

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of

SPENCER-EAST BROOKFIELD
REGIONAL SCHOOL DISTRICT

and

SPENCER-EAST BROOKFIELD
TEACHERS ASSOCIATION

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Case No. MUP-15-4847
Date Issued: December 5, 2017

Board Members Participating:

Marjorie F. Wittner, Chair
Katherine G. Lev, CERB Member (Concurring and Dissenting Opinion)
Joan Ackerstein, CERB Member

Appearances:

Kimberly A. Rozak, Esq.: Representing the Spencer-East
Brookfield Regional School District

Ryan Dunn, Esq.: Representing the Spencer-East
Brookfield Teachers Association

1 CERB DECISION ON APPEAL OF HEARING OFFICER'S DECISION

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Summary

4 The Spencer-East Brookfield Regional School District (Employer or School
5 District) appeals from a decision issued by Department of Labor Relations (DLR) Hearing
6 Officer on February 27, 2017. The Hearing Officer concluded that the School District
7 violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General
8 Laws Chapter 150E (the Law) by failing to bargain in good faith with the Spencer-East
9 Brookfield Teachers Association (Union) over: 1) the impacts of its decision to hire only

1 one Before and After School Director in August 2015; and 2) the decision and the impacts
2 of the decision to change the method of paying the Before and After School Director from
3 a full stipend to an hourly payment. We affirm the decision for the reasons stated below.¹

4 Facts

5 The parties entered into a number of stipulations and the Hearing Officer made
6 further findings after hearing. We summarize the undisputed facts relevant to our decision
7 below.

8 Since around 2005, the School District has operated an after-school program. The
9 program eventually became a before and after school program (BAS program). Students
10 who participate in the BAS program are enrolled separately and pay tuition. As of the
11 hearing, the program was staffed by two Co-Directors, and a number of lead teachers,
12 teacher generalists and other staff. The present case concerns the Co-Directors.

13 The Union represents a bargaining unit of teachers and other professional staff.
14 The recognition clause of the parties' 2015-2018 collective bargaining agreement (CBA)
15 does not specifically mention or exclude the Co-Directors.² The Co-Directors are listed,

¹ The Hearing Officer dismissed the remaining two counts of the Complaint, which alleged that the School District made other unilateral changes affecting the Before and After School Director positions. Those counts are not at issue in this appeal.

² The recognition clause of the CBA states in pertinent part:

The [School District] recognizes the Union as the exclusive bargaining agent and representative of all professional employees (as such employees are defined in [the Law]). . .The term professional employees includes all classroom teachers, librarians, therapists, school psychologists, adjustment or guidance counselors and nurses holding certificates under G.L. c. 71, §38G. It does not include the Superintendent, Principals, Vice-Principals,

1 however, along with other extra duty positions/assignments, in a separate section of the
 2 CBA as follows:³

3 AFTER SCHOOL PROGRAM POSITIONS

4 2015-2018 (0%)⁴

5 ***

6 After-School Program – Co-Directors – 221 days a year x 3 hours a day x
 7 \$29 per hour = \$19,227.

8 The Co-Director position is also listed as an assignment “in addition to the regular
 9 teaching assignments” in the “Professional Employee Contract” that certain school

Guidance Directors, Director of Pupil Services, Teacher Aides or Director
 of Academic Services and Technology.

The School District challenges the Hearing Officer’s finding that the recognition clause does not “specifically exclude” the Co-Directors. The finding is accurate because Co-Directors are not specifically referenced by name in the Recognition Clause. The School District further argues that the Co-Directors are excluded because they are not professional employees within the meaning of the Law and because they are not certified under G.L. c. 71, §38 like the titles listed in the recognition clause, which are specifically excluded from the definition of “professional employees.” We do not reach these arguments because, as discussed below, whether the Co-Directors are included or excluded from the recognition clause is not dispositive of our holding here.

³ Article XXXIV of the CBA, Extra Duties, provides:

All extra duty assignments are subject to annual funding and appointment.

The CBA includes a four-page list of other extra duty assignments/positions that is divided into five categories: 1) High School Extra Duties; 2) Junior High School Extra Duties; 3) Elementary Extra Duties Grades K-6; 4) Athletic Department; and 5) After School Program Positions. The Co-Director positions are included in the fifth category, along with three other BAS Program titles: After School Program Lead Teacher; After School Program Teacher Generalist (138 days a year) and After School Program Teacher/Generalist (102 Days a year). Next to each of these titles is a dollar amount representing the negotiated stipend or rate of pay.

