

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

\*\*\*\*\*

In the Matter of:

ASHBURNHAM-WESTMINSTER  
TEACHERS ASSOCIATION

and

AMBER STICKLES

\*\*\*\*\*

\*

\*

\*

\*

\*

\*

\*

\*

Case Number: MUPL-22-9688

Date Issued: February 20, 2025

Hearing Officer:

Meghan Ventrella, Esq.

Appearances:

Amber Stickles – Pro Se

Mark Hickernell, Esq. – Representing the Ashburnham-Westminster  
Teachers Association

HEARING OFFICER'S DECISION

SUMMARY

1 The issue in this case is whether the Ashburnham-Westminster Teachers  
2 Association (Union) violated Section 10 (b)(1) of Massachusetts General Law Chapter  
3 150E (the Law). Based on the record and for the reasons explained below, I conclude  
4 that the Union did not violate the Law.

STATEMENT OF CASE

5  
6 On November 16, 2022, Stickles filed a charge with the Department of Labor  
7 Relations (DLR), which she amended on November 23, 2022, alleging that the Union had  
8 engaged in prohibited practices within the meaning of Section 10(b)(1) of Massachusetts

1 General Laws, Chapter 150E (the Law). On January 9, 2023, a DLR Investigator  
2 investigated the Charge. On April 3, 2023, the Investigator issued a three-count  
3 Complaint of Prohibited Practice and Partial Dismissal (Complaint) alleging that the Union  
4 violated Section 10(b)(1) of the Law by breaching its duty of fair representation.

5 Specifically, Count I of the Complaint alleges that the Union violated the Law when  
6 the Union president did not advocate for Stickles during an October 27, 2022 meeting  
7 with administrators for the Ashburnham-Westminster Regional School District.  
8 Additionally, Count I of the Complaint alleges that the Union president repeatedly  
9 described to the administrators that Stickles was inadequately performing her assigned  
10 duties, that Stickles was cold, unfriendly, intimidating, and unapproachable toward other  
11 unit members, that Stickles was inflexible in her data collection methods, and that Stickles  
12 was failing to adequately establish working relationships with the unit members. Also,  
13 Count I of the Complaint alleges that the Union president repeatedly interrupted Stickles  
14 and the administrators to explain how the unit members at Briggs should not be faulted  
15 for their inability to connect with Stickles when it was Stickles who needed to be more  
16 collaborative.

17 Next, Count II of the Complaint alleges that the Union violated the Law when its  
18 Executive Board decided that the Union president would remain as Stickles' sole point of  
19 contact and Union representative for any of Stickles' concerns over her Support Plan and  
20 other related work issues. Finally, Count III of the Complaint alleges that the Union  
21 violated the Law when the Union president directed another unit member to write to  
22 Human Resources about Stickles' statements and conduct during a November 16, 2022  
23 meeting.

1 On April 13, 2023, the Union filed its Answer to the Complaint. On September 17,  
2 2024, and October 16, 2024, I conducted a hearing during which the parties received a  
3 full opportunity to be heard, to examine and cross-examine witnesses, and to introduce  
4 evidence. On December 13, 2024, the parties filed post-hearing briefs.<sup>1</sup> Based on my  
5 review of the record, including my observation of the demeanor of the witnesses, I make  
6 the following findings of fact and render the following opinion.

### 7 STIPULATIONS

- 8 1. The Ashburnham-Westminster Regional School District (Employer) is a public  
9 employer within the meaning of Section 1 of the Law.
- 10 2. The Union is an employee organization within the meaning of Section 1 of the Law.
- 11 3. The Union represents a bargaining unit of teachers and education professionals  
12 employed by the Employer.
- 13 4. At all relevant times, Stickles was a Board-Certified Behavior Analyst (BCBA)[,]  
14 and a member of the bargaining unit described in paragraph 3. As a BCBA, Stickles  
15 collaborated with educators to obtain student data for the purpose of implementing  
16 student behavior plans and/or assist in the student individualized education plan  
17 process.
- 18 5. On or about October 26, 2022, the Employer's Director of Human Resources,  
19 Stacey Christiano (Christiano), and the Employer's Director of Pupil Services,  
20 Justine Muir (Muir) requested Stickles attend a meeting to discuss Stickles' work  
21 performance and, specifically, her interactions with unit members.
- 22 6. On or about November 16, 2022, Stickles requested to meet with Brett Duncan  
23 (Duncan). Duncan invited Union building representative Doug Potter (Potter) to  
24  
25  
26  
27  
28

---

<sup>1</sup> Shortly after the parties submitted the post-hearing briefs, the Union filed an objection to the Enlargement of the Record. The Union argued that, to the extent necessary, it objects to any new evidence being presented as part of the Charging Party's brief. I closed the record at the end of the hearing, and I have not taken any additional information into consideration from either parties' brief that was not presented and entered into the record at hearing.

