

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD**

IN THE MATTER OF	:	
	:	
RHODE ISLAND STATE LABOR RELATIONS BOARD	:	
	:	
-AND-	:	CASE NO: ULP-5841
	:	
WARWICK SCHOOL COMMITTEE	:	
	:	

DECISION AND ORDER OF DISMISSAL

TRAVEL OF CASE

The above entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board"), as an Unfair Labor Practice Complaint (hereinafter "Complaint"), issued by the Board against the Warwick School Committee (hereinafter "Employer"), based upon an Unfair Labor Practice Charge (hereinafter "Charge") dated February 14, 2007, and filed on February 22, 2007, by the Warwick Teachers' Union, AFT, Local 915 (hereinafter "Union.").

The Charge alleged violations of R.I.G.L. 28-7-13 (3) (5) (6) and (10) as follows:

".The School Committee, through its Chairman, Robert Cushman and its Chief Negotiator, Rosemary Healy, made public statements with the intent of interfering with the Administration of the Union, including the election of its officers and discouraging membership in the Union. Further, the Employer made comments indicating a refusal to bargain in good faith. The Contract between the parties was ratified on August 17, 2006. "

Following the filing of the Charge, the matter was placed into abeyance at the request of the Union while the parties attempted to resolve their dispute. On February 26, 2008, the Union requested reactivation of the matter since the parties had failed to resolve it themselves. An informal conference was held on April 28, 2008, in accordance with R.I.G.L. 28-7-9. On June 12, 2008, the Board issued its Complaint alleging: "The Employer violated RIGL 28-7-13 (3) and (10) when, through its agents, made public statements with the intent of interfering

with the Administration of the Union and discouraging membership in the Union.” The Employer filed its response to the Complaint on June 17, 2008.

The matter proceeded to formal hearings, which were held on August 19, 2008 and February 5, 2009. Representatives from the Union and the Employer were present at the hearings and had full opportunity to examine and cross-examine witnesses and to submit documentary evidence. Upon conclusion of the formal hearing, both the Union and the Employer filed Briefs on March 23, 2009. The Board reviewed the matter at its Monthly Board Meeting in April 2009 and voted preliminarily to dismiss the Complaint, subject to review of the final Decision and Order of Dismissal.

FACTUAL SUMMARY

The Union and the Employer have long been parties to a Collective Bargaining Agreement for the Teachers employed in the City of Warwick’s School system. On August 31, 2003, a Contract expired and the parties were involved in negotiations for a successor Collective Bargaining Agreement. The negotiations for this Contract became extremely protracted, contentious, and involved unsuccessful mediation and arbitration. By the Spring of 2006, at least a hundred bargaining sessions had been held, membership of the school committee had changed a few times and all parties were clearly frustrated by the inability of the parties to reach an acceptable Collective Bargaining Agreement.

In April 2006, the Union requested that the parties cease bargaining sessions for a period of time because contested Union elections were underway.¹ In April and May 2006, a very public campaign was held for the position of Union President which was eventually won on April 30, 2006 by challenger Holtzman. Subsequent to Holtzman’s successful election, both he and members of the School Committee had statements attributed to them published by local newspapers. Both sides expressed optimism that a Contract could hopefully be reached. By early August, a Tentative Agreement was reached and by mid-August, the Contract was ratified.

¹ A former Union Vice President, Samuel Holtzman, was challenging the longtime Union President, Mary Pendergast, for the position.

DISCUSSION

In support of its case in chief before the Board, the Union submitted fifteen (15) exhibits, all which were various newspaper articles from several newspapers. Most of these articles contained statements purportedly made by Employer representatives, which the Union alleges were made in an effort to undermine Union members' confidence in the leadership of Ms. Pendergast. As set forth previously, the Union alleged in its charge that "public statements were made with the intent of interfering with the Administration of the Union, including the election of its officers and discouraging membership in the Union." There were, also, some articles which contained statements made after the results of the election were posted. The latest date of a newspaper article was August 12, 2006. This article discussed the fact that the parties had reached a Tentative Agreement, after "three years of ugly Contract deadlock." (Union Exhibit #15) The Union's complaint of Unfair Labor Practice was filed slightly more than six (6) months later on February 22, 2007.

The Board's Rules and Regulations, Rule 9.01.2 limits the filing of Unfair Labor Practice Charges to a six (6) month period of time from the date of the knowledge of the unfair labor practice. It is clear from the Union's presentation and its arguments to this Board that its real complaint stems from statements made in the Spring of 2006. Therefore, the Union's complaint about these alleged statements is clearly untimely.² Even if the comments attributable to the Employer's representatives in the August 12, 2006 article could have been found by this Board to be objectionable, the Union's complaint regarding that final article is also untimely. Therefore, the Board makes no substantive determinations on the allegations set forth and hereby dismisses its Complaint. The Board also dismisses the Union's underlying charges as being untimely.

² The Board notes that there were troubling statements attributed to Employer representatives, which if proven, may have been problematic to the Employer, had a timely Complaint been filed by the Union.

FINDINGS OF FACT

- 1) The State of Rhode/Community College of Rhode Island is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
- 2) The Union is a labor organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection; and, as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.
- 3) The latest act alleged by the Union in support of its allegation of Unfair Labor Practice is a newspaper article dated August 12, 2006.
- 4) The Union filed its Charge of Unfair Labor Practice on February 22, 2007.

CONCLUSIONS OF LAW

- 1) The Union's Charge of Unfair Labor Practice was untimely under the Board's Rule 9.01.2.

ORDER

- 1) The Unfair Labor Practice Charge and Complaint in this matter are hereby dismissed.

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RELATIONS BOARD	:	
-AND-	:	CASE NO: ULP-5841
WARWICK SCHOOL COMMITTEE	:	

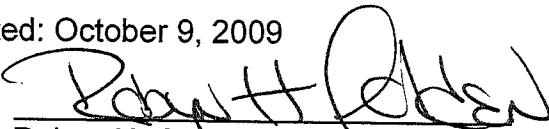
**NOTICE OF RIGHT TO APPEAL AGENCY DECISION
PURSUANT TO R.I.G.L. 42-35-12**

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of Case No. ULP-5841 dated October 9, 2009, may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **October 9, 2009**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

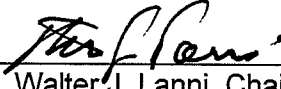
Dated: October 9, 2009

By:

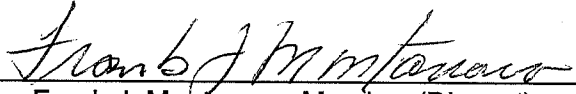

Robyn H. Golden, Administrator

ULP-5841

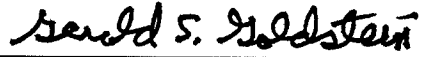
RHODE ISLAND STATE LABOR RELATIONS BOARD



Walter J. Lanni, Chairman



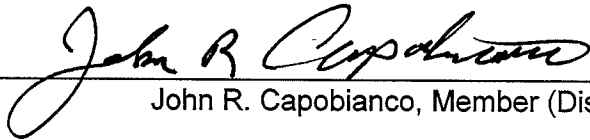
Frank J. Montanaro, Member (Dissent)



Gerald S. Goldstein, Member



Ellen L. Jordan, Member



John R. Capobianco, Member (Dissent)



Elizabeth S. Dolan, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: October 9, 2009

By: Robyn H. Golden
Robyn H. Golden, Acting Administrator