⁴ The “0%” reflects that there was no increase to the stipend for 2015-2018.

1 employees sign annually. For example, the Professional Employee Contract that
2 bargaining unit member and physical education teacher Kevin Donahue (Donahue)
3 entered into in September 2014 states in pertinent part:

4 The Spencer–East Brookfield Regional School Committee has assigned
5 you as:

6
7 **Teacher** at a salary of . . . for the 2014-2015 school year (subject to change
8 at the completion of Unit A negotiations.

9
10 It is mutually understood that employment under this contract shall be in
11 accordance with Massachusetts General laws and the Collectively
12 bargained contract.

13
14 * * *

15 In addition to the regular teaching assignment, the following assignment(s)
16 and salary are as follows:

17
18 **Before/After School Program /Co-Director \$19,227**
19 **AV Director - \$1,456**

20 Bargaining Unit Status of the Individuals Serving as Co-Directors

21 Extra duty positions have not been strictly designated for unit members. For
22 approximately eight years, from 2005 until the 2012-2013 academic year, only two
23 individuals served as Co-Directors: Cynthia Sprow (Sprow), a teacher and bargaining unit
24 member; and Cindy Ahearn (Ahearn), a school principal who was not a bargaining unit
25 member. Ahearn and Sprow ended their Co-Director assignments after the 2012-2013
26 school year. Since then, all Co-Directors have been bargaining unit members. The
27 current practice is that extra duty positions are posted and if the School District is unable
28 to find a qualified unit member for the position, it will look outside of the bargaining unit to
29 fill the position.

1 Change in Number of Co-Directors

2 Prior to the 2015-2016 school year, the School District employed two Co-Directors
3 for the BAS program. Donahue served as a Co-Director in the 2013-2014, 2014-2015
4 and 2015-2016 school years. When Donahue interviewed for the position in 2015-2016
5 school year, Superintendent N. Tracey Crowe (Crowe) told him that she would only be
6 hiring one Director at that time. Around January 2016, Crowe appointed Stanley
7 Jablonski (Jablonski) to serve as Co-Director with Donahue. Jablonski is a teacher and
8 member of the Union's bargaining unit.⁵ Before Jablonski became a Co-Director,
9 Donahue worked more than usual because he was responsible for two locations.

10 Change in Co-Director Compensation

11 The parties have negotiated over extra duty positions at all times relevant to this
12 proceeding. Such discussions have included the amount of stipends and cost of living
13 increases for the Co-Directors and other extra duty positions.

14 Prior to the 2015-2016 school year, Donahue received the full stipend listed in the
15 CBA (\$19,227) without regard to the number of days he worked. There is no dispute that
16 at the beginning of the 2015-2016 school year, the School District began paying him on
17 an hourly basis, without providing the Union with notice and an opportunity to bargain
18 over the change in the method and frequency of payments.

19 Opinion⁶

⁵ The hearing exhibits reflect that Jablonski had previously served as BAS Program Lead Teacher for the 2013-2014 school year in addition to his regular teaching assignment.

⁶ The CERB's jurisdiction is not contested.

1 The issue raised by this appeal is whether an employer has a duty to bargain
2 before changing the terms and conditions of employment of bargaining unit members who
3 perform the duties of an extra duty position that is neither exclusively performed by
4 bargaining unit members nor expressly listed in the recognition clause of the CBA, but
5 which is listed elsewhere in the CBA as an extra duty position along with its negotiated
6 rate of pay.

7 The Hearing Officer stated that, as a threshold matter, she needed to determine
8 whether the position was a bargaining unit position. She found that it was based on the
9 way the parties had treated the position. She thus concluded that the Employer had
10 violated Section 10(a)(5), and, derivatively, Section 10(a)(1) of the Law when it changed
11 certain of the Co-Directors' terms and conditions of employment without first satisfying its
12 statutory bargaining obligation. On review, the School District reiterates the arguments it
13 made to the Hearing Officer, that Co-Directors are not bargaining unit positions and,
14 therefore, that it had no obligation to bargain with the Union before making the changes
15 at issue here.

