

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of *
*
SOMERSET SCHOOL COMMITTEE *
*
and *
*
LORRIE PIERCE *
*

Case No.: MUP-13-3085
Date Issued: May 22, 2014

Hearing Officer:

Kendrah Davis, Esq.

Appearances:

Lorrie Pierce - Pro Se

Andrew Waugh, Esq. - Representing the Somerset School Committee

HEARING OFFICER'S DECISION

SUMMARY

1 The issue is whether the Somerset School Committee (Committee or Employer),
2 discriminated against Lorrie Pierce (Ms. Pierce) for engaging in concerted, protected
3 activity in violation of Section 10(a)(4) and derivatively Section 10(a)(1) of
4 Massachusetts General Laws, Chapter 150E (the Law) when it deleted Ms. Pierce's
5 User Directory e-mail account, removed her name from the Wilbur Elementary School
6 (Wilbur School) faculty list, and posted and permanently filled a job vacancy for a her
7 former Wilbur School Paraprofessional assignment that included a new job qualification

1 while Ms. Pierce's arbitration was pending. Based on the record, and for the reasons
2 explained below, I find that the Committee violated the Law when it deleted Ms. Pierce's
3 User Directory e-mail account, removed her name from the Wilbur School faculty list,
4 and posted and permanently filled a job vacancy for her former Wilbur School
5 Paraprofessional assignment that included a new job qualification while Ms. Pierce's
6 arbitration was pending, in retaliation for her protected, concerted activity.

7 STATEMENT OF THE CASE

8 On September 3, 2013, Ms. Pierce filed a Charge of Prohibited Practice (Charge)
9 with the Department of Labor Relations (DLR) alleging that the Committee had engaged
10 in prohibited practices within the meaning of the Law. On October 30, 2013, a DLR
11 Investigator issued a Complaint of Prohibited Practice (Complaint), alleging that the
12 Committee had violated Section 10(a)(4)¹ and, derivatively, 10(a)(1) of the Law by
13 retaliating against Pierce by deactivating her school e-mail account, removing her from
14 the faculty list and permanently filling her former position as a paraprofessional at the
15 Wilbur School while her arbitration was pending at the DLR in case number ARB-12-
16 2455. On November 8, 2013, the Committee filed its Answer.

17 I conducted a hearing on March 18, 2014, at which both parties had the
18 opportunity to be heard, to examine and cross-examine witnesses and introduce

¹ The Investigator subsumed Ms. Pierce's 10(a)(3) allegations into the 10(a)(4) allegations.

1 evidence.² On April 18, 2014, both parties filed their post-hearing briefs. On the entire
2 record, I make the following findings and render the following decision.

3 ADMISSIONS OF FACT³

4 The Committee admitted to the following facts:

- 5 1. The Committee is the collective bargaining representative for the Town of
6 Somerset (Town) for purposes of dealing with school employees.
7
- 8 2. The American Federation of State, County and Municipal Employees,
9 Council 93, Local 1701 (Union or AFSCME) is an employee organization
10 within the meaning of Section 1 of the Law.
11
- 12 3. The Union is the exclusive bargaining representative for paraprofessionals
13 employed by the Town at the Somerset School District and the Somerset
14 Berkley Regional School District (School Districts).
15
- 16 4. On September 24, 2012, Ms. Pierce grieved her non-assignment to the
17 Wilbur School, and filed a petition for arbitration with the DLR in case
18 number ARB-12-2455 on November 6, 2012.
19
- 20 5. Ms. Pierce participated in the arbitration hearing for case number ARB-12-
21 2455 on June 28, 2013.
22
- 23 6. The Committee knew of Ms. Pierce's participation in the DLR proceeding
24 referred to in paragraphs 4 and 5.
25

26 FINDINGS OF FACT

27 **The Collective Bargaining Agreement**

28 The Union and the Committee are parties to a collective bargaining agreement
29 (Agreement), effective from September 1, 2011 – August 31, 2014. The Agreement's

² At the end of Ms. Pierce's case-in-chief, the Committee made a Motion to Dismiss the Complaint (Motion), which I denied. At the end of its case-in-chief, the Committee renewed its Motion, which I took under advisement. For the reasons discussed below, I deny the Motion.

³ In its Answer, the Committee made full and partial admissions of fact. This portion of my decision reflects only the Committee's full admissions of fact.

1 Article XVI Seniority provision states in full, "The length of continued and uninterrupted
2 service of the employee in the bargaining unit shall determine the seniority of the
3 employee." Article XV New Positions and Vacancies states, in pertinent part:

4 When a position covered by this Agreement is created or a current
5 position becomes vacant, such position shall be posted in a conspicuous
6 place listing the pay, duties and qualifications. ...The applicable Employer
7 will award the position to the most qualified applicant, qualifications to be
8 determined in the sole discretion of the Employer. In cases where the
9 qualifications of all candidates from within and outside the system are
10 equal, the employee with the most seniority within the bargaining unit shall
11 be awarded the job.

12

13 **Ms. Pierce's Leave of Absence and 2012 Return to Work**

14

15 Beginning in 2001, the Committee employed Ms. Pierce as a kindergarten
16 paraprofessional at the Wilbur School.⁴ In the fall of 2002, the Committee hired Ms.
17 Pierce as a paraprofessional in a first grade classroom at the Wilbur School, but
18 returned her to the kindergarten setting in or about 2004.

19 In or around May of 2010, the Committee granted Ms. Pierce a medical leave of
20 absence, which lasted through the end of the 2009-2010 school year. Ms. Pierce
21 returned to work in August of 2010 but took another medical leave of absence in
22 October of 2010, which the Committee extended until the end of the 2010-2011 school
23 year. In April of 2011, the Committee sought to temporarily fill Ms. Pierce's position
24 during her leave and posted a vacancy for a paraprofessional long-term substitute
25 assignment at the Wilbur School. Shortly after posting that vacancy announcement, the

⁴ The Committee does not have a formal job description for the paraprofessional position. Instead, it assigns employees to different paraprofessional assignments depending on their work location and the needs of the building principal. Those assignments vary from: general education, transitional/special education (SPED), Title I (funded by grant), long-term substitute, etc. Superintendent Richard Medeiros (Medeiros) testified to this fact and Ms. Pierce did not rebut that portion of his testimony.

