STATE OF RHODE ISLAND
BEFORE THE STATE LABOR RELATIONS BOARD

IN THE MATTER OF	:	
	:	
RHODE ISLAND STATE LABOR RELATIONS BOARD	:	
	:	
-and-	:	Case No. ULP-6264
	:	
TIVERTON SCHOOL COMMITTEE	:	

DECISION AND ORDER

TRAVEL OF CASE

The above-entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board") on an Unfair Labor Practice Complaint (hereinafter "Complaint"), issued by the Board against the Tiverton School Committee (hereinafter "Employer") based upon an Unfair Labor Practice Charge (hereinafter "Charge") dated November 4, 2019 and filed by the NEA Tiverton, Local 833/NEARI/NE (hereinafter "Union").

The Charge alleged as follows:

> On October 29, 2019, the Employer (School Committee) violated the Act when it denied the Union's request for information necessary to process a grievance regarding denial of bereavement leave.

Following the filing of the Charge, each party submitted written position statements and responses as part of the Board's informal hearing process. On December 12, 2019, the Board issued its Complaint, alleging the Employer violated R.I.G.L. § 28-7-13(3), (7) and (10) when it failed and refused to produce or provide, as requested by the Union, certain documents and/or information that the Union claimed were relevant to and/or pertained to the administration and processing of a grievance under the contractual grievance procedure. The Board scheduled a formal hearing for this matter, but the hearing dates were cancelled and the parties, instead, waived their respective rights to a formal hearing and entered into a Consent Order stipulating to the facts in this matter. The parties' Consent Order was entered on May 19, 2020. Post-hearing Briefs were scheduled to be due on June 18, 2020 and, after a requested extension was granted by the Board, the Employer and the Union filed their respective post-hearing Briefs on July 2, 2020. In arriving at the Decision and Order herein, the Board has reviewed and considered the Consent Order, exhibits and the arguments contained within the post-hearing Briefs submitted by the parties.

FACTUAL SUMMARY

By agreement of the parties, the facts of this matter were stipulated to and entered as a Consent Order by the Board on May 19, 2020. The facts are as follows:

1. The Tiverton School Committee is a duly constituted committee, duly organized under the Constitution and the General Laws of Rhode Island, with their headquarters at the Tiverton School Department, 100 North Brayton Road, Tiverton, RI 02878.
2. NEA Tiverton, Local 833/NEARI/NEA, is the exclusive collective bargaining representative for teachers of the Tiverton School Department.
3. There was at all times, relevant to this case, a valid Collective Bargaining Agreement in effect between the Tiverton School Committee and NEA Tiverton.
4. Amy Mullen (hereinafter "Mullen") is employed by the Tiverton School Committee as a Special Education Teacher.
5. At all times relevant to this case, Mullen served, and continues to serve, as the President of NEA Tiverton.
6. Peter Sanchioni is employed by the Tiverton School Committee as the Superintendent of Schools.
7. On or about October 1, 2019, NEA Tiverton filed a grievance with the Superintendent regarding his refusal to allow Mullen to use her bereavement days per Article 13(C) of the Collective Bargaining Agreement to attend a memorial service for her father-in-law in New Hampshire.
8. The Superintendent denied the grievance at Level 2 on the grounds that more than a month had passed since the death of Mullen's father-in-law, and he directed her to use personal days.
9. By letter dated October 17, 2019, NEA Tiverton, through its field representative at NEARI, requested certain information regarding the use of bereavement leave in the Tiverton School Department over the last five (5) years, for the purpose of processing the grievance.
10. Specifically, NEARI requested five (5) years of records, including the 2019-2020 school year to date, for the following items:

    a. The number of bereavement day requests.

    b. The number of denials of bereavement days, including the names of the teachers who were denied.

    c. The number of notes required by the Superintendent explaining the purpose of the bereavement leave, including the names of the teachers from whom those notes were requested.

    d. The number of times the Superintendent directed a teacher to use personal days instead of bereavement leave, including the names of the teachers who were so directed.

11. In an email dated October 21, 2019, the Superintendent responded that the "task would take a significant amount of time," and further noted that, "we will work out an [sic] invoice the cost associated with the task per Rhode Island Freedom of Information Act regulations."

12. In an email dated October 24, 2019, NEA Tiverton's field representative responded, "This is not a FOIA request, the [Tiverton School Department] has a duty to furnish this information, and you may not charge us."