16 We agree with the Hearing Officer that the School District violated its bargaining
17 obligation but do so on different grounds. Under the circumstances of this case, it is not
18 necessary to decide whether the Co-Directors of the BAS Program are included or
19 excluded from the bargaining unit in order to conclude that the Employer violated the Law
20 by making changes to the wages and workload of bargaining unit members who serve in

1 that capacity.⁷ Rather, it is well-established that a public employer violates Sections
2 10(a)(5) and 10(a)(1) of the Law when it unilaterally alters a condition of employment
3 involving a mandatory subject of bargaining without first bargaining with the union to
4 resolution or impasse. School Committee of Newton v. Labor Relations Commission, 388
5 Mass. 557 (1983). The employer's obligation to bargain before changing conditions of
6 employment extends to working conditions established through past practice, as well as
7 those specified in a collective bargaining agreement. Town of Wilmington, 9 MLC 1694,
8 1699, MUP-4688 (March 18, 1983). To prove such a violation, a union must demonstrate
9 that there was a pre-existing practice, that the employer unilaterally changed that practice
10 and that the changes impacted a mandatory subject of bargaining. Boston School
11 Committee, 3 MLC 1603, 1605, MUP-2503, 2528, 2541 (April 15, 1977). Notwithstanding
12 a public employer's prerogative to make certain type of managerial decisions without prior
13 bargaining, "if a managerial decision has an impact upon or affects a mandatory topic of
14 bargaining, negotiation over the impact is required." City of Worcester v. Labor Relations
15 Commission, 438 Mass. 177, 185 (2002) (quoting Boston v. Boston Police Patrolmen's
16 Association, 403 Mass. 680, 685 (1989). Unless faced with exigent circumstances, an
17 employer's duty to bargain over the impacts of a managerial decision is not satisfied by
18 first implementing the change and then offering to bargain. City of Newton, 35 MLC 296,

⁷ We therefore make no determination as to whether or not the Co-Directors are included or excluded from the unit. The Hearing Officer's determination that the title is in the bargaining unit is therefore without binding effect. See 456 CMR 13.19 (1) ("The decision of the hearing officer shall become final and binding on the parties unless, within ten days after notice thereof, any party requests review by the [CERB].")

1 298, MUP-04-4254 (May 27, 2009). Rather, even where a decision falls within an
2 employer's contractual or exclusive managerial prerogative, an employer is required to
3 give the exclusive representative of the affected employees advance notice and an
4 opportunity to bargain over the impacts of the decision prior to implementing the change.
5 Id.

6 Change to Compensation

7 Here the CBA provides that extra duty positions are subject to annual funding and
8 the CBA lists the Co-Directors as one of many extra duty positions for which the parties
9 have negotiated a stipend and cost of living increase. The record also reflects that, prior
10 to the 2015-2016 school year, there was a pre-existing practice of paying the negotiated
11 stipend to bargaining unit members in full, instead of on an hourly basis, and that the
12 Employer changed that practice at the beginning of the 2015-2016 school year without
13 first giving the Union notice or an opportunity to bargain. Because wages are a mandatory
14 subject of bargaining, all of the elements of a unilateral change violation have been met
15 with respect to the wages paid to bargaining unit members serving as Co-Directors.
16 Boston School Committee, 3 MLC at 1605.

17 Increased Workload

18 Similar reasoning applies to the changes in workload occasioned by the School
19 District's decision to reduce the number of Co-Directors from two to one in the 2015-2016
20 school year. The School District has employed two Co-Directors to run the BAS Program
21 since its inception approximately ten years ago. The School District unilaterally reduced
22 that number to one at the beginning of the 2015-2016 school year. The Hearing Officer

1 found, and no party disputes, that this change increased the workload of the bargaining
2 unit member who occupied the position. Because workload is a mandatory subject of
3 bargaining, City of Taunton, 26 MLC 225, 226, MUP-2089 (June 9, 2000), the School
4 District violated the Law when it decided to hire only one Co-Director in the 2015-2016
5 school years without first giving the Union notice and an opportunity to bargain over the
6 impacts of the decision.

7 None of the School District's arguments on review persuades us otherwise. First,
8 the fact that a non-bargaining unit member served as a Co-Director for eight years
9 establishes only that bargaining unit members and non-bargaining unit members have
10 served as Co-Directors. Rather, the question here is whether the change in the number
11 of Co-Directors impacted the existing terms and conditions of employment of bargaining
12 unit members performing the assignment. We find that it did because it increased
13 Donahue's workload. Further, as evidenced by the Professional Employee contracts in
14 the record, Co-Director assignments last the full school-year. As such, once a bargaining
15 unit member is offered and accepts the Co-Director assignment, and regardless of
16 whether non-bargaining unit members have also performed the work, the School District
17 was not free to eliminate a Co-Director position without giving the Union notice and an
18 opportunity to bargain over the impacts of this decision on bargaining unit members' terms
19 and conditions of employment. City of Worcester, 438 Mass. at 185.⁸ See also Town of

⁸ Because this issue is not before us, we need not decide what would happen if the School Committee hired a non-bargaining unit member to fill one or both Co-Director positions.