1 attend the meeting with him, and they met with Stickles that day during Duncan's  
2 preparation period.  
3

#### 4 FINDINGS OF FACT

##### 5 Background

6 The Union is the exclusive bargaining representative for a unit of teachers and  
7 other educational professionals including Board-Certified Behavior Analysts (BCBA). The  
8 Union and the Ashburnham-Westminster Regional School Committee (School Committee  
9 or Employer) are parties to a collective bargaining agreement dated July 2022 to June  
10 2025. From August 15, 2022 to November 18, 2022, Amber Stickles (Stickles) worked for  
11 the School Committee as a BCBA at Briggs Elementary School (Briggs) and Overlook  
12 Middle School (Overlook).

##### 13 October Meeting with Miller

14 On October 17, 2022, at the Union's Executive Board meeting, a building  
15 representative reported that teachers were complaining that a new BCBA was creating  
16 unreasonable demands on them. In response, Terry Miller (Miller), the Union president  
17 and a special education teacher, suggested that the teachers speak directly with the  
18 BCBA regarding their concerns.

19 By email dated October 18, 2022, Stickles introduced herself to Miller and inquired  
20 about the protocol for BCBAs contacting parents. By email dated October 19, 2022, Miller  
21 answered Stickles' question and asked Stickles what data she had requested from the  
22 teachers at Briggs. Miller informed Stickles that:

23 "I am hearing a collective voice that [the data collection] is a little too  
24 much for a classroom teacher. Obviously[,] I need more information, a  
25 suggestion to you would be to take a look at what you are asking people  
26 to do and if it is feasible for them. I don't know your background but

1 understanding what a classroom teacher is multitasking in a day will help  
2 you in the long run to build relationships and connections with teachers”.

3  
4 By email dated October 25, 2022, Stickles explained to Miller her data collection process  
5 and work experience. Additionally, Stickles informed Miller that she was unaware of  
6 teachers complaining about her data collection request and would encourage them to  
7 speak directly to her about their concerns.

8 In October of 2022, Justine Muir (Muir), the Director of Pupil Services for the  
9 School Committee, informed Stacey Christiano (Christiano), the Director of Human  
10 Resources for the School Committee, that she had received several complaints about  
11 Stickles from other teachers and principals in the school district. Muir and Christiano  
12 planned to meet with Stickles to discuss how best to support Stickles in creating work  
13 relationships. As Miller had over twenty years of special education experience, Muir and  
14 Christiano thought she might be able to help Stickles establish relationships and  
15 requested Miller attend the meeting with Stickles.<sup>2</sup>

16 By email dated October 25, 2022, Muir informed Stickles that if she “could please  
17 plan on meeting with us Thursday at 9 [a.m.] at [the] central office, we would like to check  
18 in with you about a few things.”<sup>3</sup> Later that same day, Stickles responded to Muir stating  
19 she would be at the meeting, and requested further information about the meeting so she  
20 could be prepared. That same day, Muir responded to Stickles that “the purpose of this

---

<sup>2</sup> At the beginning of the school year, the School Committee assigned Katie Hilton, a BCBA, as a mentor for Stickles. However, Muir and Christiano wanted to assign Miller as a second mentor for Stickles so she could have the perspective of a veteran teacher.

<sup>3</sup> Miller was cc'd on this communication.

1 meeting is to review a few things that administrators and other educators have brought to  
2 our attention, to obtain your input and to work out a support and resolution plan”.

3 Also, by email dated October 25, 2022, Stickles requested to speak with Miller on  
4 the phone before the October 27<sup>th</sup> meeting with Muir and Christiano. Miller responded  
5 that Stickles could call her anytime. Later that evening, on October 25, 2022, Stickles  
6 spoke on the phone with Miller for approximately 39 minutes.<sup>4</sup> During the phone  
7 conversation, Miller stated that she did not have details about the meeting with Christiano  
8 and Muir. However, Miller informed Stickles that she was asked to attend the meeting as  
9 a resource. Stickles explained to Miller the struggles she was experiencing with Muir and  
10 some of the other teachers. Miller informed Stickles that they would listen to what Muir  
11 and Christiano said and get everything straightened out at the meeting.

