COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of		
TOWN OF SHREWSBURY		Case No.: MUP-13-2954
and		
		Date Issued: June 1, 2015
SHREWSBURY FIREFIGHTERS ASSOCIATION, LOCAL 4613, I.A.F.F.		

Hearing Officer:

Margaret M. Sullivan, Esq.

Appearances:

T. Philip Leader, Esq.-	Representing Town of Shrewsbury
Amy Laura Davidson, Esq.-	Representing the Shrewsbury Firefighters Association, Local 4613, I.A.F.F.

HEARING OFFICER'S DECISION

Summary

The issue is whether the Town of Shrewsbury (Town or Employer) violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law) by discontinuing the practice of converting vacation leave to sick leave when firefighters fell ill during their vacations and provided a doctor's note verifying the illness without giving the Shrewsbury Firefighters Association, Local 4613, I.A.F.F. (Union) prior notice and an opportunity to bargain to resolution or impasse. For the reasons explained below, I find that the Town violated the Law as alleged.

Statement of the Case

On July 3, 2013, the Union filed a charge with the Department of Labor Relations (DLR), alleging that the Town had engaged in prohibited practices within the meaning of Sections 10(a)(5) and, derivatively, Section 10(a)(1) of the Law. A DLR hearing officer conducted an investigation on October 3, 2013. On October 18, 2013, the investigator issued a complaint alleging that the Town violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law by discontinuing the practice of converting vacation time to sick time when firefighters became ill during their vacations and provided medical notes verifying their illnesses. The Town filed an answer to the complaint on November 7, 2013.

I conducted a hearing on September 9, 2014. The parties timely filed their post-hearing briefs. Upon review of the entire record, including my observation of the demeanor of the witnesses, I make the followings findings of fact and render the following opinion.

Stipulated Facts

1. The [Town] is a public employer within the meaning of Section 1 of the Law.

2. The [Union] is an employee organization within the meaning of Section 1 of the Law.

3. The Union is the exclusive bargaining representative for firefighters employed by the Town.

4. On March 29, 2013, the Town denied Firefighter Pignataro's request to convert his sick time when he fell ill during his vacation and provided a doctor's note verifying the illness.

5. Sick and vacation leave are mandatory subjects of bargaining.

Relevant Contract Language

The parties' July 1, 2010 to June 30, 2013 Collective Bargaining Agreement (CBA) provides in relevant part as follows:

ARTICLE 5
Grievance Procedure

A grievance is hereby defined as any complaint, misunderstanding, or dispute arising as to the interpretation or application of any of the provisions of this Agreement...

ARTICLE 14
Sick Leave

Sick leave shall be accrued at the rate of one and one-quarter (1¼) days per month from the time of employment; that is, fifteen (15) days a year; and shall accumulate to a maximum of one hundred twenty (120) days.

Findings of Fact[1]

Pignataro's Request to Convert Vacation Leave to Sick Leave

Vincent Pignataro (Pignataro) has been employed by the Town as a firefighter since 1988. When he became ill while on vacation in Florida in early 2013, he visited a hospital emergency room on two occasions. He received a note from the emergency department at Florida Hospital-DeLand on January 27, 2013 clearing him to return to work on February 2, 2013. Had Pignataro not been on vacation, he would have been scheduled to work two 24-hour shifts between January 27 and February 2, 2013,[2] which are equivalent to four vacation or sick days. On or about mid-February 2013, when Pignataro returned to work from vacation, he requested that Fire Chief James Vuona

[1] The DLR's jurisdiction in this matter is uncontested.

[2] Pignataro testified that the days he would have been scheduled to work were "maybe" January 30 and February 1, 2013. The precise dates are not necessary for my analysis, because the fact that he would have worked two 24-hour shifts is undisputed.

(Chief Vuona)[3] convert four vacation days to sick days and provided the note from Florida Hospital-DeLand. Chief Vuona, who believed he had the authority to do so, originally approved the request and asked his secretary to forward the request to the Town Accountant's office, which is where changes are made in an employee's permanent payroll record.[4]

Mary Thompson (Thompson) has been the Town Accountant since 1986, and her department is the official keeper of payroll records. As such, the Town's departments submit their payroll documents to the Town Accountant's Office and indicate whether an employee has used any sick or vacation leave. The Town Accountant's Office maintains official payroll records for every employee, both electronically and manually, and ensures that attendance records are accurate. The request to convert Pignataro's vacation leave to sick leave came to Thompson's personal attention. She found the nature of the request, i.e converting vacation leave to sick leave, unusual, as well as the fact that it came in early or mid-March, which was approximately one month after the payroll at issue. Thompson therefore discussed the request with Daniel Morgado (Morgado), the Town Manager.