1 Halifax, 19 MLC 1560, 1566, MUP-7823 (H.O. December 1, 1992), *aff'd* 20 MLC 1320,
2 (December 16, 1993) (fact that both bargaining unit members and non-bargaining unit
3 members performed night shift EMT duties was not dispositive of town's bargaining
4 obligation where the evidence showed that the town's decision to reduce the number of
5 assignments available to bargaining unit members impacted bargaining unit members'
6 regularly anticipated and scheduled wages and hours).⁹

7 The Town of Burlington decision is also instructive on this point. Town of
8 Burlington, 35 MLC 18, MUP-04-4157 (June 30, 2008), *aff'd sub. nom. Town of Burlington*
9 *v. Commonwealth Employment Relations Board*, 85 Mass. App. Ct. 1120 (May 19, 2014)
10 (unpublished opinion). In that decision, several different groups performed paid police
11 details including current members of the town's police union, retired police officers, and

⁹ We therefore respectfully disagree with our concurring/dissenting colleague that the issue of whether the Co-Director position was included or excluded in the bargaining unit affects the Employer's bargaining obligation here. As set forth above, the Law requires employers to give a union notice and an opportunity to bargain over the impacts of managerial decisions on mandatory subjects of bargaining. To the extent that the dissenting opinion suggests that the language of Article XXXIV of the CBA, which provides that all extra duty assignments are subject to annual funding and appointment, precludes even impact bargaining, we disagree. Here, although Article XXXIV may give the School District the right not to appoint or fund a second BAS Program Director in any given school year, it contains no clear language absolving the Employer from bargaining with the Union over the impacts of this decision on bargaining unit members' terms and conditions of employment. See City of Boston v. Labor Relations Commission, 48 Mass. App. Ct. 169, 174-175 (1999) (citing School Committee of Newton v. Labor Relations Commission, 388 Mass. 557, 569 (1983)) (rejecting employer's argument that the union waived its right to bargain over the impacts of eliminating its past practice of providing a wage differential for certain captains where the contract provision that the city relied upon for provided for payment of wage differential to a different group of captains and, therefore, did not "cover[] the entire subject matter" of compensation," as the employer argued).

1 eligible members of the Burlington Municipal Employees Association (BMEA), which
2 represented non-uniformed, administrative, clerical, technical and custodial employees.
3 35 MLC at 18-19. The town negotiated over various aspects of these details, including
4 wage rates and the order in which the details would be offered to eligible individuals
5 (pecking order), with the patrol officers' union. The CBA between BMEA and the town
6 did not, however, mention these paid details. Id. at 21. For many years, eligible BMEA
7 bargaining unit members were higher in the pecking order than retired police officers. Id.
8 When the town changed the pecking order by placing BMEA members lower than retirees
9 without first giving the BMEA notice and an opportunity to bargain, the BMEA filed a
10 prohibited practice charge.

11 Similar to the arguments the School District makes here, the town argued that it
12 had no obligation to bargain over the pecking order because police details were not
13 bargaining unit work. The CERB rejected this argument on grounds that the opportunity
14 to work those details was clearly a benefit offered to BMEA members "solely by virtue of
15 their status as bargaining unit members." Id. at 25. The CERB therefore held that the
16 opportunity to work the details was a term and condition of employment over which the
17 town was required to bargain before making any changes. Id.

18 The same holds true here. Because the School District's current practice is to offer
19 bargaining unit members the opportunity to serve as Co-Directors before non-bargaining
20 unit members, bargaining unit members have the opportunity to serve in this capacity by
21 virtue of their status as bargaining unit members. Moreover, the facts of this case are
22 even stronger than those in Burlington because here, the CBA specifically lists the Co-

1 Directors as extra duty positions, and the parties negotiate over their rate of pay. Based
2 on this precedent, we conclude, as did the Hearing Officer, that, once a bargaining unit
3 member is offered and agrees to work as a Co-Director in a given school year, the Law
4 prohibits the School District from making changes to the bargaining unit member's terms
5 and conditions of employment without first giving the Union notice and an opportunity to
6 bargain over the decision and impacts of the decision to change the position's
7 compensation, and the impacts of the decision to hire only one Director on bargaining
8 unit members' workload. Because there is no dispute that the School District failed to
9 bargain with the Union over the changes at issue here, we affirm the Hearing Officer's
10 decision and issue the following Order.¹⁰