12 On October 25, 2022, Stickles spoke on the phone for approximately 35 minutes  
13 with Brett Duncan (Duncan), a teacher and Union building representative for Overlook.  
14 On October 26, 2022, Stickles texted Duncan stating that Muir wanted to meet with  
15 Christiano, Miller, and herself. Stickles stated that she spoke with Miller the previous night  
16 and Miller stated she thought the meeting was about issues at Briggs. Duncan responded  
17 asking Stickles if she wanted him to ask Muir if the meeting was disciplinary. Duncan  
18 stated that if the meeting was disciplinary, then Miller could serve as the Union

---

<sup>4</sup> Stickles alleged that Miller interrogated her during this conversation about a particular student’s placement and was condescending. Additionally, Stickles alleged that Miller scoffed when she explained the difficulties she experienced at Briggs. However, I do not find that Miller interrogated Stickles about any topic during this phone conversation, nor do I find that Miller was condescending during this exchange because I credit Miller’s testimony.

1 representative. Stickles responded that she didn't want to meet with Muir without Duncan  
2 present as she felt Miller was overstepping and criticizing her clinical decisions. Stickles  
3 asked Duncan if he could reschedule the meeting with Muir.

4 Additionally, Stickles told Duncan that she heard from another employee that Muir  
5 wanted to assign Miller as a second mentor, but Stickles did not think she needed a  
6 second mentor. Duncan responded that he was waiting for a call back from Muir. Later  
7 that evening, Duncan called Stickles informing her that Muir assured him that the October  
8 27 meeting was not disciplinary. Additionally, Duncan informed Stickles that Miller, as the  
9 Union president, Miller could act as a Union representative if the meeting became  
10 disciplinary in nature or handle any other Union matters should the need arise.<sup>5</sup>

11 On or about October 27, 2022, Miller, Stickles, Muir, and Christiano met to discuss  
12 how best to help Stickles succeed at her job.<sup>6</sup> At the meeting, Christiano asked Stickles  
13 to review her understanding of the BCBA position. As Muir and Christiano assigned Miller  
14 to act as a resource for Stickles, Miller spoke about her experiences in fostering  
15 relationships with other teachers and provided Stickles with advice on the subject. Miller  
16 told Stickles that from her own personal experience, she thought the teachers at Briggs  
17 were defensive, prickly, unfriendly, intimidating and often unapproachable.<sup>7</sup> Miller stated

---

<sup>5</sup> The record does not contain any evidence that Duncan communicated to Miller that she would potentially need to act as Stickles' Union representative should the meeting become disciplinary.

<sup>6</sup> Prior to this meeting, Stickles requested Duncan attend the October 27 meeting. Duncan called Christiano to reschedule the meeting, but Christiano informed Duncan that Miller was attending the meeting.

<sup>7</sup> Stickles alleged that Miller called her cold, unfriendly, intimidating, and/or unapproachable. However, I credit Miller's testimony on this matter. Despite Miller representing the Briggs teachers as Union president, Miller testified that she called the teachers at Briggs cold, unfriendly, intimidating, and/or unapproachable. Additionally,

1 that the teachers at Briggs were slow to trust new staff members, so Miller used to bring  
2 chocolate or coffee to the teachers to try to build a relationship.

3 During the meeting, Muir and Christiano suggested soliciting teachers' input on  
4 Stickles' performance. In response, Miller interjected that soliciting the teachers' input on  
5 Stickles' performance would be inappropriate as it could be considered evaluative. Miller  
6 stated that Muir and Christiano should be looking at students' charts, and not teacher's  
7 emails, as it is not the teachers' roles to evaluate Stickles. At the end of the meeting, Muir  
8 and Christiano gave Stickles several goals to strive for in her job duties and  
9 communication skills. Additionally, Muir and Christiano stated that they would meet with  
10 Stickles on a more regular basis to ensure she was successful in obtaining those  
11 performance goals. After the meeting, Stickles informed Christiano and Muir that she was  
12 not comfortable with Miller as a second mentor, and they agreed to not include Miller  
13 moving forward. As such, Muir and Christiano emailed Stickles the performance plan but  
14 did not include Miller in that communication.

15 After the October 27, 2022 meeting, Stickles reached out to Duncan to explain  
16 what happened at the earlier meeting. Duncan informed Stickles that the meeting was not  
17 a Union issue as the meeting was not disciplinary. By email dated October 28, 2022,  
18 Stickles reached out to Dana Altobelli (Altobelli), the building representative for the  
19 Oakmont Regional High School and Nick Kostich (Kostich), another Union representative,  
20 about the October 27 meeting. Stickles informed Altobelli and Kostich that Miller had

---

Christiano was also present in the October 27 meeting and did not mention Miller calling Stickles cold, unfriendly, intimidating, and/or unapproachable.



1 taken the side of the teachers complaining about Stickles and was not receptive to  
2 Stickles' side of the story.