Morgado has been the Town Manager since 1997. He is responsible for all day to day activities of the Town, which includes all personnel matters, and is the Chief Administrative and Financial Officer. The Town's Fire Department is covered by the provisions of M.G.L.c.31 (Civil Service Law), and the Town Manager is the appointing

[3] Chief Vuona began his employment with the Town as a firefighter in 1996. He held the position of Union president from 1996 to 2004. In 2010, he became Fire Chief.

[4] Chief Vuona also requires that employees provide a doctor's note when they are on sick leave for more than two days.

authority and personnel administrator. When Thompson brought Pignataro's request to his attention, Morgado concluded that converting vacation leave to sick leave was not a benefit under the parties' CBA nor was it a Town practice. He therefore instructed Thompson to deny the request. Accordingly, Thompson notified the Fire Department that the request was denied.

On March 25, 2013, the Union filed a grievance on Pignataro's behalf challenging the Town's refusal to convert Pignataro's vacation leave to sick leave. Chief Vuona denied the grievance by letter March 29, 2013, stating in pertinent part: "I have been informed that this is not a practice recognized by the Town."

On April 19, 2013, Pignataro and Aaron Roy (Roy), the Union president, met with Morgado to discuss the grievance. By letter dated May 3, 2013, Morgado denied the grievance, stating in relevant part:

> ...you advised me that there was a longstanding practice that allowed members of the department to book sick leave in lieu of vacation time when taken ill during an authorized vacation.
>
> You informed me that the last time this occurred was back in 1999 involving James Colonies.
>
> There was agreement by all parties that the benefit you are seeking does not involve any provision of the current collective bargaining agreement (see Article 5) and that you are claiming this benefit as a past practice.
>
> I have reviewed this matter and deny your grievance for the following reasons:
>
> 1. This matter does not meet the definition outlined in Article 5 of the collective bargaining agreement.
>
> 2. Your citing of 1999 as the most recent instance that this allegedly occurred does not seem to me that such "practice has occurred with regularity over a sufficient period of time so that it is reasonable to expect that the practice will continue" or that "this practice is

> unequivocal, has existed substantially unvaried for a reasonable period of time and is known and accepted by both parties."

After Morgado denied the grievance, the Union decided not to pursue it to arbitration, and instead filed the instant charge.

Prior Requests to Convert Vacation Leave to Sick Leave

Michael D'Errico

Michael D'Errico (D'Errico) was employed as a firefighter by the Town from 1974 to 2008. He also was active in the Union and held various leadership positions, including president, vice-president, secretary and treasurer.

In 1992, D'Errico became ill while on vacation. When he returned to work, he provided medical documentation to then Fire Chief Duhamel, who converted two days of vacation leave to sick leave. D'Errico did not know whether the then Town Manager Richard Carney was involved in the decision to convert his leave.[5]

John Dolan

John Dolan (Dolan) was employed as a firefighter by the Town from 1979 to 1990 and as a fire captain from 1990 to 2003. He held the offices of Union president,

[5] Other than John Dolan, described below, D'Errico does not recall any other firefighters requesting that their vacation leave be converted to sick leave. During D'Errico's tenure with the Union, no firefighters complained to him that they were denied requests to have vacation leave converted to sick leave.

vice-president, secretary and treasurer at various times.[6]

In 1992, Dolan became ill while taking vacation leave to attend a Union convention. When he returned to work, he submitted medical documentation to Fire Chief Duhamel, who converted his vacation leave to sick leave.[7]

Vincent Pignataro

In or around 1992, Pignataro became ill while on vacation. When he returned to work, the Fire Chief at the time informed Pignataro that if he had provided a doctor's note, the Fire Chief would have converted Pignataro's vacation leave to sick leave.[8] However, Pignataro did not pursue the matter.