11 **ORDER**

¹⁰ Section 1(a) of the Hearing Officer's Order required the School District to cease and desist from "Unilaterally hiring only one Director for the Before and After School Program." We have modified Section 1(a) to reflect the impact bargaining violation found here. The concurrence/dissent disagrees that any impact bargaining obligation arose out of the decision to hire only one Director, but rather states that the Town's duty to bargain "arose only when a bargaining unit member filled the position and found the workload was substantially different from what it had been in previous years." Accordingly, the concurrence/dissent asserts that Section 1(a) and 2(b) of the Order are not supported by applicable Law and would limit the remedy to an order to cease and desist from "substantially" changing the workload of bargaining unit members without first giving the Union notice and an opportunity to bargain. However, as we stated above, pre-implementation impact bargaining is required if a managerial decision has an impact upon or affects a mandatory topic of bargaining. City of Worcester v. Labor Relations Commission, 438 Mass. at 185. In this case, because there is no dispute that the Union met its burden of demonstrating that the decision to hire only one Director increased the workload of a bargaining unit member, our Order appropriately remedies the violation found here. See Id. Cf. Town of Winchester, 42 MLC 332, MUP-13-3289 (June 23, 2016) (dismissing complaint alleging that an employer unlawfully failed to engage in impact bargaining where union failed to demonstrate any bargainable impacts flowing from the managerial decision).

1 WHEREFORE, based upon the foregoing, it is hereby ordered that the School District
2 shall:

3
4 1. Cease and desist from:

- 5
6 a) Hiring only one Director for the Before and After School Program
7 without first giving the Union notice and an opportunity to bargain to
8 resolution or impasse over the impacts of that decision on bargaining
9 unit members' terms and conditions of employment.
10
11 b) Unilaterally changing the method of payment of the Before and After
12 School Program Co-Directors
13
14 c) In any like manner, interfering with, restraining and coercing its
15 employees in any right guaranteed under the Law.
16

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

- 18
19 a) Return to the practice of paying a yearly stipend to the Before and
20 After School Program Co-Directors.
21
22 b) Upon request, provide the Association with an opportunity to bargain
23 over the impacts of its decision to hire only one Director for the
24 Before and After School program.
25
26 c) Upon request, provide the Association with an opportunity to bargain
27 over the decision and impacts of the decision to pay Co-Directors of
28 the Before and After School Program on an hourly basis instead of a
29 yearly stipend.
30
31 d) Make whole Donohue for any economic loss suffered as a result of
32 the School District's decision to pay the Co-Directors on an hourly
33 basis instead of a yearly stipend beginning in the 2015 – 2016 school
34 year, plus interest on any sums owed at the rate specified in M.G.L.
35 c. 231, Section 6I compounded quarterly.
36
37 e) Make whole Jablonski for any economic loss suffered as a result of
38 the School District's decision to pay the Co-Directors on an hourly
39 basis instead of a yearly stipend beginning in the 2015 – 2016 school
40 year, with the yearly stipend prorated from Jablonski's date of
41 appointment to the Co-Director position in January 2016, plus
42 interest on any sums owed at the rate specified in M.G.L. c. 231,
43 Section 6I compounded quarterly.

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- f) Post immediately in all conspicuous places where members of the Association’s bargaining unit usually congregate, or where notices are usually posted, including electronically, if the School District 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; and
- g) Notify the DLR in writing of the steps taken to comply with this decision within ten (10) days of receipt of this decision.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD

MARJORIE F. WITTNER, CHAIR

JOAN ACKERSTEIN, CERB MEMBER

Opinion of CERB Member Lev, Concurring in Part, Dissenting in Part

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I concur that the School District violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws Chapter 150E (the Law) by failing to bargain in good faith over the decision and the impact of changing the method of paying the Before and After School Director. I also concur in the finding that the Employer violated the Law by making changes to the workload of bargaining unit members who serve in that capacity; once a bargaining unit member is offered and agrees to work as a Before and After School Director in a given year, the Law prohibits the Employer from making

1 changes to the bargaining unit member's terms and conditions of employment without
2 first giving the Union notice and an opportunity to bargain.

3 My only area of disagreement is with the Majority's finding that the duty to bargain
4 arose out of the impacts of School District's decision to hire only one Before and After
5 School Director, rather than simply out of the changes in workload. The parties' bargaining
6 history with respect to these positions, as well as their ongoing treatment of these
7 positions, demonstrates that the parties expressly agreed to exclude the positions from
8 the unit and as such, I conclude that there is no duty to bargain over any decision or
9 impact of the decision to eliminate one of the positions. The parties' agreement on these
10 positions provides that all extra duty assignments are subject to annual funding and
11 appointment.

