsunami" of malcontent within the union ranks, unseat current leadership, cause the union to lose members, and direct the union activities away from his own bad acts.

14. Through these egregious acts and others, the District has violated RSA 273-A:5, I (a), (b), (c), (d) and (g).

**WHEREFORE**, the Manchester Education Association requests that the Board find that the

District:

- A. Committed unfair labor practices in violation of RSA 273-A:5, I (a), (b), (c), (d) and (g).
- B. Order the District to cease and desist from these and similar violations;
- C. Specifically admonish the actions of Principal McCafferty as a bad example of management in a union environment;
- D. Order the District to train administrators and supervisors to not violate RSA 273-A; and
- E. Provide any other relief that is just, equitable, and proper.





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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**

**Notice of Filing – Unfair Labor Practice Complaint**

**Answer:** An answer to the Unfair Labor Practice Complaint filed **August 3, 2021** must be submitted electronically to the PELRB at [pelrb@nh.gov](mailto:pelrb@nh.gov) no later than **August 18, 2021**. See Pub 201.01 (a), (b), (c), and (e) for electronic filing information.

**Posting of the Complaint:** The employer shall post the attached complaint and this notice of filing at locations where employees work not later than the date on which it files its answer with the board or on which it receives the answer of the charged party, or not later than 15 days after the receipt of the complaint if no answer to the complaint is to be filed per Pub 201.02 (f). The employer shall document its compliance with the posting requirement by completing and returning to the PELRB the attached Certificate of Posting no later than 3 business days after posting.

**All filings should be submitted electronically to [pelrb@nh.gov](mailto:pelrb@nh.gov) and simultaneously provided electronically to all parties. See Pub 201.01 for filing requirements.**

August 3, 2021

Douglas L. Ingersoll, Esq.  
Executive Director

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Dr. John Goldhardt, Superintendent



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**

**Notice of Pre-Hearing Conference**

Date and Time: **September 8, 2021 @ 8:45 a.m.**

Location: **PELRB Office in Concord.**

Joint Pre-Hearing Worksheet: Due on or before **August 27, 2021**. See N.H. Admin. Rules, Pub 202.01 and attached Instruction Sheet. Use separately numbered paragraphs and Pub 202.01 topic headings.

Date Issued: August 5, 2021

Douglas L. Ingersoll, Esq.  
Executive Director

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Dr. John Goldhardt, Superintendent

## **Joint Pre-Hearing Conference Instructions – See Pub 202.01**

### **Contents of joint pre-hearing worksheet:**

- 1) The name, address, telephone number, and e-mail address of the representative;
- 2) Summary of issue(s) presented for hearing;
- 3) Identification of any procedural issues;
- 4) List of pending motions;
- 5) Identification of witnesses;
- 6) Estimate of time for case presentation;
- 7) List of joint and agreed exhibits;
- 8) List of other exhibits and basis for objections to same;
- 9) An agreed statement of uncontested facts; and
- 10) An agreed statement of contested facts.

### **Pre-hearing conference topics:**

- 1) Settlement;
- 2) Identifying, resolving and simplifying the issues to be raised and presented at hearing;
- 3) Finalizing stipulations of fact;
- 4) Identifying and/or limiting on the number of witnesses to be called;
- 5) Reviewing, exchanging and final marking of exhibits; and
- 6) Other matters which may assist and aid in case disposition.

### **Attendance Requirement:**

Counsel of record, or, if applicable, the authorized representative of record, shall attend. The attendance of witnesses or interested persons not involved with the management of the case is not be required.

### **Preparation for pre-hearing conference:**

Parties shall be ready to discuss the issues and evidence in a substantive manner. The parties shall come to the conference prepared to devote a portion of the conference to a serious and meaningful discussion of possible agreed upon resolutions to the dispute. Counsel or authorized representatives shall have authority to engage in such discussions as well as access to the represented party or intervenor by telephone during the conduct of the conference.

**Note:** The presiding officer will assist the parties as necessary and appropriate in formulating resolutions to the dispute, including referral to mutually agreed mediation or arbitration if requested by the parties.



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**

**Notice of Hearing**

**Hearing:** A hearing in this matter will be held at the Public Employee Labor Relations Board, 2½ Beacon Street, Suite 200, Concord, New Hampshire on:

**September 21, 2021 @ 8:30 a.m.**

**Posting:** The public employer shall post this Notice of Hearing at its administrative offices and at locations where affected employees work on the next working day following receipt of this notice in accordance with the requirements of N.H. Admin. Rules, Pub 201.07 (b). The public employer shall complete and return the attached Certificate of Posting no later than 3 business days after posting.

This notice is issued pursuant to RSA 273-A and N.H. Admin. Rules, Pub 201.07. All parties are entitled to be represented by legal counsel at their own expense.

Date Issued: August 5, 2021

Douglas L. Ingersoll, Esq.  
Executive Director

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Dr. John Goldhardt, Superintendent



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

**Appearance Form**

Please enter my appearance as counsel/representative for Manchester School District  
in Case No. E-0140-11, Manchester Education Association v. Manchester  
School District (case name)

Name: Matthew H. Upton, Esquire - Drummons Woodsum & MacMahon, P.A.

Address: 670 N. Commercial Street, Suite 207, Manchester, NH 03101

E-mail address: mupton@dwmlaw.com

Telephone: 603-716-7895

August 10, 2021

(Date)

(Signature)

**Certificate of Service**

I hereby certify that a copy of my appearance was provided by electronic mail or by  
regular mail this 10th day of August, 2021

to: Esther Kane Dickinson and Ignacio Sanchez, NEA-NH Staff Attorney and UniServ Director  
(Representative(s) of other party or parties to this case)

Date: August 10, 2021

Signature



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

**Manchester Education Association/NEA-NH**

v.