Opinion

The Complaint alleges that the Employer discontinued its practice of allowing unit members to convert vacation leave to sick leave if they fell ill during a vacation and provided a medical note verifying the illness without providing the Union with notice and

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[6] Dolan was aware that D'Errico had converted vacation leave to sick leave. He also knew that Firefighter James Colonies (Colonies) requested a conversion in 1999 but did not know the disposition of the request. There were no other witnesses with knowledge of the specifics of Colonies' request, such as whether he provided medical documentation of his illness. Colonies, who is retired, did not testify at the hearing. Thompson's records show that Colonies did not have any vacation leave converted to sick leave for May 18 and 19, 1999, nor did she receive any such request. However, there is no evidence in the record to indicate which days Colonies actually requested to convert. I therefore decline to make any further findings about Colonies' request, or consider it in my analysis of this case.

[7] Thompson did not recall any requests to convert D'Errico or Dolan's vacation leave to sick leave in 1992. However, she would not be aware of such a change if a department head made the change before sending payroll to her office.

[8] Pignataro testified that Chief LaFlamme made this statement to him. However, D'Errico and Dolan testified that Chief Duhamel was Fire Chief in 1992 when they requested vacation leave to sick leave conversions, as described above. It is not necessary for me to determine whether it was Chief LaFlamme or Chief Duhamel who spoke with Pignataro about converting vacation leave.

an opportunity to bargain to resolution or impasse. A public employer violates Section 10(a)(5) of the Law when it implements a change in a mandatory subject of bargaining without first providing the employees' exclusive collective bargaining representative with prior notice and an opportunity to bargain to resolution or impasse. School Committee of Newton v. Labor Relations Commission, 338 Mass. 557 (1983). The duty to bargain extends to both conditions of employment that are established through a past practice as well as conditions of employment that are established through a collective bargaining agreement. Town of Burlington, 35 MLC 18, 25, MUP-04-4157 (June 30, 2008), aff'd sub nom. Town of Burlington v. Commonwealth Employment Relations Board, 85 Mass. App. Ct. 1120 (2014); Commonwealth of Massachusetts, 27 MLC 1, 5, SUP-4304 (June 30, 2000).

To establish a unilateral change violation, the charging party must show that: 1) the employer altered an existing practice or instituted a new one; 2) the change affected a mandatory subject of bargaining; and 3) the change was established without prior notice or an opportunity to bargain. City of Boston, 20 MLC 1603, 1607, MUP-7976 (May 20, 1994); Commonwealth of Massachusetts, 20 MLC 1545, 1552, SUP-3460 (May 13, 1994).

Binding Past Practice

I will first consider whether the Employer altered an existing practice or instituted a new one. In determining whether a binding past practice exists, the Commonwealth Employment Relations Board (CERB) analyzes the combination of facts upon which the alleged practice is predicated, including whether the practice has occurred with regularity over a sufficient period of time so that it is reasonable to expect that the

practice will continue. Swansea Water District, 28 MLC 244, 245, MUP-2436, MUP-2456 (January 23, 2002); Commonwealth of Massachusetts, 23 MLC 171, 172, SUP-3586 (January 30, 1997). A condition of employment may be found despite sporadic or infrequent activity where a consistent practice that applies to rare circumstances is followed each time that the circumstances preceding the practice recurs. Commonwealth of Massachusetts, 23 MLC at 172; City of Everett, 8 MLC 1036, 1038, MUP-3807 (June 4, 1981), aff'd 8 MLC 1393, MUP-3807 (October 21, 1981) (applying this standard with respect to practice of allowing time off to take promotional Civil Service exams and acknowledging hearing officer's finding that it was "only because the promotional Civil Service exams are given on an irregular basis that the City had few occasions to implement the practice").

The facts before me show that in 1992 D'Errico and Dolan were each permitted to convert their vacation leave to sick leave after providing medical documentation. Further, there is no evidence that any Union members have converted vacation leave to sick leave after 1992 or that any Union members requested such a conversion and provided the necessary medical documentation.[9] Therefore, the issue is whether a practice that occurred on two occasions, approximately twenty-one years prior to the current case, is sufficient to constitute a binding practice.

The Employer argues that I should not find a past practice because there is only evidence to prove that the alleged practice occurred twice in 1992, and not since then; the practice was not regular or consistent over a sufficient period of time; and the

[9] As was discussed previously, there is not sufficient evidence to make any findings regarding whether Colonies made such a request with the necessary medical documentation.

parties could not have had a reasonable expectation that it would continue. In support of its argument, the Employer cites Town of Lee, 11 MLC 1274, MUP-5211 (November 21, 1984); Town of Arlington, 16 MLC 1350, MUP-7128 (November 9, 1989), and City of Boston, 21 MLC 1487, MUP-7470 (December 1, 1994) for the premise that the practice has to be established, repeated and consistent. I examine each of those cases in seriatim as well as a case that the CERB issued after the parties filed their post-hearing briefs.