1 Committee appointed Tanya Silva (Silva) to that assignment, in which she remained
2 through August of 2013.

3 On July 2, 2012, the Committee posted another job vacancy for a
4 paraprofessional SPED assignment at the Chace Street School (Chace School). By
5 facsimile on August 24, 2012, Ms. Pierce notified the Committee that she wished to
6 return from her medical leave and be reinstated to her kindergarten paraprofessional
7 assignment at the Wilbur School. The Committee received Ms. Pierce's request to
8 return on August 27, 2012 and sought additional information from her physician. On
9 September 5, 2012, Ms. Pierce provided the Committee with the requested information
10 and met with the Committee on September 24, 2012 to discuss her reinstatement. At
11 that meeting, the Committee offered Ms. Pierce the paraprofessional SPED assignment
12 at the Chace School and memorialized that offer by letter dated the same day.⁵ That
13 letter stated, in full, "This letter is to inform you that your assignment in the Somerset
14 Public Schools for the 2012-2013 academic year will be as a Paraprofessional at Chace
15 Street School. Please forward your acceptance of this assignment by Monday, October
16 1, 2012."

17 The Committee asked Ms. Pierce to accept the new assignment and sign the
18 letter by October 1, 2012. Immediately after the meeting, Ms. Pierce filed a grievance
19 with the Union, protesting her non-assignment to the Wilbur School and, four days later,
20 on September 28, 2012, she formally declined the Chace School assignment. Since
21 September 28, 2012 and throughout her grievance-arbitration, Ms. Pierce has not

⁵ The Chace School transitional K-1 paraprofessional assignment was a special education (SPED) assignment that required the paraprofessional to assist kindergarten students with their transition to a general education classroom.

1 reported to work at the School District.

2 On October 30, 2012, the Committee denied her grievance and, on November
3 16, 2012, the Union filed a petition for arbitration with the DLR in case number ARB-12-
4 2455. Both Ms. Pierce and Superintendent Medeiros participated in the arbitration
5 hearing at the DLR on June 28, 2013. On September 12 2013, the arbitrator issued a
6 decision, finding that the Committee did not violate the parties' Agreement when it
7 offered Ms. Pierce a paraprofessional assignment at the Chace School on September
8 24, 2012.

9 **The 2012-2013 Employment Status Changes**

10 When an individual separates from their employment with the Somerset School
11 District (District), someone in Central Office usually documents the reason for their
12 separation, confirming the effective separation date. Separation can occur by
13 resignation, retirement, termination, etc. On or about September 28, 2012,
14 Superintendent Medeiros changed Ms. Pierce's employment status as having
15 voluntarily resigned due to her declination of the Chace School assignment. Sometime
16 between September 28, 2012 and July of 2013, Medeiros also removed Ms. Pierce's
17 name from the faculty list and placed it on a list of employees who had left the District's
18 employment during the 2012-2013 school year.

19 The Committee did not inform Ms. Pierce that it had terminated her employment
20 and never provided written notice of her effective termination date. Conversely, Ms.
21 Pierce never provided the Committee with a written letter of resignation and still
22 considered herself employed by the District while her arbitration was pending. Ms.
23 Pierce first became aware that the Committee had changed her employment status on

1 July 15, 2013 after speaking with Director of Technology Raymond Nekrasz (Nekrasz),
 2 who informed her that Superintendent Medeiros no longer recognized her as a School
 3 District employee. By e-mail on August 27, 2013, Union attorney Scott Taveira
 4 (Taveira) informed Ms. Pierce that the Committee never notified the Union about her
 5 termination and that without an official letter from the Committee, the Union still
 6 considered her to be a School District employee.

7 At the end of the 2012-2013 school year, a Central Office Assistant (Michelle or
 8 LuAnn⁶) created a list of 32 individuals who had “retired, resigned, etc.” from their
 9 employment with the School Districts:

10	Kenneth Day	June 30, 2012	Retired
11	Joan DeAngelis	August 24, 2012	Resigned
12	Sharon Babb	August 31, 2012	Resigned
13	Catharine Gagnon	August 31, 2012	Resigned
14	Kelly O'Halloran	August 31, 2012	Resigned
15	Stacy Rezendes	August 31, 2012	Resigned
16	Kerin Royds	September 5, 2012	Resigned
17	John Wright	September 10, 2012	Retired
18	Rochelle Desmarais	September 28, 2012	Retired
19	Lorrie Pierce	September 28, 2012	Declined Position ⁷
20	Susan Von Itter-Doe	October 16, 2012	Resigned
21	Leanne Beard	October 18, 2012	Resigned
22	Ellen Lavalley	December 21, 2012	Retired
23	David Rego	March 13, 2013	Retired
24	Irene Rauner	March 16, 2013	Resigned
25	Susan McCune	March 29, 2013	Resigned
26	Sheila Perry	April 12, 2013	Resigned

⁶ The parties did not identify the last names of Michelle or LuAnn.

⁷ On September 28, 2012, Ms. Pierce declined a paraprofessional assignment to Chace School but there is no evidence in the record that she declined a paraprofessional position. While Superintendent Medeiros testified that while there can be many paraprofessional assignments but only one paraprofessional position, he was unable to reconcile why he categorized Ms. Pierce as having “declined position” in September of 2012. Neither Ms. Pierce nor the Committee presented evidence of other employees whose employment was terminated due to a declined position.

1	Barbara Janelle	May 29, 2013	Retired
2	Ann Marie Silvestre	June 26, 2013	Retired
3	Brittany Vasquez	June 26, 2013	Resigned
4	Lori Anderson	June 30, 2013	Retired
5	Crystal Carreiro	June 30, 2013	Resig to sub teach
6	Deborah Cimo	June 30, 2013	Resigned
7	Kristen Lord	June 30, 2013	Resigned
8	Barbara Urban	June 30, 2013	Resigned
9	Maureen Donnelly	July 29, 2013	Retired
10	Erin Taylor	August 15, 2013	Resigned
11	Marisha Wildrick	August 24, 2013	Resigned
12	Jennifer Mello	August 27, 2013	Resigned
13	Judith Patnaude	August 31, 2013	Retired
14	Vanessa Vigna	August 31, 2013	Resigned

15
 16 Contemporaneous with that list, the Committee publicly announced the
 17 retirement of Kenneth Day (Day) on or about March 15, 2012, and of Lori Anderson
 18 (Anderson), Ellen Lavallee (Lavallee), Barbara Janelle (Janelle), Barbara Urban
 19 (Urban), Judith Patnaude (Patnaude) and Maureen Donnelly (Donnelly) on or about
 20 June 3, 2013. The Committee never publicly announced the change to Ms. Pierce's
 21 employment status.