**Manchester School District**

**Case No. E-0140-11**



**Certificate of Posting**

I hereby certify that a copy of 8-5-21 Hearing Notice in the above captioned matter was posted on 8-6-21 (date) in a conspicuous place at the locations listed below where such employees who might be directly affected by the board's disposition of this matter work in accordance with the board's instructions.

List Posting Locations: \_\_\_\_\_

District Office (20 Hecker St., Manchester)

Hillside Middle School (112 Reservoir Ave., Manchester)

Date: 8-6-21

John Goldhardt  
(Signature)

John Goldhardt, Superintendent  
(Print Name & Position)

**NOTICE:** The completed certificate of posting must be promptly returned to the NH PELRB.

**STATE OF NEW HAMPSHIRE  
Public Employee Labor Relations Board**

Manchester Education Association, NEA-NH

v.

Manchester School District

Case No. E-0140-11

**ANSWER OF THE MANCHESTER SCHOOL DISTRICT**

NOW COMES the Manchester School District (“District”) by and through its attorneys, Drummond Woodsum & MacMahon, and in answer to the above-captioned matter (“Complaint”) states as follows:

1. The District admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school climate. The District is without sufficient information to ascertain the motivations for Principal McCafferty’s actions and therefore denies it was done in retaliation for the union engaging in protected activity. And by way of further answer, the District asserts that neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District’s behalf or was acting at its direction.

**BACKGROUND**

1. The District admits that a complaint was filed but asserts the complaint speaks for itself. The District also admits that the District hired an independent investigator who found as alleged. The District admits that it expected Principal McCafferty to address the concerns over communications internally.

2. The District is without sufficient information to respond to the allegations contained within paragraph 2 and therefore denies the same.

3. The District is without sufficient information to respond to the allegations contained within paragraph 3 and therefore denies the same.

4. The District is without sufficient information to respond to the allegations contained within paragraph 4 and therefore denies the same.

### **UNFAIR LABOR PRACTICES**

5. Denied.

6. The District admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school climate. Neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting at its direction. The District asserts that the emails in question speak for themselves.

7. The District admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school climate. Neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting at its direction. The District asserts that the emails in question speak for themselves.

8. The District admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school



climate. Neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting at its direction. The District asserts that the emails in question speak for themselves.

9. The District admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school climate. Neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting at its direction. The District asserts that the emails in question speak for themselves.

10. Denied.

11. The District asserts that the emails speak for themselves.

12. Denied.

13. Denied.

14. Denied.

**WHEREFORE**, the District respectfully requests that this Honorable Board:

- A. Find that no unfair labor practice has been committed by the District;
- B. Deny the Association's requested relief; and
- C. Award such other and further relief as justice may require.

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Respectfully submitted,

MANCHESTER SCHOOL DISTRICT

By its Attorneys,

DRUMMOND WOODSUM & MACMAHON, P.A.

Dated: August 12, 2021

By: /s/ Matthew H. Upton  
Matthew H. Upton, Esquire (NH Bar 6910)  
670 N. Commercial Street, Suite 207  
Manchester, NH 03101  
603-716-2895  
[mupton@dwmlaw.com](mailto:mupton@dwmlaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer has been forwarded, electronically, this day to Esther Kane Dickson, Esquire and Ignacio Sanchez for the Union.

Dated: August 12, 2021

/s/ Matthew H. Upton  
Matthew H. Upton, Esquire

**STATE OF NEW HAMPSHIRE  
Public Employee Labor Relations Board**

Manchester Education Association, NEA-NH

v.

Manchester School District

Case No. **E-0140-11**

**MOTION TO CONTINUE**

**NOW COMES** the Manchester School District (“District”) by and through its attorneys, Drummond Woodsum & MacMahon, and in support of this Motion states as follows:

1. On August 5, 2021, the PELRB issued an order in the above captioned matter scheduling a Pre-Hearing Conference on September 8, 2021 and a Hearing on the merits on September 21, 2021.
2. Legal counsel for the Manchester School District has a prescheduled arbitration on September 8, 2021.
3. The representatives of the Manchester Education Association have assented to this Motion to Continue.
4. The Parties to this matter offer the following dates as alternatives.
  - a. Pre-Hearing Conference: September 23, 2021 or September 24, 2021.
  - b. Hearing: October 19, 2021, October 20, 2021 or October 21, 2021.

**WHEREFORE**, the District respectfully requests that this Honorable Board:

- A. Grant this Motion to Continue;
- B. Reschedule the Pre-Hearing and Hearing dates: and

B. Grant such other and further relief as justice may require.

Respectfully submitted,

MANCHESTER SCHOOL DISTRICT  
By its Attorneys,  
DRUMMOND WOODSUM & MACMAHON, P.A.

By: /s/ Matthew H. Upton  
Matthew H. Upton, Esquire  
1001 Elm Street, Suite 303  
Manchester, NH 03101  
603-716-2895  
[mupton@dwmlaw.com](mailto:mupton@dwmlaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer has been forwarded, electronically, this day to Ignacio Sanchez and Ester Dickenson, Esq. for the Union.

Dated: August 19, 2021.

/s/ Matthew H. Upton  
Matthew H. Upton, Esquire



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**  
**Decision No. 2021-143**

Order

On August 18, 2021, the District filed an assented to motion to continue the September 8, 2021 pre-hearing conference and the September 21, 2021 hearing alleging a scheduling conflict. The District's motion is granted. Accordingly, the pre-hearing conference is rescheduled for **September 24, 2021, at 8:45 a.m.** The parties shall file a Joint Pre-Hearing Worksheet no later than **September 17, 2021**. The September 21, 2021 hearing is cancelled. A new hearing date will be established in a subsequent notice.