3 Additionally, Stickles complained to Kostich and Altobello that Miller inserted  
4 herself into the October 27 meeting and assisted Muir with the development of a support  
5 plan with goals that Stickles thought interfered with her ability to perform her job. Stickles  
6 explained that Muir wanted to see Stickles again in two weeks, but that Stickles did not  
7 want Miller involved. Stickles expressed concerns about Miller's ability to be neutral and  
8 not overstep. By email dated October 31, Kostich responded that since the meeting was  
9 not disciplinary, Stickles should ask for clarification regarding the purpose of the future  
10 meetings.

11 By email dated November 1, 2022, Stickles requested to meet with Christiano, and  
12 they arranged to meet on November 3, 2022. Christiano offered to meet Stickles at  
13 Overlook if she wanted Duncan to also attend the meeting. On or about November 3,  
14 2022, Stickles met with Christiano and brought Altobelli to the meeting as her Union  
15 representative.<sup>8</sup>

16 By email dated November 8, 2022, Christiano sent Stickles a recap of their  
17 previous meetings. In the email, Christiano stated that the purpose of the October 27  
18 meeting with Muir, Miller, and herself was to "discuss the ongoing needs that have been  
19 expressed to me regarding your role as a BCBA in the district. The goal during this  
20 meeting was to be proactive so that we could support all students and give you tools for  
21 success." Additionally, Christiano's email stated that Stickles acknowledged she had

---

<sup>8</sup> Altobelli was unaware that Stickles had requested the meeting, not Christiano.

1 trouble fostering relationships with the staff at Briggs and that she wanted support to  
2 succeed. Furthermore, Christiano stated that everyone in the meeting discussed that a  
3 large part of the BCBA position is communicating effectively with staff and that teachers  
4 can be overprotective of their students. The email also noted that the group discussed  
5 that, despite these challenges, it was Stickles' job to employ different skills to gain the  
6 teachers' trust.

7 In the November 8 email, Christiano listed several suggestions that the group had  
8 discussed and agreed upon for Stickles to succeed. Additionally, Christiano reiterated in  
9 the November 8 email that in addition to Stickles' mentor, she and Muir provided Stickles  
10 with the opportunity to collaborate weekly with Miller, a veteran special education teacher.  
11 Christiano recapped Miller's suggestions for communicating with teachers including: 1)  
12 bring candy to meetings, 2) ask for teacher input, 3) sit in classrooms to get to know the  
13 teacher and student, 4) listen to their concerns, and 5) meet the teacher "in the middle."  
14 Next, Christiano recapped the events after the October 27 meeting. Christiano explained  
15 that on November 3, 2022, Stickles met with Altobelli and herself to clarify the October 27  
16 meeting. During the November 3 meeting, Stickles informed Christiano that she did not  
17 want Miller as additional support because Stickles thought Miller was friends with a  
18 teacher at Briggs. Christiano explained that per Stickles' request, she contacted Miller  
19 and told her that they did not need her assistance.

20 By email dated November 9, 2022, Stickles responded to Christiano's email  
21 thanking her for the opportunity to collaborate with Miller. Stickles explained that she  
22 declined the opportunity to work with Miller because she had concerns about her  
23 objectivity and neutrality which stemmed from an October 18 email and an October 25

1 phone conversation. Stickles expressed concern that during the October 25 phone  
2 conversation, Miller questioned Stickles about a student placement. Next, Stickles  
3 recommended another teacher at Briggs to meet with if the School Committee still felt  
4 she would benefit from meeting with a special education teacher like Miller.

5 By email dated November 13, 2022, Nathaniel North (North), the principal for  
6 Briggs, informed Stickles that he had concerns about how Stickles handled an incident in  
7 the classroom. The incident involved a student who was kicking chairs near their  
8 classmates. North stated that he was concerned that Stickles continued to take notes  
9 and did not help remove a student to a safe spot when the student started kicking the  
10 chairs. Also, North informed Stickles that a staff member approached him with concerns  
11 about Stickles' consultations. The staff member informed North that Stickles had not been  
12 talking with the staff members about the students on IEPs, but rather, Stickles' concerns  
13 about the quality of her work. North explained that the focus of consultations must be the  
14 students. By email dated November 14, 2022, Stickles responded to North explaining that  
15 the student involved in the incident was not on her caseload. Additionally, Stickles  
16 provided a timeline of events as she recalled the incident.

#### 17 E-Board Decision

18 By email dated November 14, 2022, Stickles suggested to Duncan that if her  
19 issues with Miller's neutrality were discussed in the Union's executive board (E-Board)  
20 meeting, they should come up with a procedure for situations when building  
21 representatives cannot serve as the neutral representative in a meeting. Additionally,  
22 Stickles suggested that the Union discuss when an investigatory interview is being held

1 as Stickles felt Human Resources' involvement in the October 27 meeting blurred the  
2 lines between investigatory and non-investigatory.