13. In an email dated October 29, 2019, the Tiverton School Committee's legal counsel responded to NEA Tiverton's field representative, declining to provide the requested information, stating in part:

> While we understand that the Union does have some right to access information necessary to process grievances, that right has limits. As Dr. Sanchioni has pointed out, responding to the information request that you made will require extensive amounts of time in going through paper records.
>
> Furthermore, we should remember that each individual employee's situation will be different. Therefore, comparisons between one teacher's situation and Ms. Mullen's will likely have little to no probative value. Under these circumstances, we believe that your requests are unreasonable. For that reason, your request for information is denied.

14. The NEA Tiverton did not reply to the School Committee's legal counsel's October 29, 2019 communication.

15. For about the past two (2) years since the NEA Tiverton's October 17, 2019 request, Tiverton maintained records of teacher absences and/or requests for time off on what is known as the AESOP system.

16. Prior to the institution of the AESOP system, the records of teacher absences and/or requests for time off were maintained on paper and stored in the paper personnel files of individual teachers.

17. Over the five (5) years preceding the NEA Tiverton's October 17, 2019 [sic], Tiverton could employ anywhere from 183-200 teachers.

18. To retrieve all of the documentation requested by the NEA Tiverton, an employee would have to search each and every individual file for the teachers.

19. To complete the task of retrieving the documentation requested by the NEA Tiverton, a Central Office employee would need at least a week of work, provided that he or she was relieved of all other duties.

20. The Union has no knowledge of the allegations referred to in No. 15-19 (above) nor any reason to dispute it occurred and will address its relevance in the Brief.

21. On November 4, 2019, NEA Tiverton filed an Unfair Labor Practice Charge with the State Labor Relations Board alleging that the Tiverton School Committee "violated the Act when it denied the Union's request for information necessary to process a grievance regarding denial of bereavement leave."

22. On December 12, 2019, the State Labor Relations Board issued a Complaint on the Unfair Labor Practice Charge, Case No. ULP-6264.
23. There being no material dispute of facts, the parties agreed to waive a formal hearing in this matter, which had been scheduled for March 12, 2020.
24. The parties have agreed upon exhibits, which will be submitted without objection by either party, when the parties file their Briefs.

POSITION OF THE PARTIES

Union:

The basis for the Union's claim in the pending matter before the Board is that the Employer has failed to comply with the Union's request for information concerning a pending grievance involving the denial of bereavement leave to the local Union President, Amy Mullen. The Union argues that its request for information was relevant and necessary to its administration and processing of the pending grievance. The Union also argues that the Employer's refusal to provide the requested information was a violation of the Rhode Island State Labor Relations Act (Act) because the Employer had no legal basis to withhold the requested information.

Employer:

The Employer claims that its denial of the Union's request for information was appropriate and legitimate and not in violation of the Act. The Employer initially argues that its denial of the request for information did not constitute domination or interference with the existence or administration of the Union as prohibited by R.I.G.L. § 28-7-13(3). The Employer asserts that there is no evidence before the Board to demonstrate that the Employer's refusal to provide the requested information acted in a manner to create a violation of the Act. Further, the Employer argues that the Union's information request was overly burdensome and irrelevant and did not satisfy the appropriate discovery standards necessary to make the Union's request legitimate and require the Employer to comply with said request. Finally, the Employer argues that the Board should defer any decision to the arbitration process in which the parties are participating as the arbitration process will allow the arbitrator to determine whether the Union's information request was appropriate.

DISCUSSION

The issue before the Board is whether the Employer's denial of the Union's request for information to assist in the processing of a grievance was a violation of the Act.

An Employer's duty to furnish information is imposed because without such information a Union would be unable to perform its statutory duties as bargaining agent. A Union's request for information must generally be furnished to the Union for purposes of representing employees in negotiations and also for policing the administration of an existing contract. See *City of Cranston v. Rhode Island State Labor Relations Board*, PC-2007-2109 (2008), citing *Detroit Edison v. National Labor Relations Board*, 440 U.S.

301, 303 (1979); see also *J.I. Case Co. v. NLRB*, 253 F.2d 149 (7th Cir. 1958); *Kroger Co.*, 226 NLRB 512 (1976). The National Labor Relations Board (NLRB) has long held that intertwined with the duty to bargain in good faith is a duty on the part of an Employer to supply the Union, upon request, with sufficient information to enable it to understand and intelligently discuss the issues raised in bargaining. See *Industrial Welding Co.*, 175 NLRB 477 (1969); *Providence Hospital v. National Labor Relations Board*, 93 F.3d 1012, 1016 (1st Cir. 1996).