22 **The User Directory E-Mail Accounts**

23 The Committee maintains the Districts' e-mail accounts via the User Directory.
 24 The User Directory is an electronic folder that contains the personal contact information
 25 and e-mail addresses for all individuals employed with the District. When an employee
 26 changes their employment status, the Superintendent will instruct the User Directory
 27 Administrator to deactivate, delete or modify their e-mail account. At all relevant times,
 28 Nekrasz was the User Directory Administrator and the only person authorized to modify,
 29 deactivate or delete e-mail accounts. Deactivating an e-mail account entails disabling
 30 the user's access while keeping the account active within the User Directory database.
 31 Deleting an e-mail account entails disabling the user's access and completely removing

1 their account from the User Directory. When an employee has retired or resigned but
2 continues to perform District-related activities (e.g., chaperoning field trips, taking
3 minutes at Committee meetings, substitute teaching, etc.), Nekrasz will modify their e-
4 mail accounts, which entails enabling their User Directory access for the duration of
5 their post-employment, school-related activity.

6 As Administrator, Nekrasz considers e-mail account maintenance to be a low-
7 priority job duty. Typically, he does not deactivate, delete or modify any e-mail accounts
8 until the end of a given school year. At some point between June 28 and July 1, 2013,
9 Superintendent Medeiros provided Nekrasz with a list of employees, instructing him to
10 delete, deactivate or modify their User Directory e-mail accounts. Per Medeiros'
11 instructions, Nekrasz modified the e-mail accounts of five retirees: Anderson, Janelle,
12 Rochelle Desmarais (Desmarais), Crystal Carreiro (Carreiro) and Day because they had
13 retained a post-employment relationship with the District. Medeiros also gave Nekrasz
14 specific instructions to delete Ms. Pierce's e-mail account, which he did on or about July
15 1, 2013.⁸ On or about July 2, 2013, Ms. Pierce was unable to access her User
16 Directory e-mail account and contacted Nekrasz by e-mail on July 9, 2013, stating, in
17 pertinent part:

18 Hi Ray,

19
20 I am just inquiring as to why I cannot access my school based email. For
21 some reason when I attempted to [log] in on July 2, 2013 I was unable to.
22 Just to be sure it was working properly, I tried to send an email from my
23 own home email account to my Somerset Public School email address.
24 The email would not go through. I rec[eived] a message on my home

⁸ Nekrasz testified that Superintendent Medeiros gave him a "fresh list" of names for e-mail deletion but he could not identify the names on the list or recall when Medeiros gave it to him.

1 email account stating the address is not valid. I had previously logged on
2 to my school based email the last week of June 2013 and didn't run into
3 any problems at all.

4
5 If possible, would you please let me know why I can't log on[?] You can
6 email me back at this address or you can call my cell phone....
7

8 By e-mail on July 10, 2013, Nekrasz confirmed to Superintendent Medeiros that
9 he had deleted Ms. Pierce's e-mail account per his instructions. Specifically, Nekrasz's
10 e-mail stated, in pertinent part, "Rick. As per your directions I deactivated and deleted
11 Ms. Pierce's Somerset email account." By telephone on July 15, 2013, Nekrasz
12 contacted Ms. Pierce, informing her that the Committee had terminated her e-mail
13 account, effective July 1, 2013.

14 As of July 16, 2013, Nekrasz had failed to deactivate or delete the User Directory
15 e-mail accounts of six employees who had retired or resigned during the 2012-2013
16 school: Urban, Brittany Vasquez (Vasquez), Lavallee, Kelly O'Halloran (O'Halloran),
17 Kerin Royds (Royds) and Donnelly. At no point did Superintendent Medeiros instruct
18 Nekrasz to deactivate, delete or modify those six e-mail accounts; nor did he instruct
19 Nekrasz to restore Ms. Pierce's e-mail account.

20 **The Five Paraprofessional Job Postings**

21 In January of 2013, the Committee hired Zachary Waddicor (Waddicor) as
22 Principal of the Wilbur School. In that capacity, Waddicor is responsible for providing
23 Superintendent Medeiros with input about job vacancy postings. The Superintendent
24 will post notices of those vacancies on the Districts' SchoolSpring.com (School Spring)
25 website and by internal vacancy notice. Waddicor also conducts job interviews and
26 supervises Wilbur School staff, including paraprofessionals. In the spring of 2013,
27 Waddicor became aware that Janelle was going to retire from her Title I

1 paraprofessional assignment at the Wilbur School in or around September of 2013.
2 Around that time, he also became aware that the Committee wanted to transform Silva's
3 current assignment from long-term substitute to a permanent paraprofessional
4 assignment.

5 Between April and October of 2013, Waddicor assisted Superintendent Medeiros
6 in posting job vacancies and appointing applicants to five paraprofessional positions
7 within the District.

8 **1. Wilbur School Paraprofessional Long-Range Substitute**

9 On April 10, 2013, the Committee posted a job vacancy announcement for a
10 "Paraprofessional Long-Range Substitute" assignment at the Wilbur School, with an
11 application deadline of April 17, 2013 and a starting date of May 4, 2013. That posting
12 listed the following job requirements: (1) two years of College course work (48 credits)
13 /AS Degree required or passing score (464) on the Para Pro Assessment; (2) ability to
14 work effectively with adults and students; (3) effective interpersonal communication
15 skills; and (4) citizenship, residency or United States work visa. The job requirements
16 for the position did not include having a preference for working with special needs or
17 special education (SPED) students.

18 After conducting interviews for that assignment, Waddicor submitted his
19 recommendation to Superintendent Medeiros, who later appointed Carreiro.⁹

20 **2. North Elementary School Paraprofessional Special Education (SPED)**

21 On June 13, 2013, the Committee posted a job vacancy for a "Paraprofessional
22 Special Education (SPED)" assignment at the North Elementary School, with an

⁹ Ms. Pierce did not apply for this assignment but she was able to access the Committee's job posting on School Spring via her User Directory e-mail account.