3 During the November 14, 2022 E-Board meeting, Altobelli, Kostich, and Duncan  
4 stated that Stickles had expressed concerns about Miller being hostile and unprofessional  
5 during her interactions with Stickles. Additionally, Duncan expressed concerns with  
6 Stickles interrupting classes by coming in and out of teachers' classrooms. The E-Board  
7 discussed whether anyone was willing to be the point of contact for Stickles to deal with  
8 Union issues. Duncan expressed concerns that Stickles was "bouncing" from  
9 representative to representative which may cause confusion. The E-Board discussed  
10 having one person appointed for Stickles so that the information she received was  
11 consistent and nothing would fall through the cracks, which could happen if multiple  
12 people were dealing with her concerns. During the meeting, Miller contacted the  
13 Massachusetts Teachers Association (MTA) to inquire about the best way to handle the  
14 situation. The MTA advised her to narrow the number of Union representatives she asked  
15 for advice so there was a consistent flow of information. Miller was the only Union  
16 representative who was willing to work with Stickles. As such, the E-Board decided that  
17 Miller would be Stickles' primary contact for future Union concerns and issues.

18 By email dated November 14, 2022, Duncan informed Stickles that the E-Board  
19 met that afternoon and decided that, moving forward, any Union involvement regarding  
20 Stickles' current concerns would be exclusively handled by Miller. Duncan informed  
21 Stickles that Miller "can address any of your concerns beyond those of us in the role of  
22 building representatives." Shortly after, Stickles responded to Duncan's email stating that

1 Kostich and Altobelli had expressed concerns that Miller's involvement was inappropriate  
2 and asked Duncan to explain the reasoning behind the change in opinion.<sup>9</sup>

3 By email dated November 16, 2022, Duncan again informed Stickles that Miller  
4 would address any of her Union concerns moving forward, and that he had forwarded her  
5 concerns to Miller. The next day, Stickles emailed Duncan stating that she did not want  
6 him to reach out to Miller on her behalf as Miller's involvement had worsened her situation  
7 at Briggs.

8 November Letter

9 On or about November 16, 2022, Stickles approached Duncan in person  
10 requesting to speak with him. Duncan recruited Doug Potter (Potter), a sixth-grade  
11 teacher at Overlook, to witness the conversation with Stickles. Stickles confronted  
12 Duncan about the E-Board's decision to assign Miller as Stickles' sole point of contact for  
13 Union matters. Additionally, Stickles stated that she was going to file a charge with the  
14 Department of Labor Relations.

15 Several hours later, Stickles entered Duncan's classroom when students were  
16 present, placed her cell phone close to Duncan's face and asked if the address displayed  
17 on the screen was the correct address to serve the charge on the Union. Duncan informed  
18 Stickles that the address on the screen was the personal address of the Union's treasurer.  
19 After this brief interaction, Stickles abruptly left the classroom.<sup>10</sup>

---

<sup>9</sup> Stickles failed to prove at the hearing that Kostich and Altobelli had expressed concerns over Miller's ability to represent Stickles in her Union officer capacity.

<sup>10</sup> Duncan testified that he felt threatened by this entire interaction with Stickles.

1 After the classroom interaction with Stickles, Duncan called Miller and informed  
2 her that Stickles yelled at him and stated that she was going to sue Duncan and that he  
3 felt threatened. Miller suggested to Duncan that if he felt threatened by another staff  
4 member then he should alert Christiano to the situation. After Duncan reported the  
5 incident to Miller, she contacted Potter to ask about the interaction with Stickles. After  
6 Potter described the incident, Miller suggested to Potter that if he felt Stickles was hostile,  
7 then he could memorialize the conversation and send it to Human Resources.

8 By email dated November 16, 2022, Duncan sent Christiano the following  
9 message:

10 I have been asked by Terry Miller, president of the Ashburnham  
11 Westminster Teachers' Association, to memorialize an interaction  
12 between Brett Duncan and Amber Stickles that occurred at about 8:30  
13 this morning in the 6th grade copy room. As the AWTa Overlook Middle  
14 School building representative, Amber has sought Brett's advice and  
15 assistance regarding misgivings she has about how her work  
16 performance is being treated by her managers. As far as I am aware,  
17 Brett's interactions with Amber regarding this situation have always  
18 remained professional, though it was clear by Amber's agitated  
19 demeanor this morning, that she does not believe that Brett has done  
20 enough to defend her against what she perceives as mistreatment by her  
21 managers. As Brett attempted to calmly explain to Amber that she  
22 needed to direct all further discussion of this situation to Terry Miller, she  
23 became more and more agitated and stormed out of the copy room  
24 threatening out loud to report this situation to the Department of Labor  
25 Relations. The entire interaction between Brett and Amber in the copy  
26 room this morning was no more than two or three minutes in duration.