In Town of Lee, the CERB held that there was substantial evidence that the union established a past practice of the town not enforcing a residency requirement where, in the thirty-year history of the residency requirement bylaw, three police officers were permitted to live out of town, and there was no evidence of the town enforcing the residency requirement. Two of the three officers were permitted to live in another town approximately twelve years prior to the alleged unilateral change.[10] In affirming the CERB's decision, the Appeals Court noted that "as to the actual practice ... there could be no massive evidence, since the total force in any given year would not exceed eight, turnover was not substantial ... and test cases would be rare because officers, by and large, would naturally choose to live in the town they served." Town of Lee v. Labor Relations Commission, 21 Mass. App. Ct. 166, 168 (1985). Likewise, in the instant case, an officer becoming sick while on vacation and obtaining medical documentation in order to request that vacation leave be converted to sick leave would be an unusual occurrence. Indeed, there is no evidence that this scenario occurred between 1992 and 2013. In addition, the court in Town of Lee highlighted the fact that the town offered no

[10] The dates that the third officer lived out of town were not identified in the decision.

cases where it had refused to allow an officer to reside outside the town. Id. at 169. Similarly, here the Employer has provided no evidence that it refused to permit a unit member to convert vacation leave to sick leave in the years between 1992 and 2013.

In Town of Arlington, the CERB held that although the town had not cancelled low priority details in order to ensure coverage of a high priority detail since ten to twelve years prior, it still constituted a binding past practice. In so holding, the CERB reasoned, '[t]the fact that the Town has rarely had to assign priority to certain paid details and to cancel other details accordingly means that the occasion of the past practice has been infrequent. But a consistent past practice that applies to rare circumstances may be nonetheless a condition of employment whenever the circumstances precipitating the practice recur." 16 MLC at 1351. As with Town of Arlington, the only established requests for conversion from vacation leave to sick leave, with corresponding medical documentation, although rare, were granted.

In City of Boston, the CERB rejected the union's claim that the city did not previously use attendance as a criterion for promotion. Instead, the CERB concluded that a past practice existed whereby the city had reviewed attendance records when evaluating candidates for promotion. The past practice existed despite evidence showing that there were only four earlier promotional opportunities, including only two instances in which the senior applicant was not promoted because of excessive absenteeism. Contrary to the Town's argument that the two instances of conversion here do not amount to sporadic action, but rather are "so rare as to be non-existent", City of Boston demonstrates that a practice can be found despite few actual occurrences.

Turning to a more recent case, in City of Boston, 41 MLC 119, MUP-13-3371, 14-3466, 14-3504 (November 7, 2014), the charging parties urged the CERB to disregard evidence about promotional exams that were given prior to 2005 and instead to find a practice based on post-2005 exams. In declining to do so, the CERB noted that it has never set a definitive length of time required for a practice to become a binding term or condition of employment. 41 MLC at 126. The CERB reasoned that doing so "would impose an arbitrary time frame on our analysis and would require that relevant evidence regarding those earlier exams be ignored." Id. Similarly, I would be imposing an arbitrary time frame if I were to only take to the years subsequent to 1992 to determine if a practice exists, and disregard the evidence from 1992, as advocated by the Employer. Moreover, although none of the cases cited by either party involve a practice that has not recurred for the length of time involved here, there is no suggestion in those cases that the practice must recur within any specific time frame in order to be binding if the events precipitating the practice have not recurred. I therefore decline to order such a time frame.