12 My review of the record does not support the Hearing Officer's finding that
13 negotiating the stipends, listing of positions as "extra duty" in the CBA or the practice of
14 offering bargaining unit members the opportunity to fill these positions first had the effect
15 of absorbing these positions into the Union. Nor does the record support that the work is
16 shared work, as contemplated in Halifax, 20 MLC 1320, where both non-union and union
17 employees are performing bargaining unit work. Here, the parties merely agreed upon
18 the terms that would apply should a bargaining unit employee happen to perform that
19 work. The duty to bargain arose only when a bargaining unit employee filled the position
20 and found that the workload was substantially different from what it had been in previous
21 years.

1 The essence of this dissent is that I neither find the applicable law supports the
2 Majority's determination that the employer must, (Order 1a, above) cease and desist from
3 hiring only one Director for the Before and After School Program without first giving the
4 union notice and an opportunity to bargain to resolution or impasse over the impacts of
5 that decision on bargaining unit members' terms and conditions of employment, nor can
6 I concur that the Employer should be required to provide the Union with an opportunity to
7 bargain over the impacts of its decision to hire only one Director for the Before and After
8 School program (Order 2b, above).

9 For the foregoing reasons, I am compelled to find that the order relating to the
10 change in workload should be confined to directing the Employer to cease and desist
11 from substantially changing the workload of bargaining unit employees without first giving
12 the union notice and an opportunity to bargain to resolution or impasse.

Katherine G. Lev, Concurring/Dissenting
CERB Member

APPEAL RIGHTS

Pursuant to M.G.L. c. 150E, Section 11, decisions of the Commonwealth Employment Relations Board are appealable to the Appeals Court of the Commonwealth of Massachusetts. To claim such an appeal, the appealing party must file a notice of appeal with the Commonwealth Employment Relations Board within thirty (30) days of receipt of this decision. No Notice of Appeal need be filed with the Appeals Court.



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
NOTICE TO EMPLOYEES
**POSTED BY ORDER OF THE COMMONWEALTH EMPLOYMENT
RELATIONS BOARD**

The Commonwealth Employment Relations Board (CERB) has held that the Spencer-East Brookfield School District (School District) has violated Section 10(a)(5), and derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E by: 1) unilaterally hiring only one Director for the Before and After School Program (Program) in August 2015 without providing the Spencer-East Brookfield Teachers Association (Association) with prior notice and an opportunity to bargain over the impacts of the decision; and 2) unilaterally paying the Co-Directors of the program on an hourly basis instead of a yearly stipend without providing the Association with prior notice and an opportunity to bargain over the decision and impacts of the decision.

The School District posts this Notice to Employees in compliance with the CERB's order.

Section 2 of M.G.L. Chapter 150E gives public employees the following rights: to engage in self-organization; to form, join or assist any union; to bargain collectively through representatives of their own choosing; to act together for the purpose of collective bargaining or other mutual aid or protection; and to refrain from all of the above.

WE WILL NOT fail to bargain in good faith by hiring only one Director for the program without first giving the Association prior notice and an opportunity to bargain over the impacts of that decision.

WE WILL NOT unilaterally pay the Co-Directors on an hourly basis instead of a yearly stipend without first giving the Association prior notice and an opportunity to bargain over the decision and the impacts of that decision.

WE WILL NOT otherwise interfere with, restrain or coerce employees in the exercise of their rights guaranteed under the Law;

WE WILL take the following affirmative action to effectuate the purposes of the Law:

- Return to the practice of paying a yearly stipend to the Co-Directors;
- Upon request, provide the Association with an opportunity to bargain over the impacts of the decision to hire only one Director;
- Upon request, provide the Association with an opportunity to bargain over the decision and impacts of the decision to pay Co-Directors on an hourly basis instead of a yearly stipend;
- Make whole Kevin Donohue for any economic loss suffered as a result of the decision to pay the Co-Directors on an hourly basis instead of a yearly stipend;
- Make whole Stanley Jablonski for any economic loss suffered as a result of the decision to pay the Co-Directors on an hourly basis instead of a yearly stipend, with the yearly stipend prorated from Jablonski's date of appointment to the Co-Director position in January 2016.

SPENCER-EAST BROOKFIELD SCHOOL DISTRICT

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.)