So ordered.

Date: 8/19/2021

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

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**

**Notice of Pre-Hearing Conference**

Date and Time: **September 24, 2021 @ 8:45 a.m.**

Location: **PELRB Office in Concord.**

Joint Pre-Hearing Worksheet: Due on or before **September 17, 2021**. See N.H. Admin. Rules, Pub 202.01 and attached Instruction Sheet. Use separately numbered paragraphs and Pub 202.01 topic headings.

Date Issued: August 19, 2021

Douglas L. Ingersoll, Esq.  
Executive Director

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.

## **Joint Pre-Hearing Conference Instructions – See Pub 202.01**

### **Contents of joint pre-hearing worksheet:**

- 1) The name, address, telephone number, and e-mail address of the representative;
- 2) Summary of issue(s) presented for hearing;
- 3) Identification of any procedural issues;
- 4) List of pending motions;
- 5) Identification of witnesses;
- 6) Estimate of time for case presentation;
- 7) List of joint and agreed exhibits;
- 8) List of other exhibits and basis for objections to same;
- 9) An agreed statement of uncontested facts; and
- 10) An agreed statement of contested facts.

### **Pre-hearing conference topics:**

- 1) Settlement;
- 2) Identifying, resolving and simplifying the issues to be raised and presented at hearing;
- 3) Finalizing stipulations of fact;
- 4) Identifying and/or limiting on the number of witnesses to be called;
- 5) Reviewing, exchanging and final marking of exhibits; and
- 6) Other matters which may assist and aid in case disposition.

### **Attendance Requirement:**

Counsel of record, or, if applicable, the authorized representative of record, shall attend. The attendance of witnesses or interested persons not involved with the management of the case is not be required.

### **Preparation for pre-hearing conference:**

Parties shall be ready to discuss the issues and evidence in a substantive manner. The parties shall come to the conference prepared to devote a portion of the conference to a serious and meaningful discussion of possible agreed upon resolutions to the dispute. Counsel or authorized representatives shall have authority to engage in such discussions as well as access to the represented party or intervenor by telephone during the conduct of the conference.

**Note:** The presiding officer will assist the parties as necessary and appropriate in formulating resolutions to the dispute, including referral to mutually agreed mediation or arbitration if requested by the parties.



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**

**Certificate of Posting**

I hereby certify that a copy of the Unfair Labor Practice Complaint in the above captioned matter was posted on 8-6-21 (date) in a conspicuous place at the locations listed below where such employees who might be directly affected by the board's disposition of this matter work in accordance with the board's instructions.

*List Posting Locations:* \_\_\_\_\_

• District office

• Hillside Middle Faculty Room

Date: 8-6-21

John Goldhardt  
(Signature)

John Goldhardt, Supt.  
(Print Name & Position)

**NOTICE:** The completed certificate of posting must be promptly returned to the NH PELRB.



**STATE OF NEW HAMPSHIRE**  
**Before the Public Employee Labor Relations Board**

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**Manchester Education Association,  
NEA-New Hampshire**

**v.**

**Manchester School District**

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**Case No. E-0140-11**

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**JOINT MOTION TO PLACE**  
**UNFAIR LABOR PRACTICE IN ABEYANCE**

**NOW COMES** the Manchester Education Association, NEA-New Hampshire (the Association) and the Manchester School District, stating as follows:

1. A pre-hearing conference is currently scheduled for September 24, 2021 at 8:45 a.m.
2. The parties are involved in serious and meaningful discussions regarding a possible agreed upon resolution to the dispute. Therefore, the parties ask that the Unfair Labor Practice be held in abeyance pending the outcome of those discussions.
3. The Association reserves the right to bring forward this Unfair Labor Practice Complaint in the event a settlement is not reached by the parties. The Association will notify the PELRB by October 31, 2021, as to the parties' status. If, at that time, a

continuance is needed, the Association will suggest two dates to reschedule the preliminary and adjudicatory hearings for the Board's consideration.

**WHEREFORE**, the Manchester Education Association and the Manchester School District respectfully request that the PELRB grant this motion.

Respectfully submitted,

Manchester Education Association,  
NEA-NH

By its UniServ Director,

Dated: September 17, 2021

/s/ Ignacio Sanchez  
Ignacio Sanchez  
UniServ Director  
NEA- New Hampshire  
9 South Spring St.  
Concord, NH 03301  
(603) 703-5760  
[isanchez@nhnea.org](mailto:isanchez@nhnea.org)

MANCHESTER SCHOOL DISTRICT

By Its Attorneys,

DRUMMOND WOODSUM & MACMAHON, P.A.

Dated: September 17, 2021

/s/ Matthew H. Upton  
Matthew H. Upton, Esq. (NH Bar 6910)  
670 N. Commercial Street, Suite 207  
Manchester, NH 03101  
(603) 716-2895  
[mupton@dwmlaw.com](mailto:mupton@dwmlaw.com)

### **CERTIFICATE**

I certify that a copy of the foregoing Joint Motion to Place Unfair Labor Practice Complaint in Abeyance has been forwarded, electronically, this day to Matthew Upton, Esq., attorney for the school district.