27  
28 Christiano never issued Stickles discipline as a result of this complaint.

29 By email dated November 16, 2024, Miller wrote to Stickles that:

30 This is a gentle reminder that you need to respect professional  
31 boundaries. It is inappropriate to interrupt a classroom that is in  
32 instruction to ask union related questions and/or seek union related  
33 information. You are putting fellow teachers in very uncomfortable  
34 situations in which they do not know how to politely ask you to stop  
35 interrupting their class. The appropriate time for any of those discussions

1 would be before or after school. Your recent behavior has unfortunately  
2 exhausted the many people who have attempted to counsel and/or to  
3 help you. Members of the E-Board team do not function independently of  
4 the President of the local Union. So that we have a consistent flow of  
5 information, when members speak with anyone, I am typically made  
6 aware. At this point in time, your only contact for union related issues has  
7 to be myself. Of course, if at any time you are called into a meeting and  
8 require union representation, I am able to make myself available to you.  
9

10 By email dated November 17, 2022, Christiano instructed Stickles to attend a  
11 meeting with the Superintendent on November 18, 2022. Christiano informed Stickles to  
12 bring a Union representative. On November 18, 2022, the School Committee issued  
13 Stickles a termination letter.

#### 14 Opinion

15  
16 A union has a duty to represent its members fairly in connection with issues that  
17 arise under a collective bargaining unit. National Association of Government Employees  
18 v. Labor Relations Commission, 38 Mass. App. Ct. 611, 613 (1995). A union breaches  
19 its statutory responsibility to bargaining unit members if its actions toward an employee  
20 during the performance of its duties as the exclusive collective bargaining representative,  
21 are unlawfully motivated, arbitrary, perfunctory or reflective of inexcusable neglect.  
22 Quincy City Employees Union, H.L.P.E., 15 MLC 1340, 1345, MUPL-2883, (January 24,  
23 1989), aff'd sub. nom., Pattison v. Labor Relations Commission, 30 Mass. App. Ct. 9  
24 (1991), further rev. den'd, 409 Mass. 1104 (1991); Boston Teachers Union, 12 MLC 1577,  
25 1584, MUPL-2699 (January 6, 1986); Robert Kreps and AFSCME, 7 MLC 2145, 2147-  
26 2148, MUPL-2043 (May 19, 1981). If the facts support a finding that the union has  
27 breached its duty of fair representation, the Commonwealth Employment Relations Board  
28 (Board) concludes that the union has violated Section 10(b)(1) of the Law.

1 Unions are vested with considerable representational discretion, as long as their  
2 actions are not improperly motivated, or are made in bad faith, discriminatory, arbitrary,  
3 perfunctory, or demonstrative of inexcusable neglect. Graham v. Quincy Food Service  
4 Employees Ass'n., 407 Mass. 601, 606 (1990) (citing Baker v. Local 2977, State Council  
5 93, Am. Fed'n. of State, County & Mun. Employees, 25 Mass. App. Ct. 439, 441  
6 (1988)). While ordinary negligence may not amount to a denial of fair representation, the  
7 lack of a rational basis for a union's decision and egregious unfairness or reckless  
8 omissions, or disregard for an individual employee's rights may have that effect. Trinque  
9 v. Mt. Wachusett Community College Faculty Ass'n., 14 Mass. App. Ct. 191, 199  
10 (1982). However, the Board will not substitute its judgment for that of the union.  
11 International Brotherhood of Police Officers, Local 338, 28 MLC 285, 288, MUPL-4225  
12 (March 15, 2002) (citing National Association of Government Employees, 26 MLC 57, 58,  
13 SUPL-2650 (November 9, 1999)). Rather, the Board's role is to inquire into the union's  
14 motives and to review its decision-making procedures to ensure that it acted within the  
15 scope of its duty of fair representation. Fitchburg School Committee, 9 MLC 1399, 1415,  
16 MUP-4511 (September 1, 1982).

17 October 27 Meeting<sup>11</sup>

---

<sup>11</sup> In Stickles' post-hearing brief, she argued that during the October 26 phone call, Miller acted inappropriately when she formed an opinion about the teachers' complaints on Stickles' data collection. Stickles asserts that Miller should have heard from Stickles and the complaining teachers prior to forming an opinion. However, the Complaint in this matter does not allege that Miller's conduct during the phone call is unlawful. Moreover, even if Miller's alleged conduct during the phone conversation was included in the Complaint, which it is not, Stickles failed to establish how Miller's alleged comments during the phone call were unlawful.



