



November 24, 2021

Philip Roberts, Director
Department of Labor Relations
2 Avenue de Lafayette
Boston, MA 02111-1750

RE: PS-21-8947 and PS-21-8948 - Brookline School Committee and Brookline Educators Union

Dear Mr. Roberts:

I am in receipt of the Brookline School Committee's ("Committee") Petitions for Mediation and Fact-Finding in Public Employment filed unilaterally by the Committee for both Bargaining Units A and B. Please be advised that the Brookline Educators Union ("Union") objects to the petition, as the Committee filed it prematurely. By any objective measure the parties have not reached impasse; the Committee filed for impasse despite having only held two negotiations sessions since it put all its proposals on the table.

The parties began negotiations in the spring of 2021 and after a much-needed respite over the summer resumed bargaining on October 20, 2021. At the first post summer-respite negotiation's session on October 20, the Committee did not make a salary proposal for either bargaining unit. It did, however, make new proposals requesting a considerable increase in the length of the workday for a majority of Unit A members, significant changes to the collective bargaining agreement's grievance procedures, and restrictions on employees' professional discretion related to meeting attendance.

The Committee did not make a new salary proposal until its package proposal offer on October 27, 2021. The package proposal included the language changes that were presented just one week prior on October 20th. With the presentation of this October 27th package, the Committee indicated that it was its "last best offer" as to financials. It did not indicate that it was the "last best offer" for all the other items still on the table. On November 3, 2021, the Committee presented a similar set of new proposals for Unit B, along with a package that they indicated was their "last best offer" as to financials.

The parties had already made significant movement from their initial negotiating positions on salary, the most contentious issue since negotiations began in April 2021. At that time, the Committee's initial salary proposal included a 0% Cost of Living Adjustment (COLA) for the first year of the contract (2020-2021), a 1% to top step in the second year (2021-2022) plus a "waterfall" proposal for which they could not explain nor provide costing explanations, and a 2.5% COLA for the third year (2022-2023) (see Exhibit A). The Union's initial salary proposal was 2% COLA for the first year, 1%/3% split (day 1/day 90 of contractual year) COLA for the second year and 2%/2% split (day 1/day 90 of contractual year) COLA for the third year (See Exhibit B). Since these initial salary proposals, the Committee (on October 27 and November 3) and the Union (on November 18) moved to:

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- Committee - 1% COLA for the first year, 2.5% COLA for the second year and 2.5% COLA for the third year, as part of a package proposal. (See Exhibit C)
- Union - 2% COLA (retro to day 91 of the contractual year) plus a 1% COLA (retro to August 31, 2021) for the first year, 3% COLA for the second year, and 3% COLA for the third year, as part of a package proposal. (See Exhibit D)

There has been one negotiations session since the Committee's package proposal on October 27, 2021. It is hard to believe the Committee thinks we are legally at impasse knowing that there was only one subsequent negotiations session that took place after its introduction of significant, impactful and far-reaching proposals. We do not believe the parties are deadlocked, nor do we believe there has been enough time to negotiate since all the proposals have been put on the table. The Committee's impetus for abandoning the bargaining table simply does not meet the definition of impasse. The Court has ruled that an impasse exists "when the parties, despite their good faith, are simply deadlocked." *School Committee of Newton v. Labor Relations Commission*, 388 Mass 557, 574 (1983). The Department of Labor Relations describes impasse as the point at which "negotiations have exhausted the prospects of concluding an agreement," citing the view of the National Labor Relations Board that impasse is "the condition reached 'after the parties have bargained in good faith on bargainable issues to the point where it is clear that further negotiations would be fruitless.' *Durd Fittings Co.*, 121 NLRB 377, 383 (1958)." *Commonwealth of Massachusetts*, 8 MLC 1978, 1982 (1982). Here, the Committee prematurely left the bargaining table as the parties were in the midst of progressing towards a settlement.

For all the reasons set forth above, the parties have not reached an impasse. The Union rejects this petition and in accordance with 456 CMR 21.05(1), requests the Department deny the Committee's petition. The parties should return to the bargaining table to resume negotiations in good faith. If you require additional information pertinent to your investigation, please contact me at [REDACTED]

Thank you.

Sincerely,

/s/ Jennifer Freeling

Jennifer Freeling

MTA Field Representative/Organizer

cc: Jessica Wender-Shubow, BEU President
Eric Schiff, BEU Bargaining Chair
Elizabeth Valerio, Committee Counsel
Suzanne Federspiel, Chair, Committee Bargaining Team
Linus Guillory, Superintendent