1 application deadline of June 19, 2013 and a starting date of August 28, 2013. The
2 posting listed the following job requirements: (1) two years of College course work (48
3 credits) /AS Degree required or (2) ability to work effectively with adults and students;
4 (3) effective interpersonal communication skills; and (4) preference for experience in
5 working with ASD students.

6 Waddicor interviewed candidates for the position and submitted his
7 recommendation to Superintendent Medeiros sometime in late-August of 2013.¹⁰

8 **3. Wilbur School Paraprofessionals (2)**

9 On Monday July 1, 2013, the Committee posted job vacancies for a
10 "Paraprofessionals (2)" assignment at the Wilbur School, with an application deadline of
11 July 12, 2013 and a starting date of August 28, 2013.¹¹ Although the job posting was
12 silent about the specific assignment, the Committee eventually hired one
13 paraprofessional for a general education kindergarten assignment and another for a
14 SPED kindergarten assignment. Prior to September 28, 2012, Ms. Pierce was
15 employed in the paraprofessional general education kindergarten assignment at the
16 Wilbur School.

17 On School Spring, the Committee listed the following job qualifications for that
18 position: (1) two years of College course work (48 credits) /AS Degree required or (2)
19 ability to work effectively with adults and students; (3) effective interpersonal

¹⁰ Ms. Pierce did not apply for this position but she was able to access the posting on School Spring via her User Directory e-mail account.

¹¹ At the top of the job posting, the description stated that the Committee was seeking two paraprofessionals; however, toward the middle of the posting, it stated that only one position was available. Waddicor testified that he could not reconcile this discrepancy and did not know why Superintendent Medeiros had posted that information in the job description.

1 communication skills; and (4) preference in working with special needs students. The
2 fourth qualification for that position was new because prior to hiring Ms. Pierce in 2001,
3 the Committee did not require the incumbent to “have a preference in working with
4 special needs students.”

5 84 individuals applied for the Paraprofessionals (2) vacancies and Waddicor
6 offered 10-15 applicants an interview, of which seven accepted. At some point during
7 the middle of August of 2013, Waddicor, along with transitional SPED teacher Kristin
8 Gahan (Gahan) and another District teacher Heather Kela (Kela),¹² conducted group
9 interviews with four or five applicants. Also around that time, Waddicor conducted a solo
10 interview¹³ with Silva and recommended her candidacy to Superintendent Medeiros who
11 notified Silva of her appointment to the general education kindergarten assignment by
12 letter on August 27, 2013. Waddicor also conducted a solo interview and
13 recommended Amy Canuel (Canuel) for the SPED paraprofessional assignment but she
14 withdrew her candidacy on August 20, 2013. On August 29, 2013, Waddicor conducted
15 a final solo interview and recommended Megan Nascimento (Nascimento) for the Wilbur
16 School SPED assignment. Five days later, Superintendent Medeiros notified
17 Nascimento of her appointment by letter dated September 3, 2013.

¹² Waddicor selected Gahan to participate in the interviews because she was the K-2 transitional SPED teacher where Janelle was currently working and he wanted her input regarding the best applicant to replace Janelle.

¹³ Waddicor testified that it is not uncommon to conduct solo interviews even though team interviews are preferable when circumstances permit them. He also testified that he interviewed Silva without Gahan's and Kela's assistance because they were unavailable at the time of the interview. Waddicor stated that he felt comfortable interviewing Silva based his knowledge of having worked with her for six months prior as the long-range kindergarten substitute at the Wilbur School.

1 Ms. Pierce was unable to utilize her e-mail account to access the job posting for
2 the Wilbur School Paraprofessionals (2) assignment; however, she was able to view the
3 job posting by alternative means. Ms. Pierce was confused about whether the
4 Committee was seeking to hire one or two paraprofessionals for that assignment. She
5 was also confused about whether the assignment would be for a general education
6 kindergarten classroom, a SPED kindergarten classroom or both. Ms. Pierce sought
7 Union counsel but ultimately missed the application deadline.

8 By e-mail on August 27, 2013, she contacted Taveira, complaining that the
9 Committee had failed to post notice of the paraprofessional job vacancies at the Wilbur
10 School. By reply e-mail on August 28, 2013, Taveira notified Ms. Pierce that he had
11 spoken with Superintendent Medeiros about four Wilbur School paraprofessional
12 assignments and that the Committee had hired Silva, White,¹⁴ Michelle D. and Liz D.¹⁵
13 to fill those vacancies. Specifically, Superintendent Medeiros had assigned Michelle D.
14 and Liz D. to two of the positions because they were already employed at the Wilbur
15 School and did not consider their appointment to those positions as “true vacancies.”¹⁶
16 By that same e-mail Superintendent Medeiros also informed Taveira that once Barbara
17 G.¹⁷ officially retired, it would post that position and permit Ms. Pierce to “bid on any job

¹⁴ Superintendent Medeiros did not notify White of her appointment to the Title I paraprofessional assignment until September 23, 2013, which was effective on October 1, 2013.

¹⁵ The parties did not identify “Michelle D.” or “Liz D.”

¹⁶ The record is not clear about whether the Committee appointed Michelle D. and Liz D. to paraprofessional assignments or SPED paraprofessional assignments at the Wilbur School.

¹⁷ The parties did not identify “Barbara G.”

1 in the district.” By letter dated September 3, 2013, the Committee notified Nascimento
2 that Superintendent Medeiros had appointed her to a paraprofessional assignment at
3 the Wilbur School, effective September 12, 2013.

4 By letter on August 21, 2013, Waddicor sent a letter to the Wilbur School staff,
5 informing them that Superintendent Medeiros had appointed Silva to the
6 Paraprofessionals (2) general education assignment, stating, in pertinent part:

7 Many new faces will be seen at Wilbur School this fall....Crystal Carreiro
8 has been appointed as the fifth grade long-term substitute for the 2013-
9 2014 school year and I am extremely happy to announce that Tanya Silva
10 has been formally appointed as a paraprofessional at Wilbur and she will
11 continue in her role in our Kindergarten classrooms....Paraprofessional[s]
12 should report to Wilbur on Wednesday, August 28 to participate in
13 mandatory trainings and our district meeting at Somerset Middle School.¹⁸

14

15 **4. Somerset Middle School Paraprofessional SPED**

16 On July 3, 2013, the Committee posted another job vacancy for a SPED
17 paraprofessional assignment at the Somerset Middle School, which required the same
18 qualifications as the Paraprofessionals (2) position at the Wilbur School.¹⁹ Ms. Pierce
19 did not apply for this position and was unable to access the electronic job posting via
20 her deleted User Directory e-mail account.