1           Count I of the Complaint alleged that the Union violated the Law when Miller, during  
2 the October 27 meeting, did not advocate for Stickles, and repeatedly described to  
3 Christiano and Muir several ways that Stickles was inadequately performing her assigned  
4 job duties. The evidence does not substantiate this allegation. The record is clear that  
5 Muir and Christiano asked Miller to attend the October 27 meeting as a resource for  
6 Stickles because Miller was a veteran teacher in special education. During the meeting,  
7 Miller provided advice based on her own personal experiences on fostering relationships  
8 with teachers. Miller described various tools she utilized to gain the trust of teachers at  
9 Briggs. I did not find that Miller cited ways that Stickles was inadequately performing her  
10 assigned duties, but rather, advised her on how to foster relationships based on her own  
11 personal experiences.

12           The Complaint alleged that Miller, during the October 27 meeting, told Christiano  
13 and Muir that Stickles was cold, unfriendly, intimidating, and unapproachable toward the  
14 unit members at Briggs, that she was inflexible in her data collection methods, and that  
15 she was failing to adequately establish working relationships with the unit members at  
16 Briggs. However, I found that Miller called the teachers at Briggs cold, unfriendly,  
17 intimidating, and unapproachable, not Stickles. Also, I did not find that Miller informed  
18 Muir and Christiano that Stickles was inflexible in her data collection methods or that she  
19 was failing to adequately establish working relationships. Additionally, I did not find that  
20 Miller stated the teachers at Briggs should not be faulted for their inability to connect with  
21 Stickles when it was Stickles who needed to be more collaborative. As a veteran teacher  
22 and a requested resource for this meeting, Miller imparted advice on how to foster positive

1 relationships with other teachers. Again, Stickles did not establish that Miller made any  
2 disparaging remarks about Stickles in the October 27 meeting.

3 Stickles also argued that the Union violated the Law when it allowed Miller to attend  
4 the October 27 meeting as her representative. Stickles contends that she had expressed  
5 concerns to Duncan about Miller's objectivity prior to the meeting therefore, the Union  
6 was on notice that Miller was not a suitable representative. Specifically, Stickles argued  
7 that Miller overstepped her role as a neutral union representative in their email  
8 communications on October 18 and during their phone conversation on October 25.  
9 Given that Duncan knew that Stickles was uncomfortable with Miller, Stickles argued that  
10 despite assurances that the meeting was not disciplinary, he should not have assured her  
11 that Miller could represent Stickles if the meeting took a disciplinary turn. I am not  
12 persuaded by these arguments.

13 First, Muir and Christiano asked Miller to attend the October 27 meeting as a  
14 resource for Stickles and therefore, Miller could not refuse to attend the meeting. Next,  
15 Stickles may have informed Duncan of her concerns, but Stickles failed to demonstrate  
16 that Miller's conduct in the October 18 email exchange or the October 25 phone  
17 conversation was unlawful or demonstrated a lack of neutrality. More importantly, I do not  
18 find Duncan's assurance that Miller could represent Stickles if the meeting turned  
19 disciplinary was unlawful as Miller was the union president, and had been asked to attend  
20 the meeting, and Stickles had failed to demonstrate that Miller exhibited any previous  
21 problematic behavior.

22 Next, Stickles argues that the Union violated the Law when Miller overstepped her  
23 role as Union representative in the October 27 meeting by helping create the "Support

1 Plan” for Stickles, being dismissive of Stickles’ concerns, and being critical of Stickles’ job  
2 performance. The Union argued that Muir and Christiano instructed Miller to attend the  
3 meeting as a resource and that the meeting was not disciplinary, therefore Miller was not  
4 acting as Stickles’ union representative. The Union further argued that the October 27  
5 meeting was not disciplinary because Muir and Christiano instituted a support plan for  
6 Stickles, not a performance improvement plan as described under the collective  
7 bargaining agreement.

8 While it is clear that Miller attended the meeting because Muir and Christiano  
9 asked her to attend as a resource, I find that Stickles had a reasonable expectation that  
10 Miller would act as her representative should the meeting turn disciplinary, as Duncan  
11 had promised. Additionally, I find that Miller did act as Stickles’ representative. Although  
12 Miller gave advice and suggestions to Stickles throughout the meeting as mentor  
13 resource, not a union representative, Miller acted as a representative when she thought  
14 that Muir and Christiano crossed a boundary. Specifically, when Christiano and Muir  
15 suggested that the teachers provide feedback to them about Stickles’ performance, Miller  
16 asserted that it would be inappropriate for teachers to evaluate Stickles.