Date: September 17, 2021

/s/ Ignacio Sanchez  
Ignacio Sanchez



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

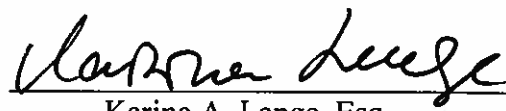
**Case No. E-0140-11**  
**Decision No. 2021-162**

**Order**

On September 17, 2021, the parties in above captioned case filed a joint motion to continue proceedings on the ground that the parties are currently "involved in serious and meaningful discussions regarding a possible agreed upon resolution to the dispute." The parties' motion is granted. Accordingly, the September 24, 2021 pre-hearing conference and the associated filing deadlines are cancelled. There shall be no further proceedings in this case until **November 1, 2021**. On or before **November 1, 2021**, the parties shall file a Status Report and a further order shall issue as appropriate and necessary. The parties shall inform the PELRB of any resolution of this case in the interim.

So ordered.

Date: 9/17/2021

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

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.

**STATE OF NEW HAMPSHIRE**  
**Before the Public Employee Labor Relations Board**

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**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

-----

**Case Number: E-0140-11**

-----

**JOINT STATUS REPORT**

**NOW COMES** the Manchester Education Association/NEA-NH, (“MEA”) and the Manchester School District, by and through counsel, and jointly files this Status Report in the above-referenced matter stating as follows:

1. The MEA wishes to proceed with the ULP.
2. The MEA is requesting that a pre-hearing conference be scheduled after November 22, 2021, and that it be held via telephone conference.

Respectfully submitted,

Manchester Education Association/  
NEA-New Hampshire

By its UniServ Director,

Date: November 2, 2021

/s/ Ignacio Sanchez

Ignacio Sanchez  
UniServ Director  
NEA-New Hampshire  
9 South Spring Street  
Concord, NH 03301  
(603) 703-5760  
[isanchez@nhnea.org](mailto:isanchez@nhnea.org)

Manchester School District  
By Its Attorney,

Drummond Woodsum, Attorneys at  
Law

/s/ Matthew H. Upton

Matthew H. Upton, Esquire  
(NH Bar 6910)  
670 N. Commercial Street, Suite 207  
Manchester, NH 03101  
(603) 792-7413  
[MUpton@dwmlaw.com](mailto:MUpton@dwmlaw.com)

**CERTIFICATE**

I hereby certify that a copy of the foregoing Status Report has been forwarded electronically this day to Matthew H Upton, Esq., attorney for the Manchester School District.

Date: November 2, 2021

/s/ Ignacio Sanchez  
Ignacio Sanchez



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**  
**Decision No. 2021-186**

Order

On November 2, 2021, the parties in above captioned case filed a status report pursuant to PELRB Decision No. 2021-162. The Association requests that the PELRB schedule a pre-hearing conference in this case and that the conference be held telephonically. The Association's request to schedule a pre-hearing conference is granted. The pre-hearing conference is scheduled for **November 30, 2021, at 8:45 a.m.** The request that the conference be held telephonically is denied. The pre-hearing conference shall be conducted in person at the PELRB offices in Concord. The parties shall file a Joint Pre-Hearing Worksheet on or before **November 22, 2021**. See Admin. Rule Pub 202.01.

So ordered.

Date: 11/05/2021

A handwritten signature in black ink, appearing to read "Karina A. Lange", is written over a horizontal line.

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

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.



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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**

**Notice of Pre-Hearing Conference**

Date and Time: **November 30, 2021 @ 8:45 a.m.**

Location: **PELRB Office in Concord.**

Joint Pre-Hearing Worksheet: Due on or before **November 22, 2021**. See N.H. Admin. Rules, Pub 202.01 and attached Instruction Sheet. Use separately numbered paragraphs and Pub 202.01 topic headings.

Date Issued: November 5, 2021

Douglas L. Ingersoll, Esq.  
Executive Director

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.

## **Joint Pre-Hearing Conference Instructions – See Pub 202.01**

### **Contents of joint pre-hearing worksheet:**

- 1) The name, address, telephone number, and e-mail address of the representative;
- 2) Summary of issue(s) presented for hearing;
- 3) Identification of any procedural issues;
- 4) List of pending motions;
- 5) Identification of witnesses;
- 6) Estimate of time for case presentation;
- 7) List of joint and agreed exhibits;
- 8) List of other exhibits and basis for objections to same;
- 9) An agreed statement of uncontested facts; and
- 10) An agreed statement of contested facts.

### **Pre-hearing conference topics:**

- 1) Settlement;
- 2) Identifying, resolving and simplifying the issues to be raised and presented at hearing;
- 3) Finalizing stipulations of fact;
- 4) Identifying and/or limiting on the number of witnesses to be called;
- 5) Reviewing, exchanging and final marking of exhibits; and
- 6) Other matters which may assist and aid in case disposition.

### **Attendance Requirement:**

Counsel of record, or, if applicable, the authorized representative of record, shall attend. The attendance of witnesses or interested persons not involved with the management of the case is not be required.

### **Preparation for pre-hearing conference:**

Parties shall be ready to discuss the issues and evidence in a substantive manner. The parties shall come to the conference prepared to devote a portion of the conference to a serious and meaningful discussion of possible agreed upon resolutions to the dispute. Counsel or authorized representatives shall have authority to engage in such discussions as well as access to the represented party or intervenor by telephone during the conduct of the conference.

**Note:** The presiding officer will assist the parties as necessary and appropriate in formulating resolutions to the dispute, including referral to mutually agreed mediation or arbitration if requested by the parties.



STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Case No. E-0140-11

Manchester Education Association, NEA-NH

v.