21 **5. Wilbur School Title I Paraprofessional**

22 By letter on September 23, 2013, Superintendent Medeiros notified Jocelyn
23 White (White) that he had appointed her to the Title I paraprofessional assignment
24 effective, October 1, 2013. However, Superintendent Medeiros failed to post that job
25 vacancy announcement on School Spring or elsewhere.

¹⁸ Waddicor testified that he announced Silva’s appointment in this letter “in error.”

¹⁹ The record is unclear about who the Superintendent appointed to this assignment.

1 that, "but for the protected activity, the employer would not have taken the adverse
2 action." City of Boston, 35 MLC 289, 291, MUP-04-4077 (May 20, 2009) (citing
3 Trustees of Forbes Library v. Labor Relations Commission, 384 Mass. 559, 565-66
4 (1981); Bristol County, 26 MLC 105, 109, MUP-2100 (Jan. 28, 2000)). The first two
5 elements of Ms. Pierce's prima facie case are undisputed. However, the Committee
6 argues that there is no violation because Ms. Pierce is unable to show adverse action or
7 unlawful motivation.

8 **Adverse Action**

9 First, the Committee argues that adverse action requires the individual affected
10 to be an employee of the employer. It asserts that Ms. Pierce was not an employee of
11 the Committee because she had voluntarily resigned from her employment when she
12 declined the Chace School paraprofessional assignment on September 28, 2012.
13 Thus, the Committee contends that Ms. Pierce was not employed by the District at any
14 subsequent point.

15 Relying on City of Boston, 35 MLC at 291 (citing MacCormack v. Boston Edison
16 Co., 423 Mass. 652, 662 (1996)) and LaRou v. Ridlon, 98 F.3d 659, 663 (1st Cir. 1996),
17 the Committee next argues that removing Ms. Pierce's name from the faculty list and
18 deleting her e-mail account were not adverse actions because she was not materially
19 disadvantaged by those actions. It also asserts that the July 1, 2013 job vacancy
20 announcement for the Paraprofessionals (2) assignment, which required the applicant
21 to have a preference for working with special needs students, was not adverse
22 because Ms. Pierce was aware of the job posting but waited until after the application
23 deadline to inquire about the assignment. For these reasons, the Committee contends

1 that Ms. Pierce has failed to show an adverse action because there is no evidence that
2 she was disadvantaged with respect to salary, grade, or other objective terms and
3 condition of employment. City of Boston, 35 MLC at 291 (citing MacCormack v. Boston
4 Edison Co., 423 Mass. at 662); LaRou v. Ridlon, 98 F.3d at 663.

5 I disagree with the Committee's contentions. The record shows that, at all
6 relevant times, Ms. Pierce was an employee of the District even though declined the
7 Chace School assignment on September 28, 2012. First, she had filed a grievance four
8 days earlier on September 24, 2012, protesting that assignment, and, after the
9 Committee denied that grievance on October 30, 2012, the Union filed a petition for
10 arbitration at the DLR on November 16, 2012. There is no evidence that Ms. Pierce
11 voluntarily resigned from her employment with the District, nor is there any evidence
12 that the Committee provided her with written notification of any changed employment
13 status. Based on the record, Ms. Pierce became employed by the District beginning in
14 2001 and remained an employee throughout the life of her grievance-arbitration.
15 Further, on or about August 27, 2013, Superintendent Medeiros informed the Union that
16 Ms. Pierce could "bid" on any job in the District, implying that he still recognized her
17 contractual seniority bidding rights under Agreement Articles XVI and XV while the
18 arbitration decision was pending.

19 The Board has consistently defined adverse action as an adverse personnel
20 action that materially disadvantages the plaintiff in some way. City of Boston, 35 MLC
21 at 291 (citing City of Holyoke, 35 MLC 153, 156, MUP-05-4503 (Jan. 9, 2009)). Here,
22 the Committee's decisions to change Ms. Pierce's employment status without written
23 notification, remove her name from the faculty list and delete her User Directory e-mail

1 account, amount to adverse actions because they: (1) affected Ms. Pierce's ability to bid
2 on job vacancies posted on or after July 1, 2013; (2) prevented her from communicating
3 via the User Directory with other District employees and unit members about those job
4 postings; (3) prevented her from receiving notifications and messages from the District,
5 including any job vacancy alerts posted to School Spring about the disputed Wilbur
6 School Paraprofessionals (2) assignment; and (4) negatively affected her ability to apply
7 for and/or grieve the Committee's decision to post the assignment. Commonwealth of
8 Massachusetts, 25 MLC at 48; City of Boston, 35 MLC at 291.

9 The Committee's decision to post and permanently fill the Wilbur School
10 Paraprofessionals (2) job vacancy, which included a new job qualification (a preference
11 for working with SPED students), also amounted to an adverse action because the
12 Employer changed the job qualification criteria for that assignment during the pendency
13 of Ms. Pierce's arbitration despite her stated non-preference against working in a SPED
14 setting.

15 **Unlawful Motivation**

16 **1. Circumstantial Evidence**

17 A charging party can prove unlawful employer motivation with direct or indirect
18 evidence of discrimination. Lawrence School Committee, 33 MLC 90, 97, MUP-02-
19 3631 (Dec. 13, 2006). Direct evidence is evidence that, "if believed, results in an
20 inescapable, or at least a highly probable inference that a forbidden bias was present in
21 the workplace." Wynn & Wynn, P.C. v. Massachusetts Commission Against
22 Discrimination, 431 Mass. 655, 667 (2000), (quoting Johansen v. NCR Comten, Inc., 30
23 Mass. App. Ct., 294, 300 (1991)). Unlawful motivation may also be established through

1 circumstantial evidence and reasonable inferences drawn from that evidence. See
2 Town of Carver, 35 MLC 29, 48, MUP-03-3894 (June 30, 2008) (citing Town of
3 Brookfield, 28 MLC 320, 327-28, MUP-2538 (May 1, 2002); see also Southern
4 Worcester County Regional Vocational School District, 386 Mass. at 418-19 (citing
5 Universal Camera Corp. v. National Labor Relations Board, 340 U.S. 474 (1951)).
6 Several factors may suggest unlawful employer motivation, including timing of the
7 alleged discriminatory act, triviality of reasons given by the employer, an employer's
8 deviation from past practices, or expressions of hostility toward a union or the protected
9 activity. Town of Carver, 35 MLC at 48; Cape Cod Regional Technical High School
10 District Committee, 28 MLC 332, 335, MUP-2541 (May 15, 2002); Bristol County, 26
11 MLC at 109; Town of Andover, 14 MLC 1582, MUP-6443 (H.O. March 3, 1988), aff'd 17
12 MLC 1475, 1482, MUP-6443 (Feb. 6, 1991). Timing alone is insufficient to establish
13 unlawful employer motivation. City of Malden, 5 MLC 1752, 1764, MUP-3017 (March
14 20, 1979).

