

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of *
*
BOSTON SCHOOL COMMITTEE *
*
and *
*
BOSTON TEACHERS UNION *
*

Case No. MUP-13-2912
Date Issued: June 13, 2014

Hearing Officer:

Kerry Bonner, Esq.

Appearances:

Eamonn Gill, Esq.: Representing Boston School Committee
Mark Esposito, Esq.: Representing Boston Teachers Union

HEARING OFFICER'S DECISION

Summary

1 The issue is whether the Boston School Committee (School Committee or
2 Committee) violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of
3 Massachusetts General Laws Chapter 150E (the Law) by failing to provide information
4 that is relevant and reasonably necessary for the Boston Teachers Union (Union) to
5 execute its duties as collective bargaining representative. Based on the record and for
6 the reasons explained below, I find that the School Committee violated the Law as
7 alleged.

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- A. A copy of any currently effective agreement between the School Committee and/or the Boston Public Schools or its agents and the Center for Collaborative Education.
 - B. A copy of any agreement or agreements between the School Committee and/or the Boston Public Schools or its agents and the Center for Collaborative Education effective at any time during the last ten school years, to the extent not included in paragraph A above.
 - C. A list of all employees, contractors, or subcontractors of the Center for Collaborative Education who have performed work within the Boston Public Schools in each of the last ten school years.
 - D. For each person identified in response to paragraph C above, a description of the work performed by that person within the Boston Public Schools, along with the location in which that work was performed.
 - E. The source of funding provided by the Center for Collaborative Education to employees, contractors or subcontractors who have performed work within the Boston Public Schools in each of the last ten school years.
 - F. A description of any payments by the School Committee and/or the Boston Public Schools or its agents to the Center for Collaborative Education at any time during the last ten school years, to the extent not encompassed within paragraphs A and B above.
 - G. A list of all former employees, contractors, or subcontractors of the Center for Collaborative Education who were subsequently hired by the Boston Public Schools at any time during the last ten school years.
6. By March 19, 2014, the School Committee had not produced the information requested in paragraph 5 for three of the pilot schools. These schools include:
- 1. Boston Arts Academy
 - 2. Mason Pilot School
 - 3. Quincy Upper Pilot School

- 1 7. On March 25, 2014, the School Committee produced certain information
2 pertaining to the Mason Pilot School and the Quincy Upper Pilot School set forth
3 in Exhibit 26.
4
- 5 8. The School Committee has identified personnel working in the Mason Pilot
6 School associated with Center for Collaborative Education funds during the
7 2012-2013 school year, but not their job duties.
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- 9 9. The School Committee has identified the amount of money of the contract with
10 the Center for Collaborative Education pertaining to the Quincy Upper Pilot
11 School, but not the nature of the services provided.
12
- 13 10. The information that the Union requested in its December 20, 2012 letter
14 referenced in paragraph 5 is relevant and reasonably necessary for the Union to
15 perform its function as the exclusive bargaining representative.
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17 Additional Facts Derived from Joint Exhibits and Stipulated Facts¹
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19 The information the School Committee produced on March 25, 2014 is
20 responsive to the information request described in Stipulation 5(C) with regard to the
21 Mason Pilot School (Mason). It is also responsive to the request described in
22 Stipulation 5(F) with regard to the Quincy Upper Pilot School (Quincy).
23

24 Opinion

25 If a public employer possesses information that is relevant and reasonably
26 necessary to an employee organization in the performance of its duties as the exclusive
27 collective bargaining representative, the employer is generally obligated to provide the
28 information upon the employee organization's request. City of Boston, 32 MLC 1, MUP-
1687 (June 23, 2005) (citing Higher Education Coordinating Council, 23 MLC 266, 268,

¹ Although not included in the parties' stipulated facts, the Union notes in its brief that it has agreed to limit its request in this case to information pertaining only to the 2012-2013 school year. Accordingly, my decision and order will only address information for the 2012-2013 school year.

1 SUP-4142 (June 6, 1997)). The employee organization's right to receive relevant
2 information is derived from the statutory obligation to engage in good faith collective
3 bargaining, including both grievance processing and contract administration.
4 Id.

5 There is no dispute that the Union requested certain information on December
6 20, 2012, or that the School Committee did not provide any of the requested information
7 for the Boston Arts Academy (BAA), Mason, and Quincy until March 19, 2014,
8 approximately fifteen months after the Union's request. It is also undisputed that the
9 School Committee produced some of the information requested for the Mason and
10 Quincy schools on March 19 and March 25, 2014. Specifically, the parties' stipulations
11 and joint exhibits demonstrate that the information the School Committee produced on
12 March 25, 2014 is responsive to the information request described in Stipulation 5(C) for
13 the Mason. It is also responsive to the request described in Stipulation 5(F) for the
14 Quincy. The School Committee has not produced any information for the BAA.