Although the duty to provide requested information is reciprocal, it is inherent in the statutory scheme that most of the required information will flow from the Employer to the Union. Thus, most of the case law concerns Employer recalcitrance in supplying information requested by Unions, either in the bargaining process or in the administration of the Collective Bargaining Agreement.[1] Once a Union has made a request for information, an Employer has the ability to review the request to determine its relevance or necessity to the subject of the request and whether the Employer has any legitimate reasons to deny the request. See *Oak Tree Capital Management*, 353 NLRB No. 127 (2009); *North Star Steel Co.*, 347 NLRB 1346 (2006); *Rhode Island State Labor Relations Board and State of Rhode Island – Community College of Rhode Island*, ULP-5848 (2009). In addition to reviewing for relevance, an Employer may also defend against providing the requested information, even when it is arguably relevant information, by asserting confidentiality or privilege based on the Employer's particular interests or by asserting confidentiality or privilege based on employee privacy or protection concerns. See *Detroit Edison Co. v. NLRB*, 440 U.S. 301 (1979). In some limited cases, an Employer may defend against providing requested information by claiming that the Union has waived its right to the information.[2]

In the present matter, the local Union President requested that she be allowed to use her contractual bereavement leave to attend an out-of-state memorial service for her father-in-law. (See Stipulated Fact #7). The Superintendent refused to allow Ms. Mullen to use her bereavement leave "on the grounds that more than a month had passed since the death of Mullen's father-in-law …." (See Stipulated Fact #8). Instead, the Superintendent directed Ms. Mullen to use her personal days for the time off. (See Stipulated Fact #8). Thereafter, the Union "requested certain information regarding the use of bereavement leave in the Tiverton School Department over the last five (5) years, for the purpose of processing" a grievance it filed on behalf of Ms. Mullen. (See Stipulated Fact #9; see Exhibit #2). The Union's request detailed the information it was seeking. (See Stipulated Fact #10; see Exhibit #2).

[1] This Board, as well as the Rhode Island Supreme Court, has long held that it will "look to federal labor law for guidance in resolving labor questions" that come before it. See *Board of Trustees, Robert H. Champlin Memorial Library v. Rhode Island State Labor Relations Board*, 694 A.2d 1185, 1189 (R.I. 1997); *Rhode Island State Labor Relations Board and State of Rhode Island – Community College of Rhode Island*, ULP-5848 (2009); *City of Cranston*, *supra*.

[2] In the instant matter, no claim of waiver has been raised as a defense by the Employer.

In its initial response to the Union's information request, the Superintendent assumed the request was based on the Freedom of Information Act and indicated that the School Department would assemble an invoice for "the cost associated with the task" of collecting the requested information. (See Stipulated Fact #11). The Union responded that its request was not made under the Freedom of Information Act and stated that the Union needed the information "to process the grievance." (See Stipulated Fact #12; see Exhibit #3). The Union went on to assert that its request was "reasonable" and that the School Department had a duty to furnish the information without charge. (See Stipulated Fact #12; see Exhibit #3). The School Department's attorney responded to the Union in relevant part as follows:

> While we understand that the Union does have some right to access information necessary to process grievances, that right has limits. As Dr. Sanchioni has pointed out, responding to the information request that you made will require extensive amounts of time in going through paper records.
>
> Furthermore, we should remember that each individual employee's situation will be different. Therefore, comparisons between one teacher's situation and Ms. Mullen's will likely have little to no probative value. Under these circumstances, we believe that your requests are unreasonable. For that reason, your request for information is denied.
>
> (See Stipulated Fact #13; see Exhibit #4).

The Union did not respond to the Employer's email message; instead, it filed an unfair labor practice charge with this Board (See Stipulated Fact #21).

While the Employer's attorney's response noted that the Employer believed the Union's request was "unreasonable," at no time did the Employer ask the Union to demonstrate the relevance or necessity of the information requested. Instead, based on the evidence before the Board, the Employer objected to the size of the requested information and the amount of time needed by School Department personnel to collect the requested information. Further, the Employer appeared to make its own determination that the information was not relevant or necessary for the Union's processing of Ms. Mullen's grievance, indicating that "each individual employee's situation will be different" and noting that "comparisons between one teacher's situation and Ms. Mullen's will likely have little to no probative value." (See Stipulated Fact #13).