15 Ms. Pierce argues that the Committee was unlawfully motivated when it removed
16 her name from the faculty list, deleted her e-mail account and posted a job vacancy for
17 her paraprofessional position at the Wilbur School in July of 2013. Based on the timing
18 of those actions, the inadequate reasons given by the Committee for those actions and
19 the deviation from established past practices, she contends that this circumstantial
20 evidence supports her prima facie case.

21 The Committee argues that its actions were lawful and appropriate. Regarding
22 its removal of Ms. Pierce's name from the faculty list, it argues that because she had
23 voluntarily resigned from her employment with the School District on September 28,

1 2012, Superintendent Medeiros was permitted to remove her name from the list.
2 Regarding, its deletion of Ms. Pierce's e-mail account, the Committee argues that
3 Nekrasz permissibly deleted her account at the end of the school year as part of his
4 regular routine. Further, the Committee maintains that its practice has always been to
5 compile a list at the end of the year of all employees who had left employment during
6 the school year, and forward that list to Nekrasz during the summer months for e-mail
7 deactivation, deletion or modification. Concerning the July 1, 2013 job posting, the
8 Committee contends that it usually posts vacancies for the start of the school year in
9 July and usually conducts paraprofessional interviews in August. Thus, it asserts that it
10 did not treat Ms. Pierce differently from other employees who had retired, resigned or
11 otherwise quit their employment with the District. Finally, it notes that Ms. Pierce was
12 aware of the July 1, 2013 job posting but failed to apply.

13 **A. Timing**

14 I agree with Ms. Pierce and find that the timing of the adverse actions points to
15 circumstantial evidence of unlawful employer motivation. First, the Committee asserts
16 that it changed her employment status on September 28, 2012, after she declined its
17 offer to work as a SPED paraprofessional at the Chace School. However, that alleged
18 change took place four days after Ms. Pierce had filed a grievance with the Union, and
19 did not include notice that the Committee had changed her employment status and
20 removed her name from the faculty list. Throughout the grievance-arbitration process,
21 the Committee never notified Ms. Pierce that she was no longer an employee of the
22 District, and only indirectly informed her about that change by a telephone conversation
23 with Nekrasz on July 15, 2013. Second, the Committee deleted Ms. Pierce's User

1 Directory e-mail account less than three days after her DLR arbitration hearing. On that
2 same day, it posted a job vacancy for Paraprofessionals (2) kindergarten assignment at
3 the Wilbur School, which included a new job qualification that was not required during
4 Ms. Pierce's tenure as a Wilbur School paraprofessional.

5 Based on the timing of these events, I find that Superintendent Medeiros
6 harbored unlawful animus against Ms. Pierce when the Committee changed her
7 employment status, removed her name from the faculty list, deleted her User Directory
8 e-mail account and posted and permanently filled a job vacancy for the Wilbur School
9 Paraprofessionals (2) assignment that included a new SPED qualification. See Labor
10 Relations Commission v. Blue Hills Spring Water Co., 11 Mass. App. Ct. 50 (1981);
11 Town of Somerset, 15 MLC 1523, 1529, MUP-6404 (March 9, 1989)).

12 **B. Inadequate Reasons**

13 The record shows that after receiving notice that Ms. Pierce declined the Chace
14 School assignment on September 28, 2012, the Committee changed her employment
15 status based on her having "declined position" and, ten months later, removed her
16 name from the faculty list. However, the Committee never notified Ms. Pierce (or the
17 Union) that it had changed her employment status and, in August of 2013,
18 Superintendent Medeiros informed the Union that Ms. Pierce was still eligible "to bid on
19 any job in the district." Regarding Ms. Pierce's User Directory e-mail account, Nekrasz
20 had allegedly deleted her account in accordance with customary practice; however,
21 neither he nor Superintendent Medeiros could explain why, as of July 16, 2013, six
22 2012-2013 retirees/resignees who did not possess post-employment relationships with
23 the District, continued to have access to their active User Directory e-mail accounts.

1 Regarding the Title I assignment, the Committee does not dispute that it failed to
2 properly post that assignment prior to appointing White; and, it settled Ms. Pierce's
3 grievance by agreeing to post the assignment pursuant to the Agreement.

4 Based on this evidence, I find that the reasons given by the Committee
5 explaining: (1) Ms. Pierce's employment status change; (2) her removal from the faculty
6 list; (3) the deletion of her User Directory e-mail account; and (4) the discrepancies on
7 the July 1, 2013 Paraprofessionals (2) job posting were insubstantial and trivial,
8 revealing an inference of unlawful animus against Ms. Pierce. See Commonwealth of
9 Massachusetts, 14 MLC 1743, 1748, SUP-3081 (May 19, 1988); Town of West
10 Springfield, 8 MLC 1041, MUP-3914 (June 4, 1981).

11 **C. Departure from Established Procedures**

12 The Committee claims that when Ms. Pierce declined its offer of assignment to
13 work as a paraprofessional at Chace School on September 28, 2012, that declination
14 effectively terminated her employment with the School District. However, the evidence
15 shows that the Committee never notified Ms. Pierce that it had changed her
16 employment status in September of 2012. Instead, it continued to process and
17 participate in her grievance-arbitration through June 28, 2013 and, in August of 2013, it
18 informed the Union that Ms. Pierce still possessed contractual bidding rights.
19 Concerning the User Directory e-mail accounts, the Committee also deviated from its
20 established practice of not prioritizing the deletion, deactivation or modification of those
21 accounts. It is undisputed that the Administrator's maintenance of the User Directory is
22 a low priority job duty. However, when Superintendent Medeiros instructed Nekrasz to
23 specifically delete Ms. Pierce's account while ignoring the accounts of at least six other

1 non-employees, the Committee effectively changed a long-standing practice to
2 unlawfully single out Ms. Pierce. While I agree that Nekrasz's deletion of Ms. Pierce's
3 e-mail account was within the customary routine of making User Directory e-mail
4 account changes at the end of the school year, the prioritization of that deletion
5 effectively treated her differently from other non-employees, including Urban, Vasquez,
6 Lavallee, O'Halloran, Royds and Donnelly.