Manchester School District

**JOINT PRE-HEARING WORKSHEET**

NOW COMES, Manchester School District (hereinafter the “District”), by and through its attorneys, Drummon, Woodsum & MacMahon, P.A., and Manchester Education Association, NEA-NH (hereinafter “MEA”), by and through its UniServ Director, Ignacio Sanchez, submit the following joint pre-hearing worksheet:

**1. The name, address, telephone number, and email address of the representative:**

**Charging Party Representatives:**

Ignacio Sanchez, UniServ Director  
Esther Kane Dickinson, Esq.  
NEA-New Hampshire  
9 South Spring St. Concord, NH 03301  
(603) 224-7751  
[isanchez@nhnea.org](mailto:isanchez@nhnea.org)  
[edickinson@nhnea.org](mailto:edickinson@nhnea.org)

**Respondent Party Representative:**

Matthew H. Upton, Esq.  
Drummon, Woodsum & MacMahon  
670 N. Commercial Street, Suite 207  
Manchester, NH 03101  
(603) 716-2895  
[mupton@dwmlaw.com](mailto:mupton@dwmlaw.com)

2. Summary of Issues for Hearing

- a. Whether the Manchester School District committed an Unfair Labor Practice and violated RSA 273-A:5, I(a), (b), (c), (d) and (g).

3. Identification of Procedural Issues

The Association reserves the right to request the production of the 2021 MSD investigation into this incident.

The Association also reserves the right to request the production of the 2018 MSD investigation into alleged policy violations committed by Brendan McCafferty.

4. List of Pending Motions

Aware of none

5. Identification of Witnesses\*

The parties intend to proceed on stipulated facts and briefs. There will be no live witness testimony.

Any affidavits will be exchanged by the parties two weeks prior to the due date for briefs.

A. For the School District:

B. For the Association:

6. Estimate of Time for Case Presentation

Briefs will be submitted

7. List of Joint and Agreed Exhibits

1. Agenda for “Staff Movement” meeting authored by Brendan McCafferty (Approx. January 24, 2019)
2. Email from Brendan McCafferty of February 2, 2019
3. Complaint filed in January of 2018 by MEA Vice President
4. January 31, 2018 Letter to Pam Hogan, HR Director from Michelle Couture, NEA-NH UniServ Director for MEA
5. December 12, 2018 Letter from Meghan Glynn, School District Attorney to Sue Hannan, MEA President
6. February 11, 2019 McCafferty Presentation
7. May 14, 2021 Letter to Superintendent Goldhardt from Sue Hannan, MEA President
8. 2020-2022 Collective Bargaining Agreement

9. 2015-2018 Collective Bargaining Agreement
8. List of Other Exhibits and Basis for Objections\*

C. For the School District:

None at this time

D. For the Association:

1. The Association reserves the right to seek the production and introduction of the 2018 and 2021 investigation reports referenced above. (The District objects on the basis that these are personnel documents).

9. Agreed Statement of Uncontested Facts

1. In January of 2018, the MEA filed a complaint with Human Resources on behalf of a number of members who alleged numerous District policy violations by Principal McCafferty, the Principal at Hillside Middle School.

2. In July 2018 the District hired a retired Superintendent, Jennie Mosca, to investigate these alleged policy violations.

3. In December 2018, based upon the results of the 2018 investigation, the District's attorney issued a response to the MEA complaint noting "any allegations of misconduct raised by the Association were unfounded" but that the "report [did] note, however, that there are communication issues amongst staff members, and between staff members and building administration" and suggested "staff members and administrators address their concerns in a constructive way so all parties may move forward."

4. The District expected Principal McCafferty to address concerns internally.

5. In December 2018, MEA sent out a "Culture and Climate" survey to the union members at Hillside Middle School to ascertain if, from the member's perspective, things had improved at Hillside since the original complaint was filed.

6. The MEA called a meeting for January 30, 2019 to discuss the outcome of the survey with MEA members at Hillside.

7. On or about January 24, 2019 Principal McCafferty held a meeting with certain Hillside staff members, including members of the MEA, to discuss a strategy to disrupt the planned union meeting. He drafted an agenda for the meeting.

8. The January 24, 2019 meeting between Principal McCafferty and such staff members was held in order to strategize and encourage them to push back and

disrupt those in attendance at the January 30, 2019 Association meeting who may question the administration, including himself, and/or be critical of the school climate.

9. The Association leadership's intention was to have an open discussion with members about the responses from members to the survey, and what, if any, next steps were appropriate. From its survey responses, it knew the membership at Hillside was somewhat divided on the status of the school climate and the proper path forward.

10. During the meeting on January 30 2019, a number of those who attended Principal McCafferty's planning meeting aired their grievances about the MEA and its leadership; they admonished the MEA for pursuing the HR complaint about Principal McCafferty; they asserted that the MEA should stop any further investigation into his conduct; and to cease any advocacy against his behavior.

11. Neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting with its prior knowledge or direction.

12. On February 2, 2019 Principal McCafferty wrote an email to MEA members who had attended his January 24 meeting and who had been to the January 30, 2019 meeting. This email was not sent with the District's prior knowledge, request or at its direction.

13. On February 11, 2019 Principal McCafferty led a professional development meeting at Hillside Middle School for Hillside employees which was meant to address "culture and climate." Principal McCafferty made comments about the MEA including that he believed its leadership was divisive and that he would "not allow MEA to run Hillside."

14. At the same meeting he criticized Vice President Maxine Mosley, who does not work at Hillside, specifically criticizing her role as an MEA leader in the investigation done in July 2018.

15. Of the employees involved in Principal McCafferty's meeting and on his list of "Hump Day 40" (those who he deemed needed to be recruited to his January 24 meeting) at least 11 dropped their membership in MEA at the end of 2019.

---

\* Both parties reserve the right to amend the witness and exhibit lists with appropriate advance notice to the other party.

Respectfully submitted this 23rd day of November 2021.