Generally, the determination of whether information is relevant or necessary is one made by the Board based on the facts and evidence submitted to it. As the NLRB has stated, analyzing whether requested information is relevant or necessary must be done on a case-by-case basis reasoning that "the rule is not per se, and in each case the Board must determine whether the requested information is relevant, and if relevant, whether it is sufficiently important or needed to invoke a statutory obligation of the other party to produce it." *White-Westinghouse Corp., Columbus Products Co. Division*, 259 NLRB 220 (1981). Notwithstanding the need for a case-by-case analysis, the NLRB has identified various categories of information that it has determined are presumptively relevant. In

other words, the NLRB has found that information which it considers presumptively relevant "must be disclosed unless it plainly appears irrelevant" in accordance with the prevailing rule in discovery procedures under "modern codes." *NLRB v. Yawman & Berg Manufacturing Co.*, 187 F.2d 947, 949 (1951). Thus, information must be disclosed unless it plainly appears irrelevant. See *Teleprompter Corp. v. NLRB*, 570 F.2d 4, 8 (1st Cir. 1977). As relates to the instant matter, the NLRB has determined that information concerning terms and conditions of employment of employees represented by a Union is presumptively relevant and necessary. See *Retlaw Broad Co. v. NLRB*, 172 F.3d 660 (9th Cir. 1999); *Fleming Co.*, 332 NLRB 1086 (2000).

In the instant matter, the Board believes, based on the evidence before it, that the Union has requested information from the Employer, which is presumptively relevant to its processing of Ms. Mullen's bereavement leave grievance. The information requested by the Union addressed how the Employer had handled previous requests for bereavement leave over the prior five-year period. The request was specific regarding denial of bereavement days, whether the Superintendent required notes "explaining the purpose of the bereavement leave," and the number of times the Superintendent had directed a teacher "to use personal days instead of bereavement leave …." (See Stipulated Fact #10). Each of these requests is directly related to an aspect of the Employer's decision and reasons for denying Ms. Mullen's bereavement leave usage. In addition, on two (2) separate occasions the Union made clear to the Employer that its request was for the purpose of processing the pending grievance of Ms. Mullen's denial of the use of her bereavement days (see Exhibits #2 and #3). While the Employer's attorney noted in her response that she believed the Union's request was "unreasonable", at no time did she or the Employer ever dispute that the information was needed by the Union in order to process the pending grievance. In the Board's view, the information requested by the Union, which on its face is related to an employee's terms and conditions of employment, is presumptively relevant to the pending grievance. More importantly, there is no evidence before the Board and the Employer has submitted no evidence to suggest or support a contrary finding.

This Board has previously addressed the issue of the relevance of information requested by a Union for the purpose of processing a grievance. See *Rhode Island State Labor Relations Board and State of Rhode Island – Community College of Rhode Island*, ULP-5848; see also *Rhode Island State Labor Relations Board and The City of Cranston*, ULP-5744. In the *Community College of Rhode Island* case, the Board was presented with a situation similar, but not identical to the present case involving a Union's request for payroll records in order for it to process two (2) pending grievances regarding warning letters the employees had received about their respective use of sick time. The Employer denied the request for information, claiming that it was not relevant, that the information sought was confidential to the employees and that the Union would have to obtain a release from each employee in order to receive the information. *Community College of Rhode Island,* ULP-5848, at page 3. In noting its prior decision in *City of Cranston*, the Board found that the Employer's denial of the records was a violation of the Act. In finding

a violation, the Board stated as follows:

> …the Union has a right to obtain records which reasonable [sic] relate to the Union's representation of these claims. The request for copies of time sheets (even redacted, if the Employer so chose) is more than reasonable for the Union when it is investigating whether or not the pursuit of the grievances is appropriate.

(Community College of Rhode Island, ULP-5848 at page #7).

In the instant case, the request for information about bereavement days is clearly a reasonable and relevant request for the Union to make as part of its investigative process into the grievance. The information certainly appears, based on the evidence before the Board, to be related to the Union's representation of Ms. Mullen on her grievance. As such, the Union's request was legitimate, and the Employer's denial of the requested information was a violation of the Act.