7 Consequently, I find that the Committee's failure to provide Ms. Pierce with
8 written notice about her changed employment status, its removal of her name from the
9 faculty list and its deletion of her e-mail account were inconsistent and irregular from its
10 established practices. See Town of Andover, 14 MLC at 1582, aff'd 17 MLC at 1482.

11 Based on the totality of the circumstantial evidence presented, I find that the
12 Committee's conduct in removing Ms. Pierce's name from the faculty list after receiving
13 her September 24, 2012 grievance, deleting her User Directory e-mail account after
14 participating in her June 28, 2013 DLR arbitration, combined with the July 1, 2013
15 Paraprofessionals (2) job posting was motivated by an unlawful desire to penalize or
16 discourage her protected activity. Accordingly, I find that Ms. Pierce has successfully
17 established her *prima facie* case of discrimination.

18 **IV. Employer's Burden of Production**

19 Once the charging party establishes a prima facie case of retaliation, the Board
20 applies the three-step analysis pursuant to Trustees of Forbes Library, which shifts the
21 burden to the employer to produce a legitimate, non-discriminatory motive for taking the
22 adverse action. 384 Mass. at 566. The employer's burden to produce legitimate, non-
23 discriminatory reasons for taking the adverse action is more than simply stating an

1 unsubstantiated allegation. Commonwealth of Massachusetts, 25 MLC at 46. The
2 employer must state a lawful reason for its decision and produce supporting facts
3 indicating that the proffered reason was actually a motive in the decision. Trustees of
4 Forbes Library, 384 Mass. at 566; Quincy School Committee, 27 MLC 83, 92, MUP-
5 1986 (Dec. 29, 2000); Commonwealth of Massachusetts, 25 MLC at 46.

6 The Committee presented evidence showing that it had removed Ms. Pierce's
7 name from the faculty list and deleted her e-mail at the end of the school year, which
8 corresponded to Nekrasz's customary practice of deactivating, deleting or modifying
9 User Directory e-mail accounts during the summer months. The Committee also
10 showed that it posted the Wilbur School Paraprofessionals (2) job vacancy on July 1,
11 2013, which was consistent with its practice of seeking applicants and interviewing
12 paraprofessional candidates in August, after filling the teacher positions. Based on this
13 evidence, I conclude that the Committee's reasons for deleting Ms. Pierce's e-mail
14 account, removing her name from the faculty list and posting and filling the
15 Paraprofessionals (2) job vacancy during the summer months of 2013 were legitimate
16 and not pretextual. Town of Easthampton, 35 MLC 257, 265, MUP-04-4244 (Apr. 23,
17 2009); (citing Boston Water & Sewer Commission, 29 MLC 176, 181, MUP-1677 (April
18 2, 2003)).

19 **V. Mixed Motives**

20 Once the employer produces evidence of a legitimate, non-discriminatory reason
21 for taking the adverse action, the case becomes one of "mixed motives" and the CERB
22 shifts the burden to the charging party to demonstrate that "but for" the protected
23 activity, the employer would not have taken the adverse action. Trustees of Forbes

1 Library, 384 at 565-66; Suffolk County Sheriff's Department, 27 MLC 155, 160, MUP-
2 1498 (June 4, 2001); Quincy School Committee, 27 MLC at 92.

3 The Committee argues that it would have removed Ms. Pierce's name from the
4 faculty list, deleted her e-mail account from the User Directory and posted and filled the
5 Wilbur School Paraprofessionals (2) job vacancy on July 1, 2013 regardless of her
6 participation in ARB-12-2455. First, it asserts that the reasons given for the adverse
7 actions against Ms. Pierce were substantial because the School District needed to
8 ensure that only employees/retirees still working for the District had access to the User
9 Directory e-mail system. However, the record shows that at least five individuals were
10 no longer working for the District as of July 16, 2013 but were permitted to access their
11 e-mail accounts while Ms. Pierce was prohibited from the doing the same on July 1,
12 2013. This points to evidence of disparate treatment because in July of 2013, when
13 Superintendent Medeiros provided Nekrasz with a list of 32 individuals (which included
14 Urban, Donnelly, Vasquez, Lavallee, O'Halloran, and Ms. Pierce) he specifically
15 instructed Nekrasz to delete Ms. Pierce's e-mail account without instructing him to also
16 delete the e-mail accounts of Urban, Donnelly, Vasquez, Lavallee, O'Halloran and
17 Royds.

18 The Committee also argues that there is no evidence of hostility or animus
19 against Ms. Pierce because neither Superintendent Medeiros nor any other School
20 District employee made remarks against Ms. Pierce related to her DLR arbitration
21 proceeding. I agree with the Committee that the record is devoid of any hostility against
22 Ms. Pierce; however, she has successfully presented other circumstantial evidence of
23 anti-union animus based on the timing of the Committee's adverse actions (which

1 occurred four days after she declined the Chace School assignment and three days
2 after she testified at the DLR arbitration hearing) and its departure from established
3 practices (i.e., failing to provide written notification for changed employment status and
4 prioritizing the deletion of User Directory e-mail accounts).

5 Ms. Pierce was engaged in protected activity when she filed a grievance on
6 September 24, 2012 and participated in a DLR arbitration hearing on June 28, 2013.
7 The Committee knew about Ms. Pierce's protected activities, took adverse action
8 against her when it removed her name from the faculty list, deleted her User Directory
9 e-mail account and posted and filled the Wilbur School Paraprofessionals (2) job
10 vacancy in July of 2013, which included a changed job qualification—conduct which
11 amounts to unlawful discrimination against Ms. Pierce. Although the Committee
12 presented legitimate reasons for its actions, I find that but for Ms. Pierce's protected
13 activities Superintendent Medeiros would not have removed her name from the faculty
14 list, and deleted her User Directory e-mail account.