MANCHESTER SCHOOL DISTRICT  
By Its Attorneys,  
DRUMMOND, WOODSUM & MACMAHON

/s/ Matthew H. Upton  
Matthew H. Upton, Esq. (NH Bar 6910)  
670 N. Commercial Street, Suite 207  
Manchester, NH 03101  
(603) 716-2895

MANCHESTER EDUCATION ASSOCIATION/  
NEA-NEW HAMPSHIRE,  
By Its UniServ Director,

/s/ Ignacio Sanchez  
Ignacio Sanchez  
NEA-New Hampshire  
9 South Spring Street  
Concord, NH 03301  
(603) 703-5760

## Gerlack, Rebecca

---

**From:** Esther Dickinson <edickinson@nhnea.org>  
**Sent:** Tuesday, November 23, 2021 11:30 AM  
**To:** Gerlack, Rebecca; 'Matthew H. Upton'; Ignacio Sanchez; PELRB: Relations, Public  
**Cc:** Lori Cyr; SAU 37; Darnell Filleul  
**Subject:** RE: Case No. E-0140-11, Manchester Education Association/NEA-NH v. Manchester School District

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Hello,

The Association is renewing its request for the Pre-Hearing Conference to be held either via phone or remote hearing and asking the PELRB to reconsider its prior denial of the request. The District assents to a remote or telephonic Pre-Hearing Conference.

The parties are proceeding on briefs and the facts are not disputed. The parties have discussed the case, are prepared to discuss it with the Hearing Officer, and do not anticipate a prolonged or complicated pre-hearing. Due to the rising numbers in COVID cases, the proximity of the pre-hearing to the holidays when many have traveled or seen extended family, and due to Association counsel's particular scheduling conflicts, the Association respectfully asks the Board to reconsider its denial of a phone or remote hearing and grant such a hearing.

Please do not hesitate to contact me with any questions.

Thank you,

Esther Dickinson

Esther K. Dickinson  
Staff Attorney, NEA-NH  
9 S. Spring St.  
Concord, NH 03301  
[edickinson@nhnea.org](mailto:edickinson@nhnea.org)  
603-224-7751

Send an encrypted email or file to me at my secure site: <https://www.encyro.com/nhnea-ed>

---

**From:** Gerlack, Rebecca <Rebecca.J.Gerlack@pelrb.nh.gov>  
**Sent:** Tuesday, November 23, 2021 9:23 AM  
**To:** 'Matthew H. Upton' <MUpton@dwmlaw.com>; Esther Dickinson <edickinson@nhnea.org>; Ignacio Sanchez <isanchez@nhnea.org>  
**Cc:** Lori Cyr <lcyr@nhnea.org>; SAU 37 <jgoldhardt@mansd.org>; Darnell Filleul <DFilleul@dwmlaw.com>  
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Your electronic filing was received 11/23/21.

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Respectfully,  
Rebecca Gerlack, Executive Secretary  
NH PELRB

2 ½ Beacon Street, Suite 200  
Concord, NH 03301  
603-271-2587

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**Cc:** 'lcy@nhnea.org' <[lcy@nhnea.org](mailto:lcy@nhnea.org)>; SAU 37 <[jgoldhardt@mansd.org](mailto:jgoldhardt@mansd.org)>; Darnell Filleul <[DFilleul@dwmlaw.com](mailto:DFilleul@dwmlaw.com)>  
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Here is the worksheet.

**Matthew H. Upton**  
Attorney

603.792.7413 Direct  
[MUpton@dwmlaw.com](mailto:MUpton@dwmlaw.com)

670 N. Commercial Street, Suite 207, Manchester, NH 03101  
800.727.1941 | 603.716.2899 Fax | [dwmlaw.com](http://dwmlaw.com)

**DrummondWoodsum**  
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Upton <[MUpton@dwmlaw.com](mailto:MUpton@dwmlaw.com)>

Cc: 'lcy@nhnea.org' <[lcy@nhnea.org](mailto:lcy@nhnea.org)>; SAU 37 <[jgoldhardt@mansd.org](mailto:jgoldhardt@mansd.org)>; Darnell Filleul <[DFilleul@dwmlaw.com](mailto:DFilleul@dwmlaw.com)>

**Subject:** Case No. E-0140-11, Manchester Education Association/NEA-NH v. Manchester School District

In a review of the above named case we have not received the Joint Pre-Hearing Worksheet which was due November 22, 2021. Please file promptly.

Respectfully,  
Rebecca Gerlack, Executive Secretary  
NH PELRB  
2 ½ Beacon Street, Suite 200  
Concord, NH 03301  
603-271-2587

---

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## Gerlack, Rebecca

---

**From:** Gerlack, Rebecca  
**Sent:** Tuesday, November 23, 2021 2:28 PM  
**To:** 'Esther Dickinson'; 'Matthew H. Upton'; Ignacio Sanchez  
**Cc:** Lori Cyr; SAU 37; Darnell Filleul  
**Subject:** RE: Case No. E-0140-11, Manchester Education Association/NEA-NH v. Manchester School District

Tracking:	Recipient	Delivery
	'Esther Dickinson'	
	'Matthew H. Upton'	
	Ignacio Sanchez	
	Lori Cyr	
	SAU 37	
	Darnell Filleul	
	Ingersoll, Douglas	Delivered: 11/23/2021 2:28 PM
	Lange, Karina	Delivered: 11/23/2021 2:28 PM

Per Director Ingersoll, since the parties have agreed to submit this case for decision on briefs and stipulations, the request to conduct the pre-hearing conference remotely is approved. You will receive a WebEx video meeting invitation separately.

Please note: if anyone from your office would like to receive PELRB emails in this case they should send a request to be included on the cc list.