In its defense, the Employer argues that just as "there are limits on discovery in a civil action, there are also limits on discovery in the grievance process." (See Employer Memorandum of Law at page #7). The Employer attempts to use the Rules of Civil Procedure to bolster its argument that its denial of the Union's request for information was justified and asserts that it "can rightfully refuse to comply with an information request that is unduly burdensome or unreasonable." (See Employer Memorandum of Law at page #8).[3] Assuming for this discussion that this Board were to agree that some aspect of the civil discovery standards applied in our cases, in reviewing "the totality of the circumstances" existing in the instant matter it is apparent that the Employer has not demonstrated that the Union's request was "beyond the bounds of reasonableness…" (See Employer Memorandum of Law at page #8).

Initially, when an Employer receives a request for information, it is obligated to make "a reasonably good-faith effort to respond to the request as promptly as circumstances allow." *United Electrical Contractors Association*, 347 NLRB 640 (2008). As the Employer did in the present case, it informed the Union that it believed the request for information was overbroad. However, what the Employer failed to do in its response was to offer to bargain with the Union about possible alternative arrangements. Instead, the Employer made its own determination that the information would be of little service to the Union ("we should remember that each individual employee's situation will be different. Therefore, comparisons between one teacher's situation and Ms. Mullen's will likely have little to no probative value" See Stipulation of Fact #13) and, based on that

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[3] The Employer also argued that the Union's request for information was insufficient because "a Union's bare assertion that it needs information to process a grievance does not automatically oblige the Employer to supply all the information in the manner requested. The duty to supply information…turns upon "the circumstances of the particular case."" (see Employer Memorandum of Law at page #7). It is not clear to the Board whether the Employer is attempting to argue that the Union did not do enough to support the relevancy of its request or is simply falling back on its "the request is overly burdensome" claim with this line of argument. If it is the former, as has already been discussed the Union presented more than sufficient information in its request to demonstrate the relevance of the request. In other words, the Union's request appears "calculated to lead to the unearthing of admissible evidence." *Providence Hospital v. NLRB*, 93 F.3d 1012, 1017 n. 5 (1st Cir. 1996) citing *NLRB v. New England Newspapers, Inc*., 856 F.2d 409, 414 n. 4 (1st Cir. 1988).Thus, the Employer's argument that the Union did not substantiate its relevancy claim for the requested information is rejected by the Board.

conclusion, denied the Union's request. As discussed above, while the Employer can inquire to the Union about the relevancy of its request, it cannot also be "judge and jury" on whether the request is relevant. That responsibility falls to this Board. Based on the reliable and substantial evidence before it, it is clear to this Board that the Union's information request was relevant to its need to process Ms. Mullen's grievance.

The Employer argues that the burden on it to retrieve the information requested by the Union outweighs the substance of the grievance as it was "not a case of a termination, or a suspension, or even a denial of a long-term sick leave." (Employer Memorandum of Law at page #9). This argument misses the point of this Board's and the NLRB's prior rulings regarding approaching requests for information by Unions in a broad-based manner. As noted earlier, in most cases it is the Employer that controls the information the Union is seeking. This control normally gives the Employer a great deal of leverage about whether to release the information. Thus, to balance the playing field, this Board and the NLRB have recognized that imposing a duty upon an Employer to furnish requested information is critical; as without it a Union is unable to perform its statutory duties as the selected bargaining agent. In the case before the Board, it has been found that the information requested was both relevant and necessary for the Union to have to process the grievance. In addition, the Board has found that the requested information was probative in that it was likely to lead to the Union unearthing admissible evidence. These determinations outweigh, in the Board's view, the Employer's complaints that the request was overly burdensome.[4] The Employer had the ability to sit down with the Union and bargain over the scope of the request, but it chose to ignore this path. Instead, the Employer simply issued its decision without any discussion with the Union or attempt to compromise as it is obligated to do when it claims that a request is overly burdensome. In the Board's view, the evidence before it, when balanced with the circumstances of this particular case, clearly weighs in favor of the Union receiving the requested information. The Employer's failure to provide the information as requested is a violation of the Act.