17 Even if Miller’s sole purpose in the meeting was to act as Stickles’ union  
18 representative, which it was not, Miller never discredited Stickles’ concerns or was critical  
19 of Stickles’ job performance. Finally, I find that Miller’s input during the meeting was  
20 largely providing advice to Stickles based on her own experience, while Muir and  
21 Christino set the goals and objectives in the support plan. Accordingly, Stickles did not  
22 establish that Miller did not advocate for her during the meeting. Accordingly, I do not find  
23 that the Union violated the Law as alleged in Count I of the Complaint.

1           E-Board Decision

2           Count II of the Complaint alleges that the Union violated the Law when its executive  
3 board decided that Miller would remain as Stickles' sole point of contact and Union  
4 representative for any of Stickles' concerns over her Support Plan and other Union-  
5 related issues. Stickles argued that the Union's decision to appoint Miller as her sole point  
6 of contact was unlawful because the Union failed to consider Stickles' concerns about  
7 Miller's objectivity. I disagree. First, the Union did take into consideration Stickles' issues  
8 with Miller because Altobelli, Kostich, and Duncan informed the board during the meeting  
9 that Stickles had expressed concerns about Miller's conduct. Additionally, as explained  
10 above, Miller's conduct did not demonstrate a lack of neutrality. Consequently, the  
11 Union's decision to assign Miller as Stickles' point of contact over Stickles' objection was  
12 not unlawful.

13           Next, Stickles argued that the Union's e-board should have considered alternative  
14 solutions to Miller being Stickles' sole point of contact and offered an appeal process for  
15 its decision. However, even if the Union could have decided on an alternative solution,  
16 the Board's role is to inquire into the union's motives and to review its decision-making  
17 procedures to ensure that it acted within the scope of its duty of fair representation.  
18 Fitchburg School Committee, 9 MLC at 1415. Moreover, Stickles provided no case law to  
19 support her argument that the Union was required to create an appeal process. In this  
20 case, Stickles failed to demonstrate that the Union's motive or decision-making  
21 procedures were unlawful.

22           Additionally, Miller contacted the MTA to discuss how to handle Stickles'  
23 complaints to multiple union representatives and the potential pitfalls if the member had

1 varied sources of information. The MTA suggested that the Union limit Stickles' sources  
2 of information so that her concerns and issues did not fall through the cracks and the  
3 information could be streamlined. Next, upon the recommendation of the MTA, the E-  
4 board solicited volunteers to act as Stickles' point of contact. However, Miller was the only  
5 union officer willing to volunteer to act in that capacity. Although the Union could have  
6 appointed another officer to act as Stickles' point of contact, Stickles did not present  
7 sufficient evidence to demonstrate that the Union's conduct was improperly motivated,  
8 discriminatory, arbitrary, perfunctory or demonstrative of inexcusable neglect.  
9 Accordingly, I do not find that the Union violated the Law as alleged in Count II of the  
10 Complaint.

11 November Letter

12 Count III of the Complaint alleges that the Union violated the Law when Miller  
13 directed Potter to write to Christiano and tell her about Stickles' statements and conduct  
14 during the November 16 interaction. Stickles argued that Miller's directive to Potter was  
15 a threat against Stickles and meant to deter Stickles from filing a charge with the DLR  
16 against the Union. However, I do not find that Miller ordered or directed Potter to submit  
17 a statement to Human Resources. After receiving a call from Duncan explaining he felt  
18 threatened by Stickles during the November 16 interaction, Miller reached out to Potter  
19 to ask what happened and then suggested that if Potter felt Stickles was hostile, he could  
20 inform Human Resources.

21 Given that Duncan had already expressed concerns about Stickles' alleged  
22 threatening behavior, and that Miller merely suggested to Potter to submit a statement if  
23 he felt the same way, I do not find that Miller's conduct was motivated by a desire to

1 prevent or discourage Stickles from filing a charge against the Union. Moreover, Stickles  
2 did not present sufficient evidence to demonstrate that the Union's conduct was  
3 improperly motivated, discriminatory, arbitrary, perfunctory or demonstrative of inexcusable  
4 neglect. Accordingly, I do not find that the Union violated the Law as alleged in Count III  
5 of the Complaint.

6 **CONCLUSION**

7 The Union did not violate the Law as alleged in the Complaint, and I therefore  
8 dismiss the Complaint.

9 SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS



---

MEGHAN VENTRELLA, ESQ.  
HEARING OFFICER

**APPEAL RIGHTS**

The parties are advised of their right, pursuant to M.G.L. c. 150E, Section 11 and 456 CMR 13.19 to request a review of this decision by the Commonwealth Employment Relations Board by filing a Notice of Appeal with the Department of Labor Relations no 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.