Respectfully,  
Rebecca Gerlack *for*  
Douglas L. Ingersoll, Esq.  
Executive Director  
New Hampshire Public Employee Labor Relations Board  
2 ½ Beacon Street, Suite 200, Concord, New Hampshire 03301  
603 271-2587

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Please do not hesitate to contact me with any questions.

Thank you,  
Esther Dickinson

Esther K. Dickinson  
Staff Attorney, NEA-NH  
9 S. Spring St.  
Concord, NH 03301  
[edickinson@nhnea.org](mailto:edickinson@nhnea.org)  
603-224-7751

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**Cc:** 'lcy@nhnea.org' <[lcy@nhnea.org](mailto:lcy@nhnea.org)>; SAU 37 <[jgoldhardt@mansd.org](mailto:jgoldhardt@mansd.org)>; Darnell Filleul <[DFilleul@dwmlaw.com](mailto:DFilleul@dwmlaw.com)>  
**Subject:** RE: Case No. E-0140-11, Manchester Education Association/NEA-NH v. Manchester School District

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Here is the worksheet.

**Matthew H. Upton**  
Attorney

603.792.7413 Direct  
[MUpton@dwmlaw.com](mailto:MUpton@dwmlaw.com)

670 N. Commercial Street, Suite 207, Manchester, NH 03101  
800.727.1941 | 603.716.2899 Fax | [dwmlaw.com](http://dwmlaw.com)

**DrummondWoodsum**  
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**Cc:** 'lcy@nhnea.org' <[lcy@nhnea.org](mailto:lcy@nhnea.org)>; SAU 37 <[jgoldhardt@mansd.org](mailto:jgoldhardt@mansd.org)>; Darnell Filleul <[DFilleul@dwmlaw.com](mailto:DFilleul@dwmlaw.com)>  
**Subject:** Case No. E-0140-11, Manchester Education Association/NEA-NH v. Manchester School District

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NH PELRB  
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603-271-2587

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

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**  
**Decision No. 2021-202**

**Pre-Hearing Memorandum and Order**

**Date of Conference:** November 30, 2021

**Appearances:** Esther Kane Dickinson, Esq., and Ignacio Sanchez, UniServ  
Director, for the Complainant

Matthew H. Upton, Esq., for the Respondent

**Background:**

On August 3, 2021, the Manchester Education Association/NEA-NH (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act against the Manchester School District (District). The Association alleges, among other things, that: (1) in January, 2018, the Association filed a complaint against Principal McCafferty with the District; (2) in November, 2018, the District informed the Association that the District found the allegations of misconduct unfounded; (3) on January 30, 2019, the Association called a meeting to discuss the outcome of a "Culture and Climate" survey it conducted in December, 2018; (4) during the January 30, 2019 meeting, some attendees attempted to "overtake the meeting and divert the agenda for the purposes of airing grievances" about the Association and its leadership and to demand that the Association stop any further investigation into, or advocacy against, McCafferty's conduct; and

(5) the Association did not learn until April, 2021 that this strategy was designed by Principal McCafferty. According to the Association, he, among other things, (1) directed the employees attending the meeting to work "the crowd into a fury" in order to restrain, coerce and interfere with the Association's and bargaining unit members' statutory rights; (2) discouraged membership in the union by encouraging the employees to "temporarily" quit the Association, which resulted in a drop in union membership; and (3) interfered with the union administration by attempting to influence the selection of union leaders. The Association contends that as a result of Principal McCafferty's conduct, the District has committed an unfair labor practice in violation of the following sub-sections of RSA 273-A:5, I:

- (a) To restrain, coerce or otherwise interfere with its employees in the exercise of the rights conferred by this chapter;
- (b) To dominate or to interfere in the formation or administration of any employee organization;
- (c) To discriminate in the hiring or tenure, or the terms and conditions of employment of its employees for the purpose of encouraging or discouraging membership in any employee organization;
- (d) To discharge or otherwise discriminate against any employee because he has filed a complaint, affidavit or petition, or given information or testimony under this chapter; and
- (g) To fail to comply with this chapter or any rule adopted under this chapter

The Association requests that the PELRB (1) find that the District committed an unfair labor practice; (2) order the District to cease and desist from further violations; (3) "specifically admonish the actions of Principal McCafferty as a bad example of management in a union environment"; and (4) order the District to train administrators and supervisors to comply with RSA 273-A.

The District does not dispute the Association's factual allegations but denies the charges. The District "admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school climate." However, the District claims that "neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting with its prior knowledge or direction." The District requests that the PELRB find that no unfair labor practice has been committed by the District and deny the Association's request for relief.

#### Issues for Determination by the Board

Whether the District violated RSA 273-A:5, I (a), (b), (c), (d), and/or (g) as charged by the Association.

#### Decision

1. "Parties" means the Association, the District or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The parties requested that this case be submitted on stipulated facts, exhibits, and briefs and provided a proposed filing schedule. Based on the parties' pleadings and the discussion at the pre-hearing conference, it appears that there are no issues of relevant and material fact in dispute in this case and the parties agree that the hearing is unnecessary. See Admin Rules Pub 201.06 (a) and Pub 203.05 (b). The parties' request to submit this case on stipulated facts, exhibits, and briefs is granted and the proposed briefing schedule is approved.
3. During the pre-hearing conference, there was discussion about certain District investigation documents or reports addressing, discussing, or otherwise relating to

Principal McCafferty's actions. The parties are directed to resolve any issues relating to the exchange of these documents on their own, with the understanding that if one party chooses to include them with other documents submitted into the record for decision, they are subject to any relevancy objections the other party may make. Such relevancy objections should be raised before the document is submitted as an exhibit into the record, and should be reflected on the document by marking the exhibit for identification (ID). The relevancy and other bases for any objection, should then be fully addressed and explained in the briefs.

