

MASSACHUSETTS TEACHERS ASSOCIATION

DIVISION OF LEGAL SERVICES

2 HERITAGE DRIVE, 8TH FLOOR
QUINCY, MASSACHUSETTS 02171-2119

GENERAL COUNSEL

IRA C. FADER

617.878.8000
1.800.392.6175
FAX: 617.248.6921

STAFF COUNSEL

MATTHEW D. JONES
RICHARD A. MULLANE
LAURIE R. HOULE
QUESIYAH S. ALI
RYAN P. DUNN
ASHLEY F. WALTER
MARK A. HICKERNELL
JONATHAN M. CONTI
JENNIFER L. MACDOUGALL

VIA EFILE

June 18, 2019

Margaret Sullivan
Hearing Officer
Commonwealth of Massachusetts
Department of Labor Relations
19 Staniford Street, 1st Floor
Boston, MA 02114

PARALEGAL

KATHY NAGLE
SARAH B. KELLEY

RE: Brookline Educators Union and Brookline School Committee
MUP-19-7183/ MUP-19-7208/ MUP-19-7196

Dear Investigator Sullivan:

By this correspondence the Brookline Educators Union (“the Union”) hereby withdraws its charges without prejudice in the above referenced matter for the reasons stated below.

As you are aware, the parties attended an in-person investigation concerning the above referenced charges on May 21, 2019. The record was held open at the Union’s request to ensure the full body of relevant email correspondence and written public statements were provided. The Union supplied additional information; the Employer provided a response. The record was closed on June 5, 2019.

Thereafter, on June 7, 2019 the Commonwealth Employment Relations Board (CERB) issued its decision in the matter of the Belmont Education Association (BEA) and Belmont School Committee, MUP-17-5825. In Belmont, CERB determined a union has a right to designate members of its own bargaining team and to determine their role in bargaining. CERB further directed that the anticipated presence and role of Silent Bargaining Representatives in a union’s bargaining team should be clearly communicated to the employer.¹

In light of Belmont, by email correspondence to the DLR on June 11, 2019, the Union requested the opportunity to confer with the Employer and requested the record in this matter be reopened to permit for consideration of any additional information that resulted from that effort. Absent a compelling reason, the DLR indicated it would not be inclined to accept supplemental arguments/information. Counsel for the School Committee agreed there was no basis for reopening the record.

With appreciation for and deference to the specific directive(s) of the CERB in Belmont, by letter to the School Committee, dated June 12, 2019, the Union reduced its prior verbal communication with the School Committee—concerning inclusion of Silent Bargaining Representatives on the Union’s bargaining team, their function and their role—to **writing**. As part of that correspondence, the Union also advanced

¹ It was recognized by the parties at the in-person investigation of this matter that the Belmont case had the potential to have some bearing on the instant proceeding. Having now had the opportunity to review the decision, the Union is convinced of its relevance and intends to act on CERB’s guidance therein.

proposed ground rules, which addressed the Union's bargaining team composition, caucus lengths etc. The Employer has not yet had the opportunity to respond.

To be clear, the Union intends to bargain with a team comprised of Core Speaking Representatives and Silent Bargaining Representatives, but it will not pursue that end without heeding CERB's clear preference for express communication with the Employer surrounding the anticipated presence and role of Silent Bargaining Representatives in negotiations. It is the Union's hope the parties can confer and reach a resolution of this matter without the need for formal litigation. If such a resolution is not possible, however, the Union wants to be certain it has taken every step possible to resolve any potential confusion or question surrounding the role and presence of Silent Bargaining Representatives on its team.

The Union hereby withdraws its charges without prejudice and reserves the right to refile if the Employer expresses a continued refusal to bargain with the Union's team as fully constituted, especially now that the Union believes it has satisfied any obligation it may have to provide notice under Belmont; resolved any confusion surrounding the role of the various members of its team; and now offered proposed ground rules on the subject. It is too important to the Union—in a post-Janus era, where its organizing efforts are paramount and the inclusion of Silent Bargaining Representatives ensures wider outreach to members, more diverse feedback during caucus and works to ensure the concerns and goals of a broader population of our membership are represented—to have a team comprised of the bargaining representatives its membership chooses, including Silent Bargaining Representatives. Since withdrawal proves the only alternative to permit further development of the record so the Department can squarely address the Employer's refusal to bargain with the Union's designated team post-Belmont, the Union submits this withdrawal, without prejudice and with continued insistence that the composition of the Union's bargaining team is its business alone.

Very truly yours,

/s/ Ashley Walter
Ashley Walter

cc: Philip Katz, MTA Field Representative
John Foskett, Esq.
Jessica Wender-Shubow, President, Brookline Educators Union
Eric Schiff, Brookline Educators Union

266238