Employees' Reasonable Expectations that the Practice Would Continuer

The Town also contends that it was not reasonable twenty one years later for unit members to expect that the practice of converting vacation leave to sick leave would continue. However, there is no evidence that any unit members requested leave conversions and provided the proper medical documentation, but the requests were denied between 1992 and 2013. The instant case can be distinguished from those cases in which there were deviations in practice and thus, no established past practice upon which employees reasonably could rely. For example, in City of Newton, the

CERB concluded that the city did not unilaterally change a practice of promoting the highest scoring candidate because, although the city most often promoted the highest scorer, the history was not unwavering. 32 MLC 37, 49, MUP-2849 (June 29, 2005); see also City of Boston, 20 MLC 1603, 1609, MUP-7976 (May 20, 1994) (only constant in the police department's deployment of patrol supervisors was that the deployment had been inconsistent, and it was therefore inappropriate to seize upon a limited period of high deployment and rule that it established a condition of employment); Town of Hingham, 21 MLC 1237, 1240 MUP-8189 (August 29, 1994) (no past practice of requiring a town-designated physician exam despite the fact that the town did not require the exam in nearly all cases, but did not require it on at least two occasions). Unlike the cited cases, it was reasonable for employees here to expect that the practice would continue because there had been no deviation from the practice that was established in 1992.

Authority

Also, the Town maintains that even though a former Fire Chief (or Chiefs) had permitted unit members to convert vacation leave to sick leave in 1992, the Fire Chief does not have the authority to do so and the practice therefore cannot be binding on the Town. In support of its argument, the Town points out that the Town Manager is the supervisor of all employees of Town departments, including the Fire Chief, as set forth in Chapter 559 of the Acts of 1953 (Chapter 559).[11] The Town specifically references the following sections of Chapter 559:

[11] The Town provided a copy of Chapter 559 as an appendix to its post-hearing brief.

> Section 3. Appointed Officials.
>
> (d) The town manager shall appoint ... (2) All other officers, boards, committees and employees of the town, with the exception of the elected officials specified in section two, and officers and employees of such elected officials.
>
> Section 11. Powers and Duties of Manager. In addition to other powers and duties expressly provided for in this act, the town manager shall have the following powers and duties:
>
> (a) The town manager shall supervise and direct and shall be responsible for the efficient administration of all offices, boards and committees appointed by him and their respective departments.

According to the Town, "no employee has any doubt as to who is the final decision maker.

However, the Town's argument overlooks the Fire Chief's role as the Town's agent and his apparent authority to make decisions regarding Fire Department matters. The authority to act for and to speak on behalf of an employer is governed by the principles of agency, and may be actual, implied or apparent. Town of Bolton, 32 MLC 20, 25, MUP-01-3254 (June 27, 2005). The issue of agency may be gauged from the point of view of the employees. Id. As the CERB recognized in Town of Chelmsford, "supervisors are presumed to be acting and speaking for the employer, even when the employer has instructed the supervisor to refrain from such action, so long as the employer's instructions have not been communicated to employees." Town of Chelmsford, 8 MLC 1913, 1916, MUP-4620 (March 12, 1982), aff'd, 15 Mass. App. Ct. 1107 (1983. Accordingly, in Town of Chelmsford, the CERB found that the Superintendent of the Highway Department was "unquestionably an agent of the employer," as he was in charge of the overall running of the department on a day-to-day basis. See also Amherst Police League, 35 MLC 239, 252, MUPL-05-4521 (April 23,

2009) (citing Town of Ipswich, 11 MLC 1403, 1410 n.7 (1985) (unless communication of a limitation in one's authority is presented to the other party, an individual in charge of a transaction is held to have broad apparent authority)); Higher Education Coordinating Council, 25 MLC 69, 71, SUP-4087 (September 17, 1998) (citing Commonwealth of Massachusetts, 11 MLC 1206, SUP-2747 (October 3, 1984) (public employer is responsible for the actions of its supervisory employees and agents who act within the scope of their apparent authority whether or not those acts were specifically authorized)).

Similar to the facts in Town of Chelmsford, it is reasonable that Fire Department employees would regard the Fire Chief as the Employer's agent who had apparent authority to make decisions concerning Fire Department matters. There is no evidence that the Town informed the Fire Chief in 1992 that he could not convert employee vacation leave to sick leave or, even if there was such a prohibition, that it had been communicated to employees. Pignataro, who had been with the Fire Department since 1988, made his request to Chief Vuona, which evinces that he perceived the Chief had the authority to approve it or deny it. Significantly, Chief Vuona himself, who had been with the Fire Department in various roles since 1993, also believed he had the authority to approve Pignataro's leave conversion request until he was informed otherwise. In contrast, there is no evidence to support the Town's argument that all employees know that the Town Manager is the final decision-maker, or more specifically, that Fire Department employees did not reasonably believe that the Fire Chief was authorized to approve a leave conversion request. I therefore reject the Town's contention that it

could not be bound by the practice of allowing unit members to convert vacation leave to sick leave with medical documentation.[12]

Bargaining Obligation

With regard to the remaining elements of a unilateral change allegation, it is undisputed that sick and vacation leave are mandatory subjects of bargaining. Further, the record before me does not show that the Town provided the Union with notice or an opportunity to bargain before denying Pignataro's request.