15 The School Committee stipulated that the requested information is relevant and
16 reasonably necessary for the Union to perform its function as the exclusive bargaining
17 representative. Moreover, it has not presented any evidence or arguments that the
18 requested information is not in its possession or control. Accordingly, I find that the
19 School Committee violated Section 10(a)(5) of the Law when it failed to provide the
20 information described above. See, Bristol County Sheriff's Department, 32 MLC 76, 81,
21 MUP-01-3086 (August 3, 2005) (where employer failed to establish that it did not

1 possess or control certain requested information, or that the information did not exist,
2 the Board could not conclude that it acted lawfully by failing to respond to the union's
3 information request).

4 The School Committee also presented no evidence or arguments to explain why
5 it did not provide the information described in Stipulations 5(C) and 5(F) for the Mason
6 and Quincy schools, respectively, until approximately fifteen months after the Union's
7 request. Therefore, I conclude that the School Committee also violated Section 10(a)(5)
8 of the Law by its unreasonable delay in providing this information. See, Higher
9 Education Coordinating Council, 25 MLC 37, SUP-4225 (August 24, 1998) (an
10 employer's belated providing of information does not bring it into compliance with the
11 Law).

12 Conclusion

13 Based on the stipulated record and for the reasons explained above, I find that
14 the School Committee violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of
15 the Law by failing to provide certain information, and failing to timely provide other
16 information, that is relevant and reasonably necessary for the Union to execute its
17 duties as collective bargaining representative.

Order

1 Based on the foregoing, IT IS HEREBY ORDERED THAT the School Committee
2 shall:

3 1. Cease and desist from:

4 a. Failing and refusing to bargain collectively in good faith with the Union by
5 refusing to provide relevant and reasonably necessary information when
6 requested by the Union;

7
8 b. In any like or similar manner interfering with, restraining or coercing
9 employees in the exercise of their rights protected under the Law.

10
11 2. Take the following affirmative action that will effectuate the purpose of the Law:

12 a. Immediately provide the Union with the following information for the BAA,
13 Mason, and Quincy schools for the 2012 – 2013 school year:²

14
15 A. A copy of any agreement or agreements between the School
16 Committee and/or the Boston Public Schools or its agents and
17 the Center for Collaborative Education.

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19 B. A list of all employees, contractors, or subcontractors of the
20 Center for Collaborative Education who have performed work
21 within the Boston Public Schools.

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23 C. For each person identified in response to paragraph B above, a
24 description of the work performed by that person within the
25 Boston Public Schools, along with the location in which that
26 work was performed.

27
28 D. The source of funding provided by the Center for Collaborative
29 Education to employees, contractors or subcontractors who
30 have performed work within the Boston Public Schools.

² As referenced above, the School Committee responded to paragraph B for the Mason and E for the Quincy. It therefore does not have to provide this information again to the Union. In addition, because the Union is only seeking information for the 2012 – 2013 school year, I have revised the language of the information request described in Stipulation 5 to reflect this.

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E. A description of any payments by the School Committee and/or the Boston Public Schools or its agents to the Center for Collaborative Education, to the extent not encompassed within paragraph A above.

F. A list of all former employees, contractors, or subcontractors of the Center for Collaborative Education who were subsequently hired by the Boston Public Schools.

b. Sign and post immediately in conspicuous places employees usually congregate or where notices to employees are usually posted, including electronically, if the School Committee customarily communicates to its employees via intranet or email, and maintain for a period of thirty (30) consecutive days thereafter signed copies of the attached Notice to Employees.

c. Notify the DLR within thirty (30) days after the date of service of this decision and order of the steps taken to comply with its terms.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS



KERRY BOWNER, ESQ.

APPEAL RIGHTS

The parties are advised of their right, pursuant to M.G.L. c. 150E, Section 11, 456 CMR 13.02(1)(j), and 456 CMR 13.15, to request a review of this decision by the Commonwealth Employment Relations Board by filing a Notice of Appeal with the Executive Secretary of the Department of Labor Relations not later than ten days after receiving notice of this decision. If a Notice of Appeal is not filed within the ten days, this decision shall become final and binding on the parties.



**POSTED BY ORDER OF A HEARING OFFICER OF THE
MASSACHUSETTS DEPARTMENT OF LABOR RELATIONS
AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS**

A Hearing Officer of the Massachusetts Department of Labor Relations (DLR) has held that the Boston School Committee (School Committee) violated Sections 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E by refusing to provide, and refusing to timely provide, relevant and reasonably necessary information when requested by the Union.

Chapter 150E gives public employees the right to form, join or assist a union; to participate in proceedings at the DLR; to act together with other employees for the purpose of collective bargaining or other mutual aid or protection; and, to choose not to engage in any of these protected activities.

The School Committee assures its employees that:

- WE WILL NOT fail or refuse to bargain in good faith with the Union by refusing to provide relevant and reasonably necessary information when requested by the Union.
- WE WILL NOT in any like or similar manner interfere with, restrain, or coerce employees in the exercise of their rights protected under the Law.
- WE WILL take the following affirmative action that will effectuate the purpose of the Law:
 - Provide the Union with the information it requested on December 20, 2012 for the Boston Arts Academy, Mason Pilot School, and Quincy Upper Pilot School.

For the School Committee

Date

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED OR REMOVED

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Department of Labor Relations, Charles F. Hurley Building, 1st Floor, 19 Staniford Street, Boston, MA 02114 (Telephone: (617) 626-7132).