4. This case shall proceed according to the following schedule:

**December 28, 2021:** Parties shall exchange any affidavits and proposed exhibits;

**January 4, 2022:** Any disputes about the exchange of affidavits and proposed exhibits shall be raised with the PELRB by an appropriate filing, and a hearing will be scheduled for **January 25, 2022, at 10:00 a.m.** to resolve the disputes.

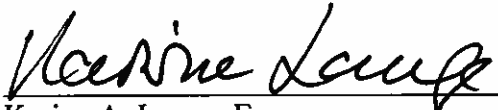
**January 28, 2022:** Deadline to file opening briefs.

**February 4, 2022:** Deadline to file reply briefs, if any.

Note: If a hearing on January 25, 2022 is necessary, either party may request an extension of the briefing deadlines at that hearing and the deadlines will be extended as necessary and appropriate.

So ordered.

Date: 12/02/2021

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

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.



**STATE OF NEW HAMPSHIRE  
Public Employee Labor Relations Board**

Manchester Education Association, NEA-NH

v.

Manchester School District

Case No. **E-0140-11**

**JOINT STIPULATION**

**NOW COMES** the Manchester School District and the Manchester Education Association, NEA-NH, by and through the undersigned representatives, and in final resolution of the above-referenced matter do hereby submit the following stipulation:

*The Principal at Hillside Middle School orchestrated, with the input and assistance of other employees in the building, a plan to disrupt a union meeting with the stated purpose of quelling what was viewed by the Principal as unrest and dissent at the middle school. Among other things, the Principal suggested that members of the union drop their membership in the NEA. These efforts interfered with the concerted activities of, and discouraging membership in, the Manchester Education Association-NEA/NH in violation of RSA 273-A: 5, I, a, b & c. The District agrees to direct the Principal at Hillside Middle School to cease and desist any and all such activities.*

**WHEREFORE**, the undersigned parties respectfully requests that this Honorable Board:

- A. Enter the above stipulation in final resolution of this matter; and
- B. Grant such other and further relief as justice may require.

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Respectfully submitted,

MANCHESTER SCHOOL DISTRICT

By its Attorneys,

DRUMMOND WOODSUM & MACMAHON, P.A.

Dated: January 5, 2022

By: /s/ Matthew H. Upton  
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MANCHESTER EDUCATION ASSOCIATION,  
NEA-NH

By its representatives,

Dated: January 5, 2022

By: /s/ Ignacio Sanchez  
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**State of New Hampshire**  
**Public Employee Labor Relations Board**

**Manchester Education Association/NEA-NH**

**v.**

**Manchester School District**

**Case No. E-0140-11**  
**Decision No. 2022-002**

**Order**

On August 3, 2021, the Manchester Education Association/NEA-NH (Association) filed an unfair labor practice complaint under the Public Employee Labor Relations Act against the Manchester School District (District). The Association alleged that:

1. In January, 2018, the Association filed a complaint against Principal McCafferty with the District and by November the District informed the Association of its findings that the allegations of misconduct were unfounded;
2. On January 30, 2019, the Association held a meeting to discuss the outcome of a "Culture and Climate" survey it conducted in December, 2018. During this meeting, some attendees attempted to "overtake the meeting and divert the agenda for the purposes of airing grievances" about the Association and its leadership and to demand that the Association stop any further investigation into, or advocacy against, Principal McCafferty's conduct; and
3. The Association learned in April, 2021 that Principal McCafferty designed this strategy, and in particular that he: a) directed the employees attending the meeting to work "the crowd into a fury" in order to restrain, coerce and interfere with the Association's and bargaining unit members' statutory rights; b) discouraged membership in the union by encouraging the employees to "temporarily" quit the Association, which resulted in a drop in union membership; and c) interfered with the union administration by attempting to influence the selection of union leaders.

The Association contends that as a result of Principal McCafferty's conduct, the District committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (c), (d), and (g).

In its answer to the complaint, the District did not dispute the Association's factual allegations but it did deny the unfair labor practice charges. In its answer, the District "admits that Principal McCafferty strategized with a group of employees who were planning to attend a union meeting and encouraged them to push back and disrupt those in attendance who might try to attack the administration and/or be critical of the school climate." However, the District argued that "neither Principal McCafferty nor anyone attending the relevant union meeting was authorized to act on the District's behalf or was acting with its prior knowledge or direction."

Per the pre-hearing order,<sup>1</sup> the parties agreed to submit this case for decision on stipulations and briefs. However, on January 5, 2022, the parties filed a Joint Stipulation in final resolution of this matter, which provides as follows:

***The Principal at Hillside Middle School orchestrated, with the input and assistance of other employees in the building, a plan to disrupt a union meeting with the stated purpose of quelling what was viewed by the Principal as unrest and dissent at the middle school. Among other things, the Principal suggested that members of the union drop their membership in the NEA. These efforts interfered with the concerted activities of, and discouraging membership in, the Manchester Education Association-NEA/NH in violation of RSA 273-A: 5, I, a, b & c. The District agrees to direct the Principal at Hillside Middle School to cease and desist any and all such activities.***

Upon review, the parties' Joint Stipulation is approved.

So ordered.

January 10, 2022

/s/ Peter G. Callaghan

Peter G. Callaghan, Esq.  
Chair/Presiding Officer

By unanimous vote of Alternate Chair Peter G. Callaghan, Esq., Board Member Carol M. Granfield, and Board Member Richard J. Laughton, Jr.

Distribution: Esther Kane Dickinson, Esq.  
Ignacio Sanchez, UniServ Director  
Matthew H. Upton, Esq.

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<sup>1</sup> See PELRB Decision No. 2021-202 (December 2, 2021).