15 I also find that but for Ms. Pierce's protected activities, the Committee would not
16 have posted and filled the Wilbur School Paraprofessionals (2) job vacancy with a new
17 job qualification that required the candidate to have a preference for working with SPED
18 students. The Committee acknowledged that all paraprofessionals are subject to
19 varying assignments, including SPED assignments and, because Ms. Pierce had prior
20 SPED experience during her tenure at the Wilbur School, she was qualified for a SPED
21 assignment. After she declined the Committee's September 24, 2012 offer to take the
22 Chace School assignment, the Committee posted a job vacancy for Ms. Pierce's former
23 paraprofessional position in a general education kindergarten classroom on July 1, 2013

1 but specifically included a new SPED-preference job qualification that it knew—from
2 interviewing Ms. Pierce for the Chace School assignment—that she did not possess.
3 The Committee's posted that vacancy notice on July 1, 2013, which was less than three
4 days after her DLR arbitration hearing and then permanently filled that assignment
5 during the pendency of Ms. Pierce's arbitration. Accordingly, Ms. Pierce has satisfied
6 her shifting burden of demonstrating that but for her protected activity, the Committee
7 would not have taken the adverse action against her in violation of Section 10(a)(4) of
8 the Law.

9 REMEDY

10 Section 11 of the Law grants the Board broad authority to fashion appropriate
11 orders to remedy unlawful conduct. Labor Relations Commission v. Everett, 7 Mass.
12 App. Ct. 826 (1979); City of Gardner, 26 MLC 67, 72, MUP-1489 (H.O. Dec. 29, 1999).
13 When fashioning appropriate remedies, the Commonwealth Employment Relations
14 Board attempts to place employees in the position they would have been in but for the
15 unlawful conduct. City of Gardner, 26 MLC at 78. Ms. Pierce seeks the following
16 traditional remedies: (1) rescission of the July 1, 2013 Wilbur School Paraprofessionals
17 (2) a new job posting; (2) restoration of her User Directory e-mail account; (3) an order
18 to cease and desist from engaging in discriminatory and retaliatory behavior; and (4) an
19 order that the Committee post an appropriate enforcement notice. She also seeks a
20 non-traditional remedy of imposing "any and all civil fines and penalties permitted by
21 law."

22 While I agree with Ms. Pierce's requests for a traditional remedy, I deny her
23 request for civil fines and penalties. The standard remedy for a Section 10(a) (4)

1 violation is to place the injured individual in the position he or she would have been in
2 but for the adverse action. Thus, to effectuate that purpose, I order the Committee to
3 rescind the July 1, 2013 Wilbur School Paraprofessionals (2) job posting, repost a new
4 job vacancy announcement pursuant to the terms of the parties' Agreement that
5 excludes the SPED-preference, and give Ms. Pierce the opportunity to apply for that
6 assignment. I also order the Committee to restore Ms. Pierce's name to the faculty list
7 and restore access to her User Directory e-mail account.

8 CONCLUSION

9 Based on the record, I conclude that the Committee discriminated against Ms.
10 Pierce for engaging in concerted activity protected by Section 2 of the Law, in violation
11 of Section 10(a)(4) and, derivatively, Section 10(a)(1) of the Law.

12 ORDER

13 WHEREFORE, based on the foregoing, it is hereby ordered that the Committee
14 shall:

- 15 1. Cease and desist from:
 - 16
 - 17 a. Retaliating against Lorrie Pierce for engaging in the protected,
18 concerted activity of filing a petition for arbitration at the DLR and for
19 participating in proceedings related to that petition under G.L. c. 150E.
20
 - 21 b. In any like manner, interfering with, restraining and coercing its
22 employees in any right guaranteed under the Law.
23
- 24 2. Take the following affirmative action that will effectuate the purpose of the
25 Law:
 - 26
 - 27 a. Restore Ms. Pierce's name to the Somerset School District faculty list.
28
 - 29 b. Restore Ms. Pierce's access to her User Directory e-mail account.
30
 - 31 c. Rescind the July 1, 2013 Wilbur School Paraprofessionals (2) job
32 posting, repost a new job posting for that assignment in accordance

- 1 with the parties' collective bargaining agreement that excludes the
2 SPED-preference and allow Ms. Pierce to apply for that assignment.
3
- 4 d. Sign and post immediately in conspicuous places where employees
5 usually congregate or where notices to employees are usually posted,
6 including electronically, if the Employer customarily communicates to
7 its employees via intranet or e-mail, and maintain for a period of thirty
8 (30) consecutive days thereafter signed copies of the attached Notice
9 to Employees;
- 10
- 11 e. Notify the DLR in writing of the steps taken to comply with this decision
12 within thirty (30) of the steps taken by the Committee to comply with
13 the Order.
- 14 SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS



KENDRAH DAVIS, ESQ.
HEARING OFFICER

APPEAL RIGHTS

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



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

A Hearing Officer of the Massachusetts Department of Labor Relations has held that the Somerset School Committee (Committee) has violated Section 10(a)(4) and, derivatively, Section 10(a)(1) of G.L. Chapter 150E (the Law) by retaliating against Lorrie Pierce (Ms. Pierce) for engaging in concerted, protected activities. The Committee posts this Notice to Employees in compliance with the Hearing Officer's order.

Section 2 of the Law gives all employees: (1) the right to engage in concerted protected activity, including the right to form, join and assist unions, to improve wages, hours, working conditions, and other terms of employment, without fear of interference, restraint, coercion or discrimination; and, (2) the right to refrain from either engaging in concerted protected activity, or forming or joining or assisting unions.

WE WILL NOT discriminate against Ms. Pierce for engaging in the protected, concerted activity of filing a petition for arbitration at the DLR and for participating in proceedings related to that petition under G.L. c. 150E;

WE WILL NOT, in any like manner, interfere with, restrain and coerce Ms. Pierce in the exercise of her rights guaranteed under the Law;

WE WILL restore Ms. Pierce's name to the Somerset School District faculty list and restore her access to her User Directory e-mail account;

WE WILL rescind the July 1, 2013 Wilbur School Paraprofessionals (2) job posting, repost a new job vacancy announcement in accordance with the parties' collective bargaining agreement that excludes the SPED-preference and allow Ms. Pierce to apply for that assignment.

Somerset 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 Labor Relations, Charles F. Hurley Building, 1st Floor, 19 Staniford Street, Boston, MA 02114 (Telephone: (617) 626-7132).