Conclusion

Based on the record and for the reasons explained above, I conclude that the Town violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law by unilaterally discontinuing the practice of converting vacation leave to sick leave when firefighters fell ill during their vacations and provided a doctor's note verifying the illness without giving the Union prior notice and an opportunity to bargain.

[12] In its Answer, the Town also sets forth certain alternative defenses. It contends that the Union should be barred from pursuing this charge because it had filed a grievance on the same issue and because past practice is an integral part of the contract, it must be subject only to a remedy under the contract. First, I note that there is no language in the parties' CBA that addresses converting vacation leave to sick leave. Moreover, the DLR does not prohibit a charging party from pursuing a charge at the DLR if it has filed a grievance, or if the issue is one of contract interpretation. Rather, the DLR will defer a charge to the parties' grievance and arbitration procedure when certain conditions are met, including the respondent's agreement to waive any procedural arbitrability defenses, such as timeliness, and allow the grievance to proceed to arbitration. The Town has not done so here. Therefore, there is no need for me to consider whether the conditions of deferral have been met, and I decline to defer or dismiss the charge.

ORDER

WHEREFORE, based upon the foregoing, IT IS HEREBY ORDERED that the Town of Shrewsbury shall:

1. Cease and desist from:

   a. Failing and refusing to bargain in good faith with the Union by unilaterally discontinuing the practice of converting vacation leave to sick leave when firefighters fall ill during their vacations and provide a doctor's note verifying the illness;

   b. In any like or related manner, interfering with, restraining or coercing employees in the exercise of their rights guaranteed under the Law.

2. Take the following action that will effectuate the purposes of the Law:

   a. Restore the prior practice of converting vacation leave to sick leave when firefighters fall ill during their vacations and provide a doctor's note verifying the illness;

   b. Credit Pignataro with four days of vacation leave and deduct four days of sick leave from him for the period between January 27, 2013 and February 2, 2013 during which he was scheduled to work two 24-hour shifts.;

   c. Bargain in good faith to resolution or impasse with the Union about discontinuing the practice of converting vacation leave to sick leave when firefighters fall ill during their vacations and provide a doctor's note verifying the illness and the impact of the decision on employees' terms and conditions of employment.

   d. Post immediately in all conspicuous places where members of the Union's bargaining unit usually congregate, or where notices are usually posted, including electronically, if the Town customarily communicates with these unit members via intranet or email and display for a period of thirty (30) days thereafter signed copies of the attached Notice to Employees;

c. Notify the DLR in writing of the steps taken to comply with this decision within thirty (30) days of receipt of this decision.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

MARGARET M. SULLIVAN
HEARING OFFICER

The parties are advised of their right, pursuant to M.G.L. c. 150E, Section 11 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 Town of Shrewsbury (Town) violated Sections 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E by unilaterally discontinuing the practice of converting vacation leave to sick leave when firefighters fall ill during their vacation and provide a doctor's note verifying the illness.

> Section 2 of 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 Town assures its employees that:

WE WILL NOT fail and refuse to bargain in good faith with the Union by unilaterally discontinuing the practice of converting vacation leave to sick leave when firefighters fall ill during their vacation and provide a doctor's note verifying the illness.

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:

1. Restore the prior practice of converting vacation leave to sick leave when firefighters fall ill during their vacations and provide a doctor's note verifying the illness;

2. Bargain in good faith with the Union to resolution or impasse over the decision to discontinue the practice of converting vacation leave to sick leave when firefighters fall ill during their vacation and provide a doctor's note verifying the illness and the impacts of that decision on employees' terms and conditions of employment;

3. Credit Vincent Pignataro with four days of vacation leave and deduct four days of sick leave from him for the period between January 27, 2013 and February 2, 2013 during which he was scheduled to work two 24-hour shifts.

_____ _____

For the Town of Shrewsbury 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, 19 Staniford Street, 1st Floor, Boston, MA 02114 (Telephone: (617) 626-7132).