In arguing that it had the right to deny the Union's information request because it was "unduly burdensome or unreasonable" the Employer has failed to cite cases that support its position based on the evidence that is before this Board. Specifically, with respect to the issue of the request being "unduly burdensome" the Employer has not brought forth a single case that supports its position.[5] Moreover and as already discussed,

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[4] There was no evidence submitted by the Employer to support its otherwise baseless contention that the Union's request for information was designed to harass the Employer or was made in bad faith.

[5] The Employer has cited 6 cases at page #8 of its Memorandum that, the Board assumes, it claims are ostensibly relevant to its argument that it can deny a request for information if the request is "unduly burdensome or unreasonable." *National Labor v. U.S. Postal*, 660 F.3d 65 (1st Cir. (2011) is not applicable as it addressed issues of confidentiality of employee information, something never raised by the Employer in the instant case. *NLRB v. Wachter Construction, Inc.*, 23 F.3d 1378 (8th Cir. 1994) is also not applicable to the instant matter as it dealt with alleged harassment by the Union in its information request, a scenario that is not present before this Board. *Shell Oil Co. v. NLRB*, 457 F.2d 615 (9th Cir. 1972 and *Emeryville Research Center, Shell Development Co. v. NLRB*, 441 F.2d 880 (9th Cir. 1971) are both cases addressing confidentiality with respect to the information requested, again an issue not presented to this Board. *Safeway Stores, Inc. v. NLRB*, 691 F.2d 953 (10th Cir. 1982) is the only case cited by the Employer that specifically speaks to a defense that information requested by the Union is too burdensome and in that case the Court upheld the NLRB's ruling that the information had to be turned over to the Union. In *Safeway* the Union requested a significant amount of data, including sex, race, national origin, handicap and seniority status plus wage and benefit, promotion and hiring information along with information about complaints or

when balancing the respective interests of the parties, there is no question in this Board's view that the Union was entitled to receive the information it sought. Had this been a situation where employee confidentiality was raised by the Employer as a legitimate concern in releasing the requested information, the balancing of interests by the Board might have been a bit more difficult. However, as previously noted, confidentiality was never brought forth by the Employer as a basis for denying the information request.

Finally, the Employer has asked this Board, in its Memorandum of Law at page #10, to defer its ruling to the arbitration process. As the Employer acknowledges in its Memorandum, this Board has not adopted the NLRB's deferral policy (the so-called *Collyer* doctrine). In the instant case, this Board need not address the Employer's deferral request for a more basic reason, i.e. deferral is not appropriate in cases where there is a refusal to supply the requested information. See *Medco Health Solutions of Spokane, Inc.*, 352 NLRB 640 (2008). The NLRB has long held that it will refuse to defer to arbitration in cases where "a controversy exists concerning whether or not requested information was provided or withheld from the Union." See *Medco, supra*.

For all the above stated reasons, the Board finds that the Employer's failure and refusal to provide the Union with the information it requested on or about October 17, 2019 in order for it to be able to process a grievance filed on behalf of Ms. Mullen to be a violation of R.I.G.L. 28-7-13 (7) and (10).

FINDINGS OF FACT

1. The Respondent 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"
3. There was, at all times, relevant to this case, a valid Collective Bargaining Agreement in effect between the Tiverton School Committee and NEA Tiverton.
4. Amy Mullen (hereinafter "Mullen") is employed by the Tiverton School Committee as a Special Education Teacher.
5. At all times relevant to this case, Mullen served, and continues to serve, as the President of NEA Tiverton.
6. Peter Sanchioni is employed by the Tiverton School Committee as the Superintendent of Schools.
7. On or about October 1, 2019, NEA Tiverton filed a grievance with the Superintendent regarding his refusal to allow Mullen to use her bereavement days per Article 13(C) of the Collective Bargaining Agreement to attend a memorial service for her father-in-law in New Hampshire.

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charges under a variety of laws protecting against discrimination for approximately 1,500 employees working at the Tulsa store location. Comparatively speaking, the Board believes the Union's request in the present case was no more onerous than the request allowed in the *Safeway* case.

8. The Superintendent denied the grievance at Level 2 on the grounds that more than a month had passed since the death of Mullen's father-in-law, and he directed her to use personal days.

9. By letter dated October 17, 2019, NEA Tiverton, through its field representative at NEARI, requested certain information regarding the use of bereavement leave in the Tiverton School Department over the last five (5) years, for the purpose of processing the grievance.

10. Specifically, NEARI requested five (5) years of records, including the 2019-2020 school year to date, for the following items:

    a. The number of bereavement day requests.

    b. The number of denials of bereavement days, including the names of the teachers who were denied.

    c. The number of notes required by the Superintendent explaining the purpose of the bereavement leave, including the names of the teachers from whom those notes were requested.

    d. The number of times the Superintendent directed a teacher to use personal days instead of bereavement leave, including the names of the teachers who were so directed.

11. In an email dated October 21, 2019, the Superintendent responded that the "task would take a significant amount of time," and further noted that, "we will work out an [sic] invoice the cost associated with the task per Rhode Island Freedom of Information Act regulations."

12. In an email dated October 24, 2019, NEA Tiverton's field representative responded, "This is not a FOIA request, the [Tiverton School Department] has a duty to furnish this information, and you may not charge us."

13. In an email dated October 29, 2019, the Tiverton School Committee's legal counsel responded to NEA Tiverton's field representative, declining to provide the requested information, stating in relevant part:

> While we understand that the Union does have some right to access information necessary to process grievances, that right has limits. As Dr. Sanchioni has pointed out, responding to the information request that you made will require extensive amounts of time in going through paper records.
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> Furthermore, we should remember that each individual employee's situation will be different. Therefore, comparisons between one teacher's situation and Ms. Mullen's will likely have little to no probative value. Under these circumstances, we believe that your requests are unreasonable. For that reason, your request for information is denied.

14. For about the past two (2) years since the NEA Tiverton's October 17, 2019 request, Tiverton maintained records of teacher absences and/or requests for time off on what is known as the AESOP system.

15. Prior to the institution of the AESOP system, the records of teacher absences and/or requests for time off were maintained on paper and stored in the paper personnel files of individual teachers.
16. Over the five (5) years preceding the NEA Tiverton's October 17, 2019 request, Tiverton could employ anywhere from 183 - 200 teachers.
17. To retrieve all the documentation requested by the NEA Tiverton, an employee would have to search each and every individual file for the teachers.
18. To complete the task of retrieving the documentation requested by the NEA Tiverton, a Central Office employee would need at least a week of work, provided that he or she was relieved of all other duties.
20. The Union has no knowledge of the claims by the Employer of the amount of work necessary to produce the requested information nor any reason to dispute it.

CONCLUSIONS OF LAW

1. The Employer denied the Union's request for information that would allow the Union to process a grievance filed on behalf of bargaining unit member Amy Mullen regarding the Employer's denial of Ms. Mullen's request to use bereavement days.
2. The Union has proven by a preponderance of the evidence that the Employer committed a violation of R.I.G.L. § 28-7-13 (7) and (10) when it denied the Union's request for information in order for the Union to process a grievance filed on behalf of bargaining unit member Amy Mullen regarding the Employer's denial of Ms. Mullen's request to use bereavement days.

ORDER

1. The Employer is hereby ordered and directed to provide to the Union the information requested by the Union in its October 17, 2019 correspondence to the Employer and detailed in the Board's Finding of Fact #10.
2. The Employer is hereby ordered to cease and desist from denying Union requests for relevant and necessary information.
3. The Employer is hereby ordered to post a copy of this Decision and Order for a period of not less than 60 days in each building where bargaining unit personnel work, said posting to be in a location where other materials designed to be seen, read and reviewed by bargaining unit personnel are posted.

RHODE ISLAND STATE LABOR RELATIONS BOARD

/s/ Walter J. Lanni
Walter J. Lanni, Chairman

/s/ Scott G. Duhamel
Scott G. Duhamel, Member

/s/ Aronda R. Kirby
Aronda R. Kirby, Member

/s/ Kenneth B. Chiavarini
Kenneth B. Chiavarini, Member

/s/ Harry F. Winthrop
Harry F. Winthrop, Member

/s/ Stan Israel
Stan Israel, Member

BOARD MEMBER, DEREK M. SILVA, WAS NOT PRESENT TO SIGN THIS DECISION & ORDER AS WRITTEN.

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

Dated: September 10, 2020

By: /s/ Robyn H. Golden
Robyn H. Golden, Administrator

ULP--6264

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-6264
TIVERTON 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 amended decision of the RI State Labor Relations Board, in the matter of Case No. ULP-6264, dated September 10, 2020, may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **September 10, 2020.**

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

Dated: September 10, 2020

By: *___/s/ Robyn H. Golden*
Robyn H